

## HOUSE BILL No. 2346

By Committee on Commerce and Labor

2-1

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9 AN ACT concerning real estate brokers and salespersons; relating to li-  
10 censure; amending K.S.A. 58-3045 and K.S.A. 2006 Supp. 58-3039 and  
11 58-3046a and repealing the existing sections.  
12

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

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

21 (1) *Any applicant who qualifies for licensure as a salesperson prior*  
22 *to July 1, 2007, shall submit the application accompanied by evidence of*  
23 *compliance with subsection (a) of K.S.A. 58-3046a, and amendments*  
24 *thereto.*

25 (2) *Any applicant who qualifies for licensure as a broker prior to July*  
26 *1, 2007, shall submit the application accompanied by evidence of com-*  
27 *pliance with subsection (b) of K.S.A. 58-3046a, and amendments thereto.*

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

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

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

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

41 (c) In addition to the requirements of subsection (b), except as pro-  
42 vided in subsection (d), each applicant for an original license as a broker  
43 shall have been:

- 1 (1) Licensed as a salesperson in this state or as a salesperson or broker  
2 in another state, and shall have been actively engaged in any of the activ-  
3 ities described in subsection (f) of K.S.A. 58-3035, and amendments  
4 thereto, for a period of at least two years during the five years immediately  
5 preceding the date of the application for a license; or
- 6 (2) if an applicant resides in a county that has a population of 20,000  
7 or less, the commission may, upon a finding that such county suffers from  
8 a shortage of brokers and upon compelling evidence of need, waive or  
9 alter the requirements of this subsection. The commission shall adopt  
10 rules and regulations to establish alternative licensing criteria for such  
11 applicants.
- 12 (d) The commission may accept proof of experience in the real estate  
13 or a related business or a combination of such experience and education  
14 which the commission believes qualifies the applicant to act as a broker  
15 as being equivalent to all or part of the experience required by subsection  
16 (c).
- 17 ~~(c) Except as provided in K.S.A. 58-3040, and amendments thereto,~~  
18 ~~each applicant for an original license shall be required to pass a written~~  
19 ~~examination covering generally the matters confronting brokers or sales-~~  
20 ~~persons, and no license shall be issued on the basis of such an examination~~  
21 ~~either or both sections of which were administered more than four~~  
22 ~~months prior to the date that the applicant's application is filed with the~~  
23 ~~commission. The examination may be given by the commission or any~~  
24 ~~person designated by the commission. Each person taking the examina-~~  
25 ~~tion shall pay the examination fee prescribed pursuant to K.S.A. 58-3063,~~  
26 ~~and amendments thereto, which fee the commission may require to be~~  
27 ~~paid to it or directly to the testing service designated by the commission.~~  
28 ~~The examination for a broker's license shall be different from or in ad-~~  
29 ~~dition to that for a salesperson's license.~~
- 30 (e) *Each applicant for an original license shall be required to pass an*  
31 *examination covering the subject matter which brokers or salespersons*  
32 *generally confront while conducting activities that require a real estate*  
33 *license. The examination shall consist of a general portion that tests the*  
34 *applicant's knowledge of real estate matters that have general application.*  
35 *The state portion of the examination shall test the applicant's knowledge*  
36 *of real estate subject matter applicable to a specific jurisdiction.*
- 37 (1) *Except as provided in K.S.A. 58-3040, and amendments thereto,*  
38 *each applicant for an original license shall be required to pass the general*  
39 *or national portion of the examination.*
- 40 (2) *Each applicant for an original license shall be required to pass the*  
41 *Kansas state portion of the examination.*
- 42 (3) *No license shall be issued on the basis of an examination if either*  
43 *or both portions of the examination were administered more than six*

1 months prior to the date that the applicant's application is filed with the  
2 commission. The examination may be given by the commission or any  
3 person designated by the commission. Each person taking the examination  
4 shall pay the examination fee prescribed pursuant to K.S.A. 58-3063, and  
5 amendments thereto, which fee the commission may require to be paid to  
6 it or directly to the testing service designated by the commission. The  
7 examination for a broker's license shall be different from or in addition  
8 to that for a salesperson's license.

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

13 (g) An application for an original license as a salesperson or associ-  
14 ated broker shall be accompanied by the recommendation of the super-  
15 vising broker or branch broker with whom the salesperson or associated  
16 broker is to be associated, or by whom the salesperson or associated broker  
17 is to be employed, certifying that the applicant is honest, trustworthy and  
18 of good reputation.

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

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

35 (3) Failure to comply with the provisions of paragraph (2) shall au-  
36 tomatically cancel the temporary license on its expiration date.

37 (4) A person whose temporary salesperson's license was canceled  
38 pursuant to paragraph (3) may apply for a salesperson's license if such  
39 application, the license fee prescribed by K.S.A. 58-3063, and amend-  
40 ments thereto, plus a late fee of \$50 and evidence of attendance of 30  
41 hours of instruction received after issuance of the temporary license pur-  
42 suant to subsection (f)(1) of K.S.A. 58-3046a, and amendments thereto,  
43 are received by the commission within three months after the expiration

1 date of the temporary license. The commission shall issue a salesperson's  
2 license to a person who complies with the provisions of this paragraph.  
3 The expiration date of the license shall be determined in accordance with  
4 a schedule established by rules and regulations of the commission.

5 ~~(g) The commission, prior to granting an original license, shall require~~  
6 ~~proof that the applicant has a good reputation for honesty, trustworthi-~~  
7 ~~ness, integrity and competence to transact the business of broker or sa-~~  
8 ~~lesperson in such manner as to safeguard the public interest.~~

9 ~~(h) An application for an original license as a salesperson shall be~~  
10 ~~accompanied by the recommendation of the broker with whom the sa-~~  
11 ~~lesperson is to be associated, or by whom the salesperson is to be em-~~  
12 ~~ployed, certifying that the applicant is honest, trustworthy and of good~~  
13 ~~reputation.~~

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

19 Sec. 2. K.S.A. 2006 Supp. 58-3046a is hereby amended to read as  
20 follows: 58-3046a. (a) Except as provided in K.S.A. 58-3040, and amend-  
21 ments thereto, any person who applies for an original license in this state  
22 as a salesperson shall submit evidence, satisfactory to the commission, of  
23 attendance of a principles of real estate course, of not less than 30 hours  
24 of instruction, approved by the commission and received within the 12  
25 months immediately preceding the filing of application for salesperson's  
26 license. The commission may require the evidence to be furnished to the  
27 commission with the original application for license or it may require the  
28 applicant to furnish the evidence to the testing service designated by the  
29 commission as a prerequisite to taking the examination required by K.S.A.  
30 58-3039 and amendments thereto. If the evidence is furnished to the  
31 testing service, the instruction shall have been received within 12 months  
32 immediately preceding the date of the examination.

33 (b) Except as provided in K.S.A. 58-3040, and amendments thereto,  
34 any person who applies for an original license in this state as a broker  
35 shall submit evidence, satisfactory to the commission, of attendance of 24  
36 hours of instruction, approved by the commission and received within the  
37 12 months immediately preceding the filing of application for broker's  
38 license. Such hours shall be in addition to any hours of instruction used  
39 to meet the requirements of subsection (c), (d), (e) or (f). The commission  
40 may require the evidence to be furnished to the commission with the  
41 original application for license, or it may require the applicant to furnish  
42 the evidence to the testing service designated by the commission as a  
43 prerequisite to taking the examination provided in K.S.A. 58-3039, and

1 amendments thereto. If the evidence is furnished to the testing service,  
2 the instruction shall have been received within 12 months immediately  
3 preceding the date of the examination.

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

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

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

27 ~~(d) Any person who obtained an original license in this state as a~~  
28 ~~salesperson after July 1, 1988, and before July 1, 1991, shall submit evi-~~  
29 ~~dence, satisfactory to the commission, of attendance of courses of instruc-~~  
30 ~~tion approved by the commission at or prior to each renewal date estab-~~  
31 ~~lished by the commission as follows:~~

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

36 ~~—(2) At or prior to each license renewal thereafter, 12 hours of addi-~~  
37 ~~tional instruction received during the renewal period.~~

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

42 ~~—(e) Any person who obtains an original license in this state as a sa-~~  
43 ~~lesperson on or after July 1, 1991 and before October 1, 1997, shall submit~~

- 1 evidence, satisfactory to the commission, of attendance of courses of in-  
 2 struction approved by the commission at or prior to each renewal date  
 3 established by the commission as follows:
- 4 ~~—(1) At or prior to the first license renewal, 30 hours of instruction~~  
 5 ~~received after the date of licensure. Such evidence shall not be required~~  
 6 ~~until the second license renewal if the original license expires less than~~  
 7 ~~six months after issuance.~~
- 8 ~~—(2) At or prior to each license renewal thereafter, 12 hours of addi-~~  
 9 ~~tional instruction received during the renewal period.~~
- 10 ~~—Any salesperson who obtains a broker's license in this state prior to~~  
 11 ~~completing the 30 hours of instruction required by this subsection shall~~  
 12 ~~submit the same evidence to renew the broker's license that would have~~  
 13 ~~been required to renew the salesperson's license.~~
- 14 (f) Any person who obtains a temporary license in this state as a sa-  
 15 lesperson ~~on and after October 1, 1997~~ *prior to July 1, 2007*, shall submit  
 16 evidence, satisfactory to the commission, of attendance of courses of in-  
 17 struction approved by the commission as follows:
- 18 (1) No later than ten days prior to the expiration date of the tempo-  
 19 rary license, 30 hours of instruction received after the date of licensure.
- 20 (2) At or prior to the first renewal of a license issued pursuant to  
 21 ~~subsection (f)(2) or (4) of K.S.A. 58-3039, and amendments thereto~~, 12  
 22 hours of additional instruction received during the renewal period. Such  
 23 evidence shall not be required until the second license renewal if the  
 24 license expires less than six months after issuance.
- 25 (3) At or prior to each license renewal thereafter, 12 hours of addi-  
 26 tional instruction received during the renewal period.
- 27 (g) *Any person who qualifies for original licensure as a salesperson*  
 28 *pursuant to K.S.A. 58-3039, and amendments thereto, on or after July 1,*  
 29 *2007, shall not be required to comply with subsection (d) until the second*  
 30 *license renewal period if the license expires less than six months after it*  
 31 *is issued.*
- 32 ~~(g) (h)~~ Except for courses reviewed pursuant to subsection ~~(j)~~ (k), ~~on~~  
 33 ~~and after January 1, 1994~~, courses of instruction required by this section  
 34 shall be courses approved by the commission and offered by:
- 35 (1) An institution which is accredited by the north central association  
 36 of colleges and secondary schools accrediting agency;
- 37 (2) an area vocational or vocational-technical school as defined by  
 38 K.S.A. 72-4412, and amendments thereto;
- 39 (3) a private or out-of-state postsecondary educational institution  
 40 which has been issued a certificate of approval pursuant to the Kansas  
 41 private and out-of-state postsecondary educational institution act;
- 42 (4) any agency of the state of Kansas; or
- 43 (5) a similar institution, approved by the commission, in another state.

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

12    ~~(i)~~ (j) The commission may approve ~~nontraditional~~ *distance education*  
13    courses consisting solely or primarily of ~~home study, videotaped or com-~~  
14    ~~puter-assisted instruction~~ *instruction provided online or in other com-*  
15    ~~puter-assisted formats, or by correspondence, audiotape, videotape or~~  
16    ~~other media.~~ For the ~~purpose~~ *purposes* of this section, attendance of one  
17    hour of instruction shall mean 50 minutes of classroom instruction or the  
18    equivalent thereof in ~~nontraditional~~ *distance education* study as deter-  
19    mined by the commission.

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

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

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

33    Sec. 3. K.S.A. 58-3045 is hereby amended to read as follows: 58-  
34    3045. (a) Except for a temporary salesperson's license issued pursuant to  
35    subsection ~~(f)~~ (h) of K.S.A. 58-3039, and amendments thereto, each li-  
36    cense issued or renewed by the commission shall expire on a date deter-  
37    mined in accordance with a schedule established by rules and regulations  
38    of the commission, which date shall be not more than two years from the  
39    date of issuance or renewal. Except as otherwise provided by this act,  
40    applicants for issuance or renewal of a license must satisfy all applicable  
41    requirements prior to issuance or renewal of the license.

42    (b) (1) Except for a temporary salesperson's license issued pursuant  
43    to subsection ~~(f)~~ (h) of K.S.A. 58-3039, and amendments thereto, each

1 license shall be renewable upon the filing of a renewal application on or  
2 before the renewal date, which is the last calendar day of the month  
3 preceding the license expiration date. Such application shall be made on  
4 a form provided by the commission and accompanied by (A) the renewal  
5 fee prescribed by K.S.A. 58-3063, and amendments thereto, and (B) ev-  
6 idence of compliance with the requirements of K.S.A. 58-3046a and  
7 amendments thereto or the licensee's license with the licensee's request  
8 that the license be deactivated on the renewal date pursuant to K.S.A.  
9 58-3049, and amendments thereto.

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

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

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

34 Sec. 4. K.S.A. 58-3045 and K.S.A. 2006 Supp. 58-3039 and 58-3046a  
35 are hereby repealed.

36 Sec. 5. This act shall take effect and be in force from and after its  
37 publication in the statute book.