

SENATE Substitute for HOUSE BILL No. 2295

AN ACT concerning real estate brokers and salespersons; relating to the effect of criminal convictions on the issuance, renewal or revocation of licenses; relating to licensure; amending K.S.A. 58-3034, 58-3043, 58-3045, 58-3047 and 58-3050 and K.S.A. 2006 Supp. 58-3039, 58-3046a and 58-3063 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2006 Supp. 58-3039 is hereby amended to read as follows: 58-3039. (a) Any person desiring to act as a broker or salesperson must file a written application for a license with the commission or, if required by the commission, with the testing service designated by the commission. The application shall be in such form and detail as the commission shall prescribe ~~and shall be accompanied by application and license fees prescribed by K.S.A. 58-3063, and amendments thereto.~~

(1) *Any applicant who qualifies for licensure as a salesperson shall submit the application accompanied by evidence of compliance with subsection (a) of K.S.A. 58-3046a, and amendments thereto.*

(2) *Any applicant who qualifies for licensure as a broker shall submit the application accompanied by evidence of compliance with subsection (b) of K.S.A. 58-3046a, and amendments thereto.*

(3) *Any applicant who qualifies for licensure as a salesperson on or after July 1, 2007, shall submit the application accompanied by evidence of compliance with subsection (c) of K.S.A. 58-3046a, and amendments thereto.*

(4) *Any applicant who qualifies for licensure as a broker on or after July 1, 2007, shall submit the application accompanied by evidence of compliance with subsection (d) of K.S.A. 58-3046a, and amendments thereto.*

(5) *All applicants shall submit the application and license fees as prescribed by K.S.A. 58-3063, and amendments thereto.*

(b) (1) *As part of an application for an original license or in connection with any investigation of any holder of a license, the commission shall require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or other jurisdiction. The commission shall require the applicant to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The commission shall use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license.*

(2) *Local and state law enforcement officers and agencies shall assist the commission in taking and processing fingerprints of applicants for and holders of any license and shall release all records of adult convictions to the commission.*

(3) *The commission may fix and collect a fee in an amount necessary to reimburse the board for the cost of fingerprinting and the criminal history record check. Such fee shall be established by rule and regulation in accordance with K.S.A. 58-3063 and amendments thereto. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the real estate fee fund.*

~~(b)~~ (c) *A license to engage in business as a broker or salesperson shall be granted only to a person who is 18 or more years of age and who has a high school diploma or its equivalent.*

~~(c)~~ (d) *In addition to the requirements of subsection ~~(b)~~ (c), except as provided in subsection ~~(d)~~ (e), each applicant for an original license as a broker shall have been:*

(1) *Licensed as a salesperson in this state or as a salesperson or broker in another state, and shall have been actively engaged in any of the activities described in subsection (f) of K.S.A. 58-3035, and amendments thereto, for a period of at least two years during the five years immediately preceding the date of the application for a license; or*

(2) *if an applicant resides in a county that has a population of 20,000 or less, the commission may, upon a finding that such county suffers from a shortage of brokers and upon compelling evidence of need, waive or alter the requirements of this subsection. The commission shall adopt rules and regulations to establish alternative licensing criteria for such applicants.*

~~(d)~~ (e) The commission may accept proof of experience in the real estate or a related business or a combination of such experience and education which the commission believes qualifies the applicant to act as a broker as being equivalent to all or part of the experience required by subsection ~~(e)~~ (d).

~~(e)~~ Except as provided in K.S.A. 58-3040, and amendments thereto, each applicant for an original license shall be required to pass a written examination covering generally the matters confronting brokers or salespersons, and no license shall be issued on the basis of such an examination either or both sections of which were administered more than four months prior to the date that the applicant's application is filed with the commission. The examination may be given by the commission or any person designated by the commission. Each person taking the examination shall pay the examination fee prescribed pursuant to K.S.A. 58-3063, and amendments thereto, which fee the commission may require to be paid to it or directly to the testing service designated by the commission. The examination for a broker's license shall be different from or in addition to that for a salesperson's license.

(f) Each applicant for an original license shall be required to pass an examination covering the subject matter which brokers or salespersons generally confront while conducting activities that require a real estate license. The examination shall consist of a general portion that tests the applicant's knowledge of real estate matters that have general application. The state portion of the examination shall test the applicant's knowledge of real estate subject matter applicable to a specific jurisdiction.

(1) Except as provided in K.S.A. 58-3040, and amendments thereto, each applicant for an original license shall be required to pass the general or national portion of the examination.

(2) Each applicant for an original license shall be required to pass the Kansas state portion of the examination.

(3) No license shall be issued on the basis of an examination if either or both portions of the examination were administered more than six months prior to the date that the applicant's application is filed with the commission. The examination may be given by the commission or any person designated by the commission. Each person taking the examination shall pay the examination fee prescribed pursuant to K.S.A. 58-3063, and amendments thereto, which fee the commission may require to be paid to it or directly to the testing service designated by the commission. The examination for a broker's license shall be different from or in addition to that for a salesperson's license.

(g) The commission, prior to granting an original license, shall require proof that the applicant has a good reputation for honesty, trustworthiness, integrity and competence to transact the business of a broker or salesperson in such manner as to safeguard the public interest.

(h) An application for an original license as a salesperson or associate broker shall be accompanied by the recommendation of the supervising broker or branch broker with whom the salesperson or associate broker is to be associated, or by whom the salesperson or associate broker is to be employed, certifying that the applicant is honest, trustworthy and of good reputation.

~~(i)~~ (i) (1) Each applicant for an original salesperson's license who meets the requirements of this act prior to July 1, 2007, shall be issued a temporary salesperson's license which shall expire six months after the last calendar day of the month in which the license was issued, on the last calendar day of that month.

(2) No later than 10 days prior to the expiration date of a temporary salesperson's license, the salesperson shall file an application on a form provided by the commission. The application shall be accompanied by the license fee prescribed by K.S.A. 58-3063, and amendments thereto, and evidence of compliance with the requirements of subsection (f)(1) of K.S.A. 58-3046a, and amendments thereto. The commission shall issue a salesperson's license to a person who complies with the provisions of this paragraph. The issuance date of the salesperson's license shall be the day following the expiration date of the temporary license. The expiration date of the license shall be determined in accordance with a schedule established by rules and regulations of the commission.

(3) Failure to comply with the provisions of paragraph (2) shall automatically cancel the temporary license on its expiration date.

(4) A person whose temporary salesperson's license was canceled pursuant to paragraph (3) may apply for a salesperson's license if such application, the license fee prescribed by K.S.A. 58-3063, and amendments thereto, plus a late fee of \$50 and evidence of attendance of 30 hours of instruction received after issuance of the temporary license pursuant to subsection (f)(1) of K.S.A. 58-3046a, and amendments thereto, are received by the commission within three months after the expiration date of the temporary license. The commission shall issue a salesperson's license to a person who complies with the provisions of this paragraph. The expiration date of the license shall be determined in accordance with a schedule established by rules and regulations of the commission.

~~(g) The commission, prior to granting an original license, shall require proof that the applicant has a good reputation for honesty, trustworthiness, integrity and competence to transact the business of broker or salesperson in such manner as to safeguard the public interest.~~

~~(h) An application for an original license as a salesperson shall be accompanied by the recommendation of the broker with whom the salesperson is to be associated, or by whom the salesperson is to be employed, certifying that the applicant is honest, trustworthy and of good reputation.~~

*(j) Each applicant for an original salesperson's license who meets the requirements of this act on and after July 1, 2007, shall be issued a salesperson's license. The expiration date of the license shall be determined in accordance with a schedule established by rules and regulations of the commission.*

Sec. 2. K.S.A. 58-3043 is hereby amended to read as follows: 58-3043. (a) In determining whether to grant or renew a license the commission shall consider:

(1) Any revocation or suspension of a prior real estate license;

(2) whether an applicant has committed any of the practices enumerated in K.S.A. 58-3062, and amendments thereto, or has violated this act or rules and regulations adopted hereunder during the term of any prior license;

(3) any plea of guilty or *nolo contendere* to, or any conviction of: ~~(A) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any other similar offense; (B) a crime involving moral turpitude; or (C) any felony charge any misdemeanor which reflects on the applicant's honesty, trustworthiness, integrity or competence to transact the business of real estate;~~

(4) any conduct of the applicant which reflects on the applicant's honesty, trustworthiness, integrity or competence to transact the business of real estate; and

(5) such other matters as the commission deems pertinent.

In its consideration of any such prior revocation; ~~or conduct or conviction~~, the commission shall take into account the nature of the offense; any aggravating or extenuating circumstances; the time elapsed since such revocation; ~~or conduct or conviction~~; the rehabilitation or restitution performed by the applicant; and such other factors as the commission deems relevant.

(b) The commission may deny a license to any person who, without a license, has engaged in a real estate activity for which a license was required.

(c) When an applicant has made a false statement of material fact on the application, such false statement may be sufficient reason for refusal of a license.

*(d) (1) Except as provided in paragraph (2), the commission shall refuse to grant a license to an applicant if the applicant has entered a plea of guilty or nolo contendere to, or has been convicted of:*

*(A) (i) Any offense that is comparable to any crime which would require the applicant to register as provided in the Kansas offender registration act; or*

*(ii) any federal, military or other state conviction for an offense that is comparable to any crime under the laws of this state which would require the applicant to register as provided in the Kansas offender registration act; or*

*(B) (i) Any felony other than a felony under clause (A); or*

*(ii) any federal, military or other state conviction for an offense that*

is comparable to any under the laws of this state other than a felony under clause (a).

(2) The commission may issue a license pursuant to subsection(e) if the applicant's application is received at least:

(A) Fifteen years after the date of the applicant's discharge from post-release supervision resulting from any conviction of any offense specified in clause (A) of paragraph (1); or

(B) five years after the date of the applicant's discharge from post-release supervision resulting from any conviction of any offense specified in clause (B) of paragraph (1), whichever is applicable.

(3) For the purposes of this subsection, "postrelease supervision" shall have the meaning ascribed to it in K.S.A. 21-4703 and amendments thereto.

(e) (1) The commission may grant a license to an applicant who has entered a plea of guilty or *nolo contendere* to, or has been convicted of any crime listed in paragraph (1) of subsection (d) if the applicant presents to the commission satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity and competence to transact the business of real estate in such a manner as to safeguard the interest of the public. The burden of proof shall be on the applicant to present such evidence to the commission.

(2) In addition to the factors listed in subsection (a), in determining whether or not the applicant presently has a good reputation as required in subsection (e), the commission shall consider the following additional factors:

(A) The extent and nature of the applicant's past criminal activity;

(B) the age of the applicant at the time of the commission of the crime or crimes;

(C) the amount of time elapsed since the applicant's last criminal activity;

(D) the conduct and work activity of the applicant prior to and following the criminal activity; and

(E) evidence of the applicant's rehabilitation or rehabilitative effort; and

(F) all other evidence of the applicant's present fitness for a license.

Sec. 3. K.S.A. 58-3050 is hereby amended to read as follows: 58-3050. (a) Except as provided in subsection (b) and (c), the commission may refuse to grant or renew a license and the license of any licensee may be revoked, suspended, conditioned or restricted or a licensee may be censured, if:

(1) The licensee has committed a violation of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, whether the licensee acted as an agent or a principal in the real estate transaction;

(2) the licensee has entered a plea of guilty or *nolo contendere* to, or has been convicted of: ~~(A) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any other similar offense; (B) a crime involving moral turpitude; or (C) any felony charge~~ any misdemeanor which reflects on the licensee's honesty, trustworthiness, integrity or competence to transact the business of real estate;

(3) the licensee has been finally adjudicated and found to be guilty of violation of the federal fair housing act (42 U.S.C. 3601 et seq.) or K.S.A. 44-1015 through 44-1029, and amendments thereto;

(4) the licensee has obtained a license by false or fraudulent representation;

(5) the licensee has violated any lawful order or directive of the commission; or

(6) the licensee has committed a violation in another state and disciplinary action taken against such licensee resulted in the suspension, probation or revocation of such licensee's real estate license in such other state.

(b) Except as provided in subsection (c), the commission shall suspend or revoke the license of any licensee who has entered a plea of guilty or *nolo contendere* to, or has been convicted of any felony.

(c) The provisions of subsection (b) shall not apply to any person who:

(1) Is currently licensed under this act;

(2) *has entered a plea of guilty or nolo contendere to, or has been convicted of any offense specified in subsection (b); and*

(3) *has disclosed such plea or conviction in such person's application for any license or renewal thereof on or before July 1, 2007, prior to the commission's action on such application.*

~~(b)~~ (d) In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, the commission, in accordance with the Kansas administrative procedure act and upon a finding that a licensee has violated a provision of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, may impose on such licensee a civil fine not exceeding \$500 for each violation.

(e) *In all matters pending before the commission, the commission shall have the power to revoke the license of any licensee who voluntarily surrenders such licensee's license or who does not renew such license pending investigation of misconduct or while charges of misconduct are pending or anticipated.*

~~(c)~~ (f) If a broker or salesperson has been declared disabled by a court of competent jurisdiction, the commission shall suspend the broker's or salesperson's license for the period of disability.

~~(d)~~ (g) (1) Except as provided by paragraph (2) of this subsection, no complaint alleging violation of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, shall be commenced more than three years from the date of the occurrence which is the subject of the complaint.

(2) Unless the violation is not reasonably ascertainable, complaints alleging violation of subsection (a)(4) or (a)(5) shall be commenced within three years from the date of the occurrence of the violation. If the violation is not reasonably ascertainable, complaints alleging violation of subsection (a)(4) or (a)(5) shall be commenced within three years from the date of violation is ascertained by the commission.

~~(e)~~ (h) All administrative proceedings pursuant to this section shall be conducted in accordance with the Kansas administrative procedure act.

~~(f)~~ (i) Notwithstanding any provision of this act or the brokerage relationships in real estate transactions act to the contrary, the commission may use emergency adjudicative proceedings, as provided by K.S.A. 77-536, and amendments thereto, to summarily suspend the license of any licensee if the commission has reasonable cause to believe that the licensee's trust account is in unsound condition or that the licensee is misappropriating funds belonging to other persons.

~~(g)~~ (j) If a licensee has entered a plea of guilty or *nolo contendere* to, or has been convicted of, any felony charge, the commission may use emergency adjudicative proceedings, as provided by K.S.A. 77-536, and amendments thereto, to suspend; *or* revoke, ~~condition or restrict~~ the licensee's license.

~~(h)~~ (k) When the real estate license of an individual is revoked and that individual's name is included in the trade or business name of a real estate brokerage business, the commission may deny continued use of the trade or business name if, in the opinion of the commission, it would be confusing or misleading to the public.

~~If the revocation of the individual's license is appealed to district court and a stay of the commission's order is granted by the court, the commission may not deny continued use of the trade or business name until such time as the district court upholds the order of the commission.~~

Sec. 4. K.S.A. 2006 Supp. 58-3063 is hereby amended to read as follows: 58-3063. (a) The commission shall adopt rules and regulations fixing the amounts of the fees provided for by this act, subject to the following:

(1) For any examination required for licensure, a fee in an amount equal to the actual cost of the examination and the administration thereof.

(2) *For any criminal history record check required for licensure, a fee in the amount necessary to reimburse the commission for the cost of administering the criminal history record check.*

(3) For submission of an application for an original salesperson's license, an amount not exceeding \$25.

~~(3)~~ (4) For submission of an application for an original broker's license, an amount not exceeding \$50.

~~(4)~~ (5) For an original salesperson's license, a prorated fee based on a two-year amount not exceeding \$100.

~~(5)~~ (6) For an original broker's license, a prorated fee based on a two-year amount not exceeding \$150.

~~(6)~~ (7) For renewal of a salesperson's license, a fee based on a two-year amount not exceeding \$100.

~~(7)~~ (8) For renewal of a broker's license, a fee based on a two-year amount not exceeding \$150.

~~(8)~~ (9) For reinstatement of a license which has been deactivated or which has been canceled pursuant to subsection ~~(d)~~ (c) of K.S.A. 58-3047 and amendments thereto, or by reason of termination of a salesperson, an amount not exceeding \$15.

~~(9)~~ (10) For reinstatement of all licenses canceled pursuant to ~~subsection (e)~~ subsections (d) or (f) of K.S.A. 58-3047 and amendments thereto, an amount not exceeding \$7.50 for each license canceled.

~~(10)~~ (11) For issuance of a duplicate license, an amount not exceeding \$10.

~~(11)~~ (12) For certification of licensure to another jurisdiction, an amount not exceeding \$10.

~~(12)~~ (13) For approval of a course of instruction submitted by a course provider pursuant to K.S.A. 58-3046a and amendments thereto, an amount not exceeding \$75.

~~(13)~~ (14) For renewal of an approved course of instruction pursuant to K.S.A. 58-3046a and amendments thereto, an amount not exceeding \$15.

~~(14)~~ (15) For approval of a course of instruction submitted by any licensee for credit toward the 12 hours of additional instruction required by K.S.A. 58-3046a and amendments thereto, an amount not less than \$10 nor more than \$20, as determined by the commission.

~~(15)~~ (16) For a temporary salesperson's license, an amount not exceeding \$25.

~~(16)~~ (17) For each branch office opened or established after July 1, 2006, an amount not exceeding \$100.

~~(17)~~ (18) For each primary office of a company created or established by a supervising broker after July 1, 2006, an amount not exceeding \$100.

~~(18)~~ (19) For certification of a licensee's education history under K.S.A. 58-3046a, and amendments thereto, an amount not exceeding \$25.

~~(19)~~ (20) For certification of licensure of a professional corporation, an amount not exceeding \$25.

~~(20)~~ (21) For each additional primary or branch office at which a salesperson or an associate, supervising or branch broker is associated or employed, if such person is associated or employed by more than one primary or branch office, an amount not exceeding \$50, to be paid by such salesperson or broker.

(b) For each prorated fee, the commission shall establish a monthly amount, rounded off to the nearest dollar, and shall compute the fee from the last calendar day of the month in which the license is issued to the expiration date of the license.

(c) Subject to the limitations of this section, the commission shall fix the fees provided for by this section in the amounts necessary to administer and enforce this act.

(d) The fees provided for by this section shall be applicable regardless of the type of license.

New Sec. 5. (a) On and after July 1, 2008, each contract for the sale of residential real estate shall contain as part of such contract the following language:

"Kansas law requires persons who are convicted of certain crimes, including certain sexually violent crimes, to register with the sheriff of the county in which they reside. If you, as the buyer, desire information regarding those registrants, you may find information on the homepage of the Kansas Bureau of Investigation (KBI) at <http://www.Kansas.gov/kbi> or by contacting the local sheriff's office."

(b) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

Sec. 6. K.S.A. 2006 Supp. 58-3046a is hereby amended to read as

follows: 58-3046a. (a) Except as provided in K.S.A. 58-3040, and amendments thereto, any person who applies for an original license in this state as a salesperson shall submit evidence, satisfactory to the commission, of attendance of a principles of real estate course, of not less than 30 hours of instruction, approved by the commission and received within the 12 months immediately preceding the filing of application for salesperson's license. The commission may require the evidence to be furnished to the commission with the original application for license or it may require the applicant to furnish the evidence to the testing service designated by the commission as a prerequisite to taking the examination required by K.S.A. 58-3039 and amendments thereto. If the evidence is furnished to the testing service, the instruction shall have been received within 12 months immediately preceding the date of the examination.

(b) Except as provided in K.S.A. 58-3040, and amendments thereto, any person who applies for an original license in this state as a broker shall submit evidence, satisfactory to the commission, of attendance of 24 hours of instruction, approved by the commission and received within the 12 months immediately preceding the filing of application for broker's license. Such hours shall be in addition to any hours of instruction used to meet the requirements of subsection (c), (d), (e) or (f). The commission may require the evidence to be furnished to the commission with the original application for license, or it may require the applicant to furnish the evidence to the testing service designated by the commission as a prerequisite to taking the examination provided in K.S.A. 58-3039, and amendments thereto. If the evidence is furnished to the testing service, the instruction shall have been received within 12 months immediately preceding the date of the examination.

(c) *Any person who applies for an original license in this state as a salesperson on or after July 1, 2007, shall submit evidence, satisfactory to the commission, of attendance of a Kansas real estate practice course, of not less than 30 hours of instruction, approved by the commission and received within the six months immediately preceding the filing of the application for licensure.*

(d) *Any person who applies for an original license in this state as a broker on or after July 1, 2007, who is a nonresident of Kansas or who is a resident of Kansas applying for licensure pursuant to subsection (e) of K.S.A. 58-3040, and amendments thereto, shall submit evidence, satisfactory to the commission, of attendance of a Kansas real estate course, of not less than four hours of instruction and received within the six months immediately preceding the filing of the application for licensure. Such course shall be approved by the commission and shall be specific to Kansas law with primary emphasis on issues that arise under the brokerage relationships in real estate transactions act, K.S.A. 58-30,101 et seq., and amendments thereto, and rules or regulations adopted thereunder.*

~~(e) Except as provided in subsections (d), (e) and (f), (e) At or prior to each renewal date established by the commission, any person who is licensed in this state as a broker or as a salesperson shall submit evidence, satisfactory to the commission, of attendance of not less than 12 hours of additional instruction approved by the commission and received during the renewal period.~~

~~(d) Any person who obtained an original license in this state as a salesperson after July 1, 1988, and before July 1, 1991, shall submit evidence, satisfactory to the commission, of attendance of courses of instruction approved by the commission at or prior to each renewal date established by the commission as follows:~~

~~(1) At or prior to the first license renewal, 50 hours of instruction received after the date of licensure. Such evidence shall not be required until the second license renewal if the original license expires less than six months after issuance.~~

~~(2) At or prior to each license renewal thereafter, 12 hours of additional instruction received during the renewal period.~~

~~Any salesperson who obtains a broker's license in this state prior to completing the 50 hours of instruction required by this subsection shall submit the same evidence to renew the broker's license that would have been required to renew the salesperson's license.~~

~~(e) Any person who obtains an original license in this state as a salesperson on or after July 1, 1991 and before October 1, 1997, shall submit evidence, satisfactory to the commission, of attendance of courses of in-~~

struction approved by the commission at or prior to each renewal date established by the commission as follows:

~~(1) At or prior to the first license renewal, 30 hours of instruction received after the date of licensure. Such evidence shall not be required until the second license renewal if the original license expires less than six months after issuance.~~

~~(2) At or prior to each license renewal thereafter, 12 hours of additional instruction received during the renewal period.~~

~~Any salesperson who obtains a broker's license in this state prior to completing the 30 hours of instruction required by this subsection shall submit the same evidence to renew the broker's license that would have been required to renew the salesperson's license.~~

(f) Any person who obtains a temporary license in this state as a salesperson ~~on and after October 1, 1997~~ *prior to July 1, 2007*, shall submit evidence, satisfactory to the commission, of attendance of courses of instruction approved by the commission as follows:

(1) No later than ten days prior to the expiration date of the temporary license, 30 hours of instruction received after the date of licensure.

(2) At or prior to the first renewal of a license issued pursuant to ~~subsection (f)(2) or (4) of K.S.A. 58-3039~~, and amendments thereto, 12 hours of additional instruction received during the renewal period. Such evidence shall not be required until the second license renewal if the license expires less than six months after issuance.

(3) At or prior to each license renewal thereafter, 12 hours of additional instruction received during the renewal period.

*(g) Any person who qualifies for original licensure as a salesperson pursuant to K.S.A. 58-3039, and amendments thereto, on or after July 1, 2007, shall not be required to comply with subsection (e) until the second license renewal period if the license expires less than six months after it is issued.*

~~(g)~~ *(h) Except for courses reviewed pursuant to subsection (j) (k), on and after January 1, 1994, courses of instruction required by this section shall be courses approved by the commission and offered by:*

(1) An institution which is accredited by the north central association of colleges and secondary schools accrediting agency;

(2) an area vocational or vocational-technical school as defined by K.S.A. 72-4412, and amendments thereto;

(3) a private or out-of-state postsecondary educational institution which has been issued a certificate of approval pursuant to the Kansas private and out-of-state postsecondary educational institution act;

(4) any agency of the state of Kansas; or

(5) a similar institution, approved by the commission, in another state.

~~(h)~~ *(i) The commission shall adopt rules and regulations to: (1) Prescribe minimum curricula and standards for all courses offered to fulfill education requirements of this act, (2) designate a course of study to fulfill any specific requirement, which may include requiring that licensees pass a test as prescribed by the commission for any course designated by the commission in rules and regulations as a mandatory core requirement, (3) prescribe minimum qualifications for instructors of approved courses and (4) establish standards and procedures for approval of courses and instructors, monitoring courses, advertising, registration and maintenance of records of courses, and withdrawal of approval of courses and instructors.*

~~(i)~~ *(j) The commission may approve nontraditional distance education courses consisting solely or primarily of home study, videotaped or computer-assisted instruction provided online or in other computer-assisted formats, or by correspondence, audiotape, videotape or other media. For the purpose purposes of this section, attendance of one hour of instruction shall mean 50 minutes of classroom instruction or the equivalent thereof in nontraditional distance education study as determined by the commission.*

~~(j)~~ *(k) Courses of instruction required by this section shall be courses approved by the commission either before or after their completion. The commission may give credit toward the 12 hours of additional instruction required by subsection (e), (d), (e) or (f) to any licensee who submits an application for course review obtained from the commission and pays the fee prescribed by K.S.A. 58-3063, and amendments thereto, if, in the*



judgment of the commission, the course meets the objectives of continuing education.

~~(l)~~ (l) The commission shall publish annually a list of educational institutions and entities and the courses offered by them in this state which are approved by the commission.

~~(m)~~ (m) No license shall be issued or renewed unless the applicable requirements set forth in this section are met within the time prescribed.

Sec. 7. K.S.A. 58-3045 is hereby amended to read as follows: 58-3045. (a) Except for a temporary salesperson's license issued pursuant to subsection ~~(i)~~ (i) of K.S.A. 58-3039, and amendments thereto, each license issued or renewed by the commission shall expire on a date determined in accordance with a schedule established by rules and regulations of the commission, which date shall be not more than two years from the date of issuance or renewal. Except as otherwise provided by this act, applicants for issuance or renewal of a license must satisfy all applicable requirements prior to issuance or renewal of the license.

(b) (1) Except for a temporary salesperson's license issued pursuant to subsection ~~(i)~~ (i) of K.S.A. 58-3039, and amendments thereto, each license shall be renewable upon the filing of a renewal application on or before the renewal date, which is the last calendar day of the month preceding the license expiration date. Such application shall be made on a form provided by the commission and accompanied by (A) the renewal fee prescribed by K.S.A. 58-3063, and amendments thereto, and (B) evidence of compliance with the requirements of K.S.A. 58-3046a and amendments thereto or the licensee's license with the licensee's request that the license be deactivated on the renewal date pursuant to K.S.A. 58-3049, and amendments thereto.

(2) Failure to comply with paragraph (1) on or before the renewal date will automatically cancel the license on the license expiration date unless the license is renewed pursuant to subsection (c) prior to the expiration date.

(c) The commission may reinstate and renew the license of a licensee who has failed to comply with the requirements of subsection (b)(1) if within six months following the date of the expiration of the license, the licensee submits to the commission an application for late renewal. Such application shall be made on a form provided by the commission and shall be signed by the licensee. Except for late renewal of a license on deactivated status pursuant to K.S.A. 58-3049, and amendments thereto, such application also shall be signed by the licensee's supervising broker or branch broker, if applicable. Such application shall be accompanied by (1) evidence of compliance with K.S.A. 58-3046a, and amendments thereto, or a written request that such license be renewed on deactivated status pursuant to K.S.A. 58-3049, and amendments thereto, and (2) payment of the renewal fee prescribed by K.S.A. 58-3063, and amendments thereto, plus a late fee of \$50.

(d) An application for renewal filed in compliance with the requirements of subsection (b) shall entitle the applicant to continue operating under the applicant's existing license after its specified expiration date, unless such license has been suspended or revoked and has not been reinstated or unless such license is restricted, until such time as the commission determines whether the application fulfills such requirements.

New Sec. 8. (a) Each supervising broker who desires to do business under a trade name or business name other than the supervising broker's own name shall register with and obtain approval from the commission for use of the trade name or business name. The use of the trade name or business name may be disapproved by the commission if, in the judgment of the commission, the use of the trade name or business name would be misleading or confusing to the public. The reasons for disapproval may include the following:

(1) The requested trade name or business name or a similar name is currently in use, or has been in use during the past two years, in the same marketing area.

(2) Terms are used in the trade name or business name that are misleading or confusing.

(b) A branch office shall use the same trade name or business name as that used by the primary office.

(c) The provisions of this section shall be a part of and supplemental to the real estate brokers' and salespersons' license act.

Sec. 9. K.S.A. 58-3047 is hereby amended to read as follows: 58-3047. (a) The commission shall issue a license as broker or salesperson to each applicant who is qualified under and complies with all provisions of this act and rules and regulations adopted hereunder. The form of license shall be prescribed by the commission.

(b) A salesperson's or associate broker's license shall be delivered or mailed to the supervising broker or branch broker, if applicable, and shall be kept in the custody and control of such broker until canceled or until the salesperson or associate broker leaves employment by or association with the broker.

(c) Immediately upon the termination of a salesperson or associate broker from employment by or association with a broker, the supervising broker or branch broker, if applicable, shall return such salesperson's or associate broker's license to the commission for cancellation. A license canceled but not suspended or revoked may be reinstated at any time during the period for which it was issued upon receipt of the fee for reinstatement prescribed by K.S.A. 58-3063 and amendments thereto and an application therefor. Such application shall be made on a form provided by the commission and shall be signed by the licensee and the licensee's supervising broker or branch broker, if applicable.

~~(d) Except as provided in subsection (e), upon a change in the name under which a broker is licensed or a change in the location of a broker's office, the broker shall, within 10 days, return to the commission, for cancellation and reinstatement under the new name or location of the broker, the broker's license, together with the reinstatement fee prescribed by K.S.A. 58-3063 and amendments thereto.~~

~~(e) Upon a change in the name under which a supervising broker is licensed~~ *broker's name, business name or trade name for the primary office* or a change in the location of a supervising broker's office, the supervising broker shall, within 10 days, return to the commission together with the reinstatement fee prescribed by K.S.A. 58-3063 and amendments thereto, for cancellation and reinstatement under the new name or location of the supervising broker: (1) The license of the supervising broker; (2) the license of any other broker who is associated with the supervising broker and whose license requires reinstatement under the new name or location; and (3) the licenses of all salespersons and associate brokers employed by or associated with the supervising broker.

*(e) The supervising broker of the primary office shall be responsible for ensuring that the branch broker complies with subsection (f).*

~~(f) Upon a change in the name under which a branch broker is licensed~~ *a supervising broker's name, business name or trade name for the primary office* or a change in the location of a branch broker's office, the branch broker shall, within 10 days, return to the commission, for cancellation and reinstatement under the new name *for the primary office and branch office* or location of the branch ~~broker office~~, the license of the branch broker and the licenses of all salespersons and associate brokers assigned to the branch office, together with the reinstatement fee prescribed by K.S.A. 58-3063 and amendments thereto. ~~Upon a change in~~

*(g) (1) To change the broker designated as the branch broker or supervising broker of an office, the supervising broker shall, within 10 days, notify the commission on a form approved by the commission. Except as provided in paragraphs (2), (3) or (4), the supervising broker shall return to the commission, for cancellation and reinstatement, the licenses of the brokers who are affected by the change current broker and new broker, together with the reinstatement fee prescribed by K.S.A. 58-3063 and amendments thereto.*

~~(f) When any salesperson or associate broker is discharged for a violation of any of the provisions of this act, a certified written statement of the facts with reference thereto shall be filed forthwith with the commission by the supervising broker.~~

*(2) The license of a broker is not required to be returned to the commission for cancellation and reinstatement if the broker is:*

*(A) An associate broker in the primary office and will function as the supervising broker; or*

(B) *an associate broker in the branch office and will function as the branch broker.*

(3) *The license of a supervising broker is not required to be returned to the commission for cancellation and reinstatement if the broker will continue to be associated or employed by the primary office as an associate broker.*

(4) *The license of a branch broker is not required to be returned to the commission for cancellation and reinstatement if the broker will continue to be associated or employed by the branch office as an associate broker.*

(h) *If a salesperson's or associate broker's employment or association with a supervising broker is terminated by the supervising broker for violation of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, the supervising broker shall submit a written statement to the commission, within 10 days, setting forth the alleged facts that were involved.*

(i) *If a salesperson's or associate broker's employment or association with a branch broker is terminated by the branch broker for violation of this act or rules and regulations adopted hereunder, or the brokerage relationships in real estate transactions act or rules and regulations adopted thereunder, the branch broker shall submit a written statement to the commission, within 10 days, setting forth the alleged facts that were involved.*

(j) *When a termination occurs pursuant to subsections (h) or (i) and a real estate transaction is involved, the duty to report shall apply whether the salesperson or associate broker acted as an agent, transaction broker or as a principal in the transaction.*

New Sec. 10. (a) When the license of a supervising broker or branch broker expires, the licenses of all licensees associated with or employed by the supervising broker or branch broker shall automatically be placed on inactive status within five calendar days after written notice is issued by the commission to the associated or employed licensee unless notification is provided to the commission prior to the expiration date of the license that another broker will assume the role as the supervising broker or branch broker or the licensee transfers to another supervising broker or branch broker.

(b) If notification is not received by the commission prior to the expiration date of the supervising broker's or branch broker's license that another broker will act as supervising broker or branch broker, the supervising broker or branch broker whose license expires shall return to the commission the licenses of all licensees associated or employed by the supervising broker or branch broker before or immediately upon the expiration date of the supervising broker's or branch broker's license.

(c) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

New Sec. 11. (a) When the license of a supervising broker or branch broker is suspended or revoked, the licenses of all licensees associated with or employed by the supervising broker or branch broker shall automatically be placed on inactive status within five calendar days after written notice is issued by the commission to the associated or employed licensee for the duration of the suspension or revocation, unless the licensee transfers to another supervising broker or branch broker. If deemed in the public interest until pending transactions are closed, the commission may authorize another broker to act as the supervising or branch broker during any period of suspension or revocation.

(b) If another broker is not authorized by the commission to act as the supervising broker or branch broker during the period of suspension or revocation, the supervising broker or branch broker whose license is suspended or revoked shall return to the commission the licenses of all licensees associated or employed by the supervising broker or branch broker within five calendar days of the effective date of the order of suspension or revocation.

(c) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

New Sec. 12. (a) A licensee whose license is suspended or revoked may receive any personally earned commission during the period of sus-

pension or revocation only for those acts performed and for which commission was personally earned when the person was actively licensed prior to the effective date of the suspension or revocation. This statute is not intended to determine if a licensee is entitled to compensation; such entitlement would depend upon the terms of the licensee's written employment or independent contractor agreement with their former supervising broker or branch broker and is a matter of contract law.

(b) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

New Sec. 13. (a) Unless notification is provided to the commission prior to the expiration date of the supervising broker's or branch broker's license that another broker will act as the supervising broker or branch broker, the supervising broker or branch broker whose license expires, on or before the expiration date of the license, shall advise all clients and customers that the supervising broker or branch broker and any licensees that are employed by or associated with the supervising broker or branch broker will be unable to perform the terms and conditions contained in the listing or brokerage agreement with the client or customer after the expiration of the supervising broker's or branch broker's license. Upon receipt of notice from the supervising broker or branch broker or the expiration date of the supervising broker's or branch broker's license, whichever is earlier, the client or customer may enter into a listing or brokerage agreement with another broker of their choice.

(b) Unless the commission notifies the supervising broker or branch broker in writing that the commission has authorized another broker to act as the supervising broker or branch broker during the period of suspension or revocation, the supervising broker or branch broker whose license is suspended or revoked, within five calendar days after the effective date of the order of suspension or revocation, shall advise all clients and customers that the supervising broker or branch broker and any licensees that are employed by or associated with the supervising broker or branch broker will be unable to perform the terms and conditions contained in the listing or brokerage agreement with the client or customer after the effective date of the suspension or revocation. Upon receipt of notice from the supervising broker or branch broker, or upon the effective date of the order of suspension or revocation if notice is not properly given, the client or customer may enter into a listing or brokerage agreement with another broker of their choice.

(c) A supervising broker or branch broker whose license expires or is suspended or revoked may not sell or assign listings and brokerage agreements to another broker without the written consent of the owner of the property, and any sale or assignment of a listing or brokerage agreement must be completed prior to the expiration of the supervising broker's or branch broker's license or the effective date of the order of suspension or revocation.

(d) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

New Sec. 14. (a) A supervising broker or branch broker whose license is expired or is suspended or revoked may not personally finalize any pending closings. This responsibility must be given to another broker, an attorney, a financial institution or an escrow company.

(b) If the commission has not authorized another broker to act as the supervising broker or branch broker, transfer of the responsibility for finalizing a pending closing shall be done with the written approval of all parties to the transaction.

(c) If the commission has not authorized another broker to act as the supervising broker or branch broker, all parties to the transaction shall be advised of the facts concerning the situation concerning the status of the license of the supervising broker or branch broker and shall be provided the name, address and telephone number of the responsible entity where all trust and escrow moneys will be held in accordance with the written agreement of the parties to the transaction.

(d) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

New Sec. 15. (a) If the commission has not authorized another broker to act as the supervising broker or branch broker, all advertising under the supervising broker's or branch broker's name or trade name, includ-

ing, but not limited to, signage, must be removed or covered within five calendar days after the expiration date of the supervising broker's or branch broker's license or the effective date of the order of suspension or revocation.

(b) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

Sec. 16. K.S.A. 58-3034 is hereby amended to read as follows: 58-3034. K.S.A. 58-3034 through ~~58-3076~~ 58-3077, section 5 and sections 7 through 15, and amendments thereto, shall be known and may be cited as the real estate brokers' and salespersons' license act.

Sec. 17. K.S.A. 58-3034, 58-3043, 58-3045, 58-3047 and 58-3050 and K.S.A. 2006 Supp. 58-3039, 58-3046a and 58-3063 are hereby repealed.

Sec. 18. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

\_\_\_\_\_  
HOUSE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE  
as amended \_\_\_\_\_

SENATE adopted  
Conference Committee Report \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*