

Kentucky Real Estate Law Review

by
Joyce Bea Sterling
DREI, CDEI, e-Pro, SHS, GHS

Email: Joyce@2MyClasses.com Phone: 859-474-0448

Updated 2017

This is a summary of many of Kentucky's real estate license laws.
The author is not a lawyer and is not providing legal advice.
Specific law questions should be directed to an attorney.

**This book may be used by the person who paid for it.
All other use is prohibited.**

By Executive Order of the Governor, in December 2016
the Kentucky Real Estate Commission (KREC) became the
Board of Real Estate Professionals (BREP).

The web site address is still www.KREC.KY.gov

<http://krec.ky.gov/legal/Pages/formscontracts.aspx>

<http://krec.ky.gov/legal/Pages/kreclm.aspx>

The forms found on the **Board of Real Estate Professionals** website
should be reviewed by your principal broker before you use them.

For a review of the

Legislative Research Commission's Official Statutes and Regulations,
please refer to their website at <http://www.lrc.state.ky.us/home.htm>.

**We highly recommend that you read
the laws and administrative regulations in their entirety.**

Information Regarding the Kentucky Real Estate Sales and Broker Exams

The **state portion** of the Kentucky real estate examination consists of **40 questions** for both the salesperson and broker examinations **plus ten (10) pretest questions**. These pretest items are NOT identified on the examination and will NOT affect the score in any way.

The state laws are **Kentucky Revised Statutes** and they are identified as **KRS Chapter 324. (i.e. KRS 324.160)**

The **Kentucky Administrative Regulations** are the **interpretations of the Statutes that made by the Kentucky Real Estate Commission** and real estate licensees must obey these administrative regulations. They are identified with the initials **KAR**. (i.e. 201 KAR 11.011)

	<p style="text-align: center;">Please note. You do NOT have to know the law numbers for the state exam. If a number is used in a question or answer, it will be the correct number.</p>
---	---

This book may be used by the person who paid for it.

All other use is prohibited.

The acronym BREP or “Board” means the Board of Real Estate Professionals in the book.

Contents

About The Board of Real Estate Professionals	4
About Your Real Estate License	5
Continuing Education	13
Investigation of licensee	15
Disciplinary Actions	18
Real Estate Education, Research and Recovery Fund	23
Errors and Omissions Insurance	25
Principal Broker and Brokerage Duties	26
Escrow Accounts	28
Fees	29
Returning a License to the KREC	30
Broker's Records	32
Listing Contracts – Broker Lien Law – Stigmatized Property	33
Advertising	35
Disclosures	38
Personal Assistant Duties	42
No Call Laws	44
Offer to Purchase – Back Up Offer	47
Agency	48
Property Management	52
Commercial Real Estate	56
Loan Officers	59

About the Board of Real Estate Professionals

DEPARTMENT OF PROFESSIONAL LICENSING



KENTUCKY REAL ESTATE AUTHORITY

(Created within the Department of Professional Licensing)

Within the Kentucky Real Estate Authority is created the:

- 1. Board of Real Estate Professionals** (formerly the Kentucky Real Estate Commission)
- 2. Board of Appraisers** (formerly the Real Estate Appraisers Board)
- 3. Board of Auctioneers** (formerly Board of Auctioneers)
- 4. Board of Home Inspectors** (formerly Kentucky Board of Home Inspectors)

The Kentucky Real Estate Authority has five (5) members: the Executive Director of the KY Real Estate Authority, and the chair of each of the above Boards.

Each of the Boards will consist of **three (3) members**.

The KY Real Estate Authority will oversee each of these Boards in fulfilling their responsibilities per their respective chapters of laws KRS 324, 324A, 330, 198B.

The Kentucky Real Estate Authority is headed by newly appointed Executive Director Ken Warden.

Also, as part of the Executive Order, Governor Matt Bevin appointed Lois Ann Disponett as Chair of the Board of Real Estate Professionals. The Governor also appointed two voting members, Commissioner Kimberly Sickles and Commissioner Tom Biederman.
(You do not have to know the names for the test.)

Commissioners Bob Roberts, Dana Anderson and Tommy Waldrop have been reclassified as **non-voting ex-officio members**.

The new Boards **may NOT create regulations** but can **make recommendations** to the Kentucky Real Estate Authority. The new Boards shall be able to make licensing decisions and determine penalties to licensees of their respective Boards **conditional upon ratification** by the Executive Director of the Kentucky Real Estate Authority, with each decision appealable to the Department of Professional Licensing.

324.281 Kentucky Real Estate Commission – Members – Terms – Vacancies – Duties
Mandatory continuing education

1. Who appoints the **Board of Real Estate Professionals**? **Governor**
2. How many members are there? **3**
3. How many hold a real estate license? **3**
4. What type of license must he/she have?
A real estate license. It does not have to be a broker's license.
5. How long must he/she have been residents of the state immediately prior to their appointment? **10 years**
6. How many members are appointed as a "citizen- at- large? **0**
7. How long is the term of a member? **3 years**
8. How terms can a member have? **2 consecutive**
No member can serve more than **six** consecutive years.
9. Where does the Governor get the list of people to select an appointment of a member?
Kentucky Association of REALTORS®
10. How many members can belong to the same political party? **2**
11. No member shall **reside in the same county** as another member.
12. A member will be **automatically removed** if such member **missed three (3) consecutive meetings** or misses more than **25% meetings held over the previous 12-month period.**

Member Duties

1. Hold **disciplinary** hearings
2. Conduct **examinations** or contract to conduct examinations
3. Conduct educational **seminars** and CE class
4. **Investigate** or cause to be investigated any irregularities of the law
(Such as unlicensed brokerage activities)
5. To participate with other organizations for the **improvement** of the laws.

6. Any action taken by the "**Board**" can be **appealed**.

The new Boards shall be **able to make licensing decisions and determine penalties** to licensees of their respective Boards **conditional upon ratification by the Executor Director** of the Kentucky Real Estate Authority, with each decision appealable to the Department of Professional Licensing.

The *Board of Real Estate Professionals* **does not** have the authority to promulgate administrative regulations. The *Board of Real Estate Professionals* shall be give **thirty (30) days** to review and comment on a proposed regulation that affects licensees within its jurisdiction before the regulation is promulgated, amended, or repealed, except in the case of an emergency regulation.

324.2811 Automatic removal of member from Commission

1. A licensed member **ceases to have** his/her license.
2. A member enters a plea of guilt or been found guilty of a felony in which **fraud** is an essential element or a crime of moral turpitude.
3. Member is no longer a bona fide **resident** of the Commonwealth.

324.282 Election of chairperson – Rules and regulations

1. Who selects the chair of the "**Board**"?
The Governor shall appoint a member of the Board of Real Estate Professionals to serve as **chair**, and the *Board of Real Estate Professionals* shall annually **elect one of its members** to serve as a **vice chair** to act in the chair's absence.
2. Can the "**Board**" fix prices; establish fees or sets rates at which real estate licensees are compensated? _____ Yes **X** **No** (Nor should brokers be involved in such discussions. Brokers should leave the meeting should such discussions occur.)
3. How much are the members paid annually?
Voting members shall be compensated no more than **\$300 per day for official business**, subject to an annual **maximum of \$6,000**. Members shall be reimbursed for all expenses paid or incurred in the discharge of official business consistent with the reimbursement policy for state employees.

Non-voting ex officio members shall be compensated no more than \$100 per day for official business, subject to an annual maximum of \$2,000.
4. The "**Board**" has a **seal** to authenticate its proceedings. **ALL** records are open to public inspection, as prescribed by the "**Board**".

The Board of Real Estate Professionals usually meets every month and part of the meeting is open to the public.
A schedule can be found on the home page at www.krec.ky.gov.

About Your Real Estate License

324.010 Definitions and application

1. Real estate brokerage is a single, multiple, or continuing act of dealing in real estate **for others**. It is any work relating to real estate owned by someone else this includes referral, listing, selling, property management or offering to engage in those activities for others for money or anything of value.
2. **Real estate** means real estate in its ordinary meaning and includes timeshares, options, leasehold and other interests less than leaseholds.
3. Property management means the management of real estate **for others** for a fee compensation, or other valuable consideration.
4. Property management activities includes:
 - a. **marketing** property;
 - b. **leasing** property;
 - c. collecting **rental** payments;
 - d. **payment** of any debts such as notes, mortgages and business expenses;
 - e. planning and implementing **maintenance of** the property;
 - f. **accounting** of money and sending statements to the owner;
 - g. any other activities that the KREC deems as a property management activity.

324.020 Requirement of licensing

Unless a person falls into an "exception" category, a person MUST have a real estate broker or sales associate license to present himself or herself to the public as a real estate broker or sales associate.

1. Can someone who does not have a real estate license hold himself or herself out to the public as a real estate broker or sales associate? ___ Yes **X** **No**

A person cannot infer by the use of any terms, titles, or abbreviations which imply that that the person is licensed as a real estate broker or sales associate, **unless he/she** has a real estate license.

2. Does an licensee who is an owner or builder-developer have to disclose his status as a real estate licensee? X **Yes** ___ No

3. What steps would the Commission take to file an injunctive relief?

Seek and obtain injunctive relief by filing a civil action in the circuit court where the Commission is located or the unlawful activity took place.

324.030 Exceptions to KRS 324.020

1. A person can **sell or lease** his/her own property without a license. (For Sale by Owner – FSBO) A person can hire an **employee to sell or lease** his/her own property and the **employee does not need a license.**

2. If an owner executes a **power-of-attorney** giving a person (**attorney-in-fact**) the authority to performance any contract for the sale, leasing, or exchange of real estate, the **attorney-in-fact does not need to have a license.**

3. An **attorney-at-law** who is performing **his/her duties as attorney-at-law does not need to have a real estate license.**

4. A receiver is appointed by a bankruptcy court or by creditors to administer the property for the purpose repayment of the debts. A trustee in bankruptcy is also appointed for that same purpose. A **receiver or trustee does not have to have a real estate license** to sell property as a part of the bankruptcy procedure.

An administrator is appointed by the court to settle an estate when someone dies intestate, or without a will. When someone dies testate, meaning there is a valid will, an executor is named in a will to settle the estate. An **administrator or executor does not need to have a real estate license to sell property in the estate.**

If a person is selling real estate under **order of any court**, he/she **does not need to have real estate license.**

A **trustee** acting under a trust agreement, a deed of trust, or their **regular salaried employees, do not need to have a real estate license.**

5. If a person is the **regular employee of an owner**, he/she can **engage in property management without a license.**

If the owner enters into a property management agreement with a **principal broker**, the principal broker **may hire** a person as a **regular employee** to manage the property and the person **would not need a license to manage the property.**

If a person receives a **rental unit as his primary compensation**, the person **does not need to have a license**.

6. A **nonlicensed personal assistant** who works under the supervision of a licensed real estate broker **may contact the public** to set appointments for the broker to meet with them regarding buying or selling property. The nonlicensed personal assistant may **give out general public information** specifically authorized by the broker **without securing a real estate license**.

Thank you for the opportunity to be of service!

Let us know if we can be of further assistance.

Contact: Joyce Bea Sterling

Phone: 859-474-0448

Email: Joyce@2MyClasses.com

Website: www.KYRealEstateSchool.com - Online KY Core Course - Kentucky Prelicense Classes