

HOUSE BILL No. 2562

AN ACT concerning consumer protection; relating to financial exploitation, real estate transactions and housing discrimination; enacting the protect vulnerable adults from financial exploitation act; requiring reporting of instances of suspected financial exploitation under certain circumstances; providing civil and administrative immunity to individuals who report such instances; authorizing the Kansas real estate commission to issue cease and desist orders; regulating contract for deed transactions; providing for certain penalties related thereto; making certain deceptive actions violations of the consumer protection act; prohibiting the recording of unlawful restrictive covenants; authorizing the removal of unlawful restrictive covenants; amending K.S.A. 17-12a412, 44-1017a and 58-3065 and repealing the existing sections.

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

New Section 1. Sections 1 through 9, and amendments thereto, shall be known and may be cited as the protect vulnerable adults from financial exploitation act.

New Sec. 2. As used in the protect vulnerable adults from financial exploitation act:

(a) "Act" means the protect vulnerable adults from financial exploitation act.

(b) "Agent" means the same as defined in K.S.A. 17-12a102, and amendments thereto.

(c) "Broker-dealer" means the same as defined in K.S.A. 17-12a102, and amendments thereto.

(d) "Commissioner" means the securities commissioner of Kansas.

(e) "Eligible adult" means an elder person or dependent adult as defined in K.S.A. 21-5417, and amendments thereto.

(f) "Financial exploitation" means the unlawful or improper use, control or withholding of an eligible adult's property, income, resources or trust funds by any other person or entity in a manner that is not for the profit of or to the advantage of the eligible adult. "Financial exploitation" includes, but is not limited to, the:

(1) Use of deception, intimidation, coercion, extortion or undue influence by a person or entity to obtain or use an eligible adult's property, income, resources or trust funds in a manner for the profit of or to the advantage of such person or entity;

(2) breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust or a guardianship or conservatorship appointment, as it relates to the property, income, resources or trust funds of the eligible adult; or

(3) obtainment or use of an eligible adult's property, income, resources or trust funds, without lawful authority, by a person or entity who knows or clearly should know that the eligible adult lacks the capacity to consent to the release or use of such eligible adult's property, income, resources or trust funds.

(g) "Investment adviser" means the same as defined in K.S.A. 17-12a102, and amendments thereto.

(h) "Investment adviser representative" means the same as defined in K.S.A. 17-12a102, and amendments thereto.

(i) "Person reasonably associated with the eligible adult" means:

(1) A person authorized to transact business on the account of the eligible adult;

(2) an eligible adult's spouse, child, parent or sibling;

(3) a person who was previously designated by the eligible adult to receive information under a customer agreement;

(4) a legal guardian or conservator of the eligible adult;

(5) a trustee, co-trustee or successor trustee of the account of the eligible adult;

(6) a person named as a beneficiary on an account of the eligible adult;

(7) an agent under a power of attorney of the eligible adult; or

(8) any other person permitted to be notified under existing state or federal law, regulation or the rules of a self-regulatory organization, as defined in K.S.A. 17-12a102, and amendments thereto.

(j) "Protective agencies" means the commissioner and the Kansas department for children and families.

(k) "Qualified person" means any agent, broker-dealer, investment adviser, investment adviser representative or person who serves in a supervisory, compliance or legal capacity for a broker-dealer or investment adviser.

New Sec. 3. If a qualified person reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted or is being attempted, the broker-dealer or investment adviser shall promptly report the matter to the protective agencies, which may further report the matter as permitted or required by law.

New Sec. 4. A qualified person who, in good faith and exercising reasonable care, makes a disclosure of information pursuant to section 3, and amendments thereto, shall be immune from administrative and civil liability that might otherwise arise from such disclosure or for any failure to notify the eligible adult of such disclosure.

New Sec. 5. A qualified person who, in good faith and exercising reasonable care, makes a disclosure of information pursuant to section 3, and amendments thereto, may notify any person reasonably associated with the eligible adult of the disclosure, unless the qualified person suspects that such person reasonably associated with the eligible adult has committed or attempted financial exploitation of such eligible adult.

New Sec. 6. A qualified person who, in good faith and exercising reasonable care, complies with the provisions of section 5, and amendments thereto, shall be immune from any administrative and civil liability that might otherwise arise from such disclosure.

New Sec. 7. (a) A broker-dealer or investment adviser may delay a transaction associated with or disbursement from an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) A qualified person reasonably believes, after initiating an internal review of the requested transaction or disbursement and the suspected financial exploitation, that the requested transaction or disbursement may further financial exploitation of an eligible adult; and

(2) the broker-dealer or investment adviser:

(A) Immediately, and in no event more than two business days after the date that a requested transaction or disbursement is delayed, provides written notification of the delay and the reason for such delay to all parties authorized to transact business on the account, unless such qualified person reasonably believes that any such party is engaged in suspected or attempted financial exploitation of the eligible adult;

(B) immediately, and in no event more than two business days after the requested transaction or disbursement is delayed, notifies the protective agencies; and

(C) continues such internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary and reports the results of such investigation to the protective agencies upon request.

(b) Any delay of a transaction or disbursement authorized by this section shall expire upon the soonest of:

(1) A determination by the broker-dealer or investment adviser that the transaction or disbursement will not result in financial exploitation of the eligible adult; or

(2) 15 business days following the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement, unless either of the protective agencies requests that the broker-dealer or investment adviser extend the delay, in which case the delay shall expire not more than 25 business days after the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement if not terminated sooner or further extended by either of the protective agencies or an order of a court of competent jurisdiction.

(c) A court of competent jurisdiction may enter an order extending the delay of the transaction or disbursement or may order other protective relief based on the petition of either of the protective agencies, the broker-dealer or investment adviser that initiated the delay under this section or another interested party.

New Sec. 8. A broker-dealer or investment adviser that, in good faith and exercising reasonable care, complies with the provisions of section 7, and amendments thereto, shall be immune from any administrative and civil liability that might otherwise arise from such delay of a transaction or disbursement in accordance with this act.

New Sec. 9. (a) A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the protective agencies and to law enforcement agencies, either as part of a referral to the protective agencies or to law enforcement agencies or upon request of either protective agency or law enforcement agency pursuant to an investigation. The records may include historical records and records relating to the most recent transaction or transactions that may constitute financial exploitation of an eligible adult.

(b) No record made available to the commissioner or other agencies under this act shall be considered a public record under the open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection providing for the confidentiality of public records shall expire on July 1, 2029, unless the legislature reviews and acts to continue such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2029.

(c) Notwithstanding any provision of law to the contrary, the protective agencies shall respond to reasonable inquiries from the notifying qualified person and may disclose to the notifying qualified person the general status or final disposition of any investigation that arose from a report made by such qualified person.

(d) Nothing in this act shall limit or otherwise impede the authority of the commissioner to access or examine the books and records of broker-dealers and investment advisers as otherwise provided by law.

New Sec. 10. (a) Sections 10 through 13, and amendments thereto, shall be known and may be cited as the Kansas contract for deed act.

(b) As used in sections 10 through 13, and amendments thereto:

(1) "Buyer" means a person who purchases property subject to a contract for deed or any legal successor in interest to the buyer.

(2) "Contract for deed" means an executory agreement in which the seller agrees to convey title to real property to the buyer and the buyer agrees to pay the purchase price in five or more subsequent payments exclusive of the down payment, if any, while the seller retains title to the property as security for the buyer's obligation. Option contracts for the purchase of real property are not contracts for deed.

(3) "Property" means real property located in this state upon which there is located or will be located a structure designed principally for occupancy of one to four families that is or will be occupied by the buyer as the buyer's principal place of residence.

(4) "Seller" means any person who makes a sale of property by means of a contract for deed or any legal successor in interest to the seller.

New Sec. 11. (a) Any contract for deed or affidavit of equitable interest may be recorded in the office of the county register of deeds where the property is located by any interested person.

(b) Following the notice and opportunity to cure provided for in section 13(c), and amendments thereto, the buyer shall have 15 days to:

(1) Record a record of release of affidavit of equitable interest or

contract for deed, if such affidavit or contract were recorded; and

(2) vacate the premises, if applicable.

(c) If the buyer fails to satisfy the conditions under subsection (b), then such buyer shall be responsible for the seller's reasonable attorney fees, costs and expenses for the removal of the affidavit of equitable interest or contract for deed from the title and eviction of the buyer from the premises, if applicable.

New Sec. 12. (a) A seller shall not execute a contract for deed with a buyer if the seller does not hold title to the property. Except as provided further, a seller shall maintain fee simple title to the property free from any mortgage, lien or other encumbrance for the duration of the contract for deed. This subsection shall not apply to a mortgage, lien or encumbrance placed on the property:

(1) Due to the conduct of the buyer;

(2) with the agreement of the buyer as a condition of a loan obtained to make improvements on the property; or

(3) by the seller prior to the execution of the contract for deed if:

(A) The seller disclosed the mortgage, lien or encumbrance to the buyer;

(B) the seller continues to make timely payments on the outstanding mortgage, lien or other encumbrance;

(C) the seller disclosed the contract for deed to the mortgagee, lienholder or other party of interest; and

(D) the seller satisfies and obtains a release of the mortgage, lien or other encumbrance not later than the date the buyer makes final payment on the contract for deed unless the buyer assumes the mortgage, lien or other encumbrance as part of the contract for deed.

(b) Any violation of this section is a deceptive act or practice under the provisions of the Kansas consumer protection act and shall be subject to any and all of the enforcement provisions of the Kansas consumer protection act.

New Sec. 13. (a) A buyer's rights under a contract for deed shall not be forfeited or canceled except as provided in this section, notwithstanding any provision in the contract providing for forfeiture of buyer's rights. Nothing in this section shall be construed to limit the power of the district court to require proceedings in equitable foreclosure.

(b) The buyer's rights under a contract for deed shall not be forfeited until the buyer has been notified of the intent to forfeit as provided in subsection (c) and has been given a right to cure the default, and such buyer has failed to do so within the time period allowed. A timely tender of cure shall reinstate the contract for deed.

(c) A notice of default and intent to forfeit shall:

(1) Reasonably identify the contract and describe the property covered by it;

(2) specify the terms and conditions of the contract with which the buyer has not complied; and

(3) notify the buyer that the contract will be forfeited unless the buyer performs the terms and conditions within the following periods of time:

(A) If the buyer has paid less than 50% of the purchase price, 30 days from completed service of notice; or

(B) if the buyer has paid 50% or more of the purchase price, 90 days from completed service of notice.

(d) A notice of default and intent to forfeit shall be served on the buyer in person, or by leaving a copy at the buyer's usual place of residence with someone of suitable age and discretion who resides at such place of residence, or by certified mail or priority mail, return receipt requested, addressed to the buyer at the buyer's usual place of

residence.

(e) Nothing in this section shall be construed to preclude the buyer or the seller from pursuing any other remedy at law or equity.

New Sec. 14. (a) Any restrictive covenant recitals on real property contained in any deed, plat, declaration, restriction, covenant or other conveyance filed at any time in the office of the register of deeds in any county in violation of K.S.A. 44-1016 or 44-1017, and amendments thereto, shall be void and unenforceable.

(b) A restrictive covenant that violates K.S.A. 44-1016 or 44-1017, and amendments thereto, may be released by the owner of the real property subject to such covenant by recording a certificate of release of prohibited covenants. Such certificate may be recorded prior to recording of a document conveying any interest in such real property or at such other time as the owner discovers that such prohibited covenant exists. Any certificate recorded with the register of deeds shall be subject to recording fees pursuant to K.S.A. 28-115, and amendments thereto. A certificate of release of prohibited covenants shall contain:

- (1) The name of the current owner of the real property;
- (2) a legal description of the real property;
- (3) the volume and page or the document number in which the original document containing the restrictive covenant is recorded;
- (4) a brief description of the restrictive covenant; and
- (5) the citation to the location of the restrictive covenant in the original document.

Sec. 15. K.S.A. 17-12a412 is hereby amended to read as follows: 17-12a412. (a) *Disciplinary conditions — applicants.* An order issued under this act may deny an application, or may condition or limit registration of an applicant to be a broker-dealer, agent, investment adviser, or investment adviser representative if the administrator finds that the order is in the public interest and that there is a ground for discipline under subsection (d) against the applicant or, if the applicant is a broker-dealer or investment adviser, against any partner, officer, director, person having a similar status or performing similar functions, or person directly or indirectly controlling the broker-dealer or investment adviser.

(b) *Disciplinary conditions — registrants.* An order issued under this act may revoke, suspend, condition, or limit the registration of a registrant if the administrator finds that the order is in the public interest and that there is a ground for discipline under subsection (d) against the registrant or, if the registrant is a broker-dealer or investment adviser, against any partner, officer, or director, any person having a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser. However, the administrator:

(1) May not institute a revocation or suspension proceeding under this subsection based on an order issued by another state that is reported to the administrator or designee later than one year after the date of the order on which it is based; and

(2) under subsection (d)(5)(A) and (B), may not issue an order on the basis of an order under the state securities act of another state unless the other order was based on conduct for which subsection (d) would authorize the action had the conduct occurred in this state.

(c) *Disciplinary penalties — registrants.* If the administrator finds that the order is in the public interest and that there is a ground for discipline under subsection (d)(1) through (6), (8), (9), (10), (12) or (13) against a registrant or, if the registrant is a broker-dealer or investment adviser, against any partner, officer, or director, any person having similar functions, or any person directly or indirectly controlling

the broker-dealer or investment adviser, then the administrator may enter an order against the registrant containing one or more of the following sanctions or remedies:

- (1) A censure;
- (2) a bar or suspension from association with a broker-dealer or investment adviser registered in this state;
- (3) a civil penalty up to \$25,000 for each violation. If any person is found to have violated any provision of this act, and such violation is committed against elder or disabled persons, as defined in K.S.A. 50-676, and amendments thereto, in addition to any civil penalty otherwise provided by law, the administrator may impose an additional penalty not to exceed \$15,000 for each such violation. The total penalty against a person shall not exceed \$1,000,000;
- (4) an order requiring the registrant to pay restitution for any loss or disgorge any profits arising from a violation, including, in the administrator's discretion, the assessment of interest from the date of the violation at the rate provided for interest on judgments by K.S.A. 16-204, and amendments thereto;
- (5) an order charging the registrant with the actual cost of an investigation or proceeding; or
- (6) an order requiring the registrant to cease and desist from any action that constitutes a ground for discipline, or to take other action necessary or appropriate to comply with this act.

(d) *Grounds for discipline.* A person may be disciplined under subsections (a) through (c) if the person:

- (1) Has filed an application for registration in this state under this act or the predecessor act within the previous 10 years, which, as of the effective date of registration or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact;
- (2) willfully violated or willfully failed to comply with this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous 10 years;
- (3) has been convicted of a felony or within the previous 10 years has been convicted of a misdemeanor involving a security, a commodity future or option contract, or an aspect of a business involving securities, commodities, investments, franchises, insurance, banking; or finance;
- (4) is enjoined or restrained by a court of competent jurisdiction in an action instituted by the administrator under this act or the predecessor act, a state, the securities and exchange commission, or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking; or finance;
- (5) is the subject of an order, issued after notice and opportunity for hearing by:
 - (A) The securities, depository institution, insurance; or other financial services regulator of a state or by the securities and exchange commission or other federal agency denying, revoking, barring; or suspending registration as a broker-dealer, agent, investment adviser, federal covered investment adviser, or investment adviser representative;
 - (B) the securities regulator of a state or by the securities and exchange commission against a broker-dealer, agent, investment adviser, investment adviser representative; or federal covered investment adviser;
 - (C) the securities and exchange commission or by a self-regulatory organization suspending or expelling the registrant from

membership in the self-regulatory organization;

(D) a court adjudicating a United States postal service fraud order;

(E) the insurance regulator of a state denying, suspending, or revoking the registration of an insurance agent; or

(F) a depository institution regulator suspending or barring a person from the depository institution business;

(6) is the subject of an adjudication or determination, after notice and opportunity for hearing, by the securities and exchange commission, the commodity futures trading commission, the federal trade commission, a federal depository institution regulator, or a depository institution, insurance; or other financial services regulator of a state that the person willfully violated the securities act of 1933, the securities exchange act of 1934, the investment advisers act of 1940, the investment company act of 1940, or the commodity exchange act, the securities or commodities law of a state; or a federal or state law under which a business involving investments, franchises, insurance, banking; or finance is regulated;

(7) is insolvent, either because the person's liabilities exceed the person's assets or because the person cannot meet the person's obligations as they mature, but the administrator may not enter an order against an applicant or registrant under this paragraph without a finding of insolvency as to the applicant or registrant;

(8) refuses to allow or otherwise impedes the administrator from conducting an audit or inspection under K.S.A. 17-12a411(d), and amendments thereto, refuses access to a registrant's office to conduct an audit or inspection under K.S.A. 17-12a411(d), and amendments thereto, fails to keep or maintain sufficient records to permit an audit disclosing the condition of the registrant's business; or fails willfully and without cause to comply with a request for information by the administrator or person designated by the administrator in conducting investigations or examinations under this act;

(9) has failed to reasonably supervise an agent, investment adviser representative; or other individual, if the agent, investment adviser representative; or other individual was subject to the person's supervision and committed a violation of this act or the predecessor act or a rule adopted or order issued under this act or the predecessor act within the previous 10 years;

(10) has not paid the proper filing fee within 30 days after having been notified by the administrator of a deficiency, but the administrator shall vacate an order under this paragraph when the deficiency is corrected;

(11) after notice and opportunity for a hearing, has been found within the previous 10 years:

(A) By a court of competent jurisdiction to have willfully violated the laws of a foreign jurisdiction under which the business of securities, commodities, investment, franchises, insurance, banking; or finance is regulated;

(B) to have been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking; or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, investment adviser representative; or similar person; or

(C) to have been suspended or expelled from membership by or participation in a securities exchange or securities association operating under the securities laws of a foreign jurisdiction;

(12) is the subject of a cease and desist order issued by the securities and exchange commission or issued under the securities, commodities, investment, franchise, banking, finance, or insurance laws of a state;

(13) has engaged in dishonest or unethical practices in the securities, commodities, investment, franchise, banking, finance, or insurance business within the previous 10 years;

(14) is not qualified on the basis of factors such as training, experience; and knowledge of the securities business. However, in the case of an application by an agent for a broker-dealer that is a member of a self-regulatory organization or by an individual for registration as an investment adviser representative, a denial order may not be based on this paragraph if the individual has successfully completed all examinations required by subsection (e). The administrator may require an applicant for registration under K.S.A. 17-12a402 or 17-12a404, and amendments thereto, who has not been registered in a state within the two years preceding the filing of an application in this state to successfully complete an examination; ~~or~~

(15) lacks sufficient character or reputation to warrant the public trust; *or*

(16) *was required to report information under the protect vulnerable adults from financial exploitation act and knowingly failed to make such a report or knowingly caused such report not to be made within the previous 10 years.*

(e) *Examinations.* A rule adopted or order issued under this act may require that an examination, including an examination developed or approved by an organization of securities regulators, be successfully completed by a class of individuals or all individuals. An order issued under this act may waive, in whole or in part, an examination as to an individual and a rule adopted under this act may waive, in whole or in part, an examination as to a class of individuals if the administrator determines that the examination is not necessary or appropriate in the public interest and for the protection of investors.

(f) *Summary process.* In accordance with the Kansas administrative ~~procedures~~ *procedure* act, the administrator may use summary or emergency proceedings to suspend or deny an application; restrict, condition, limit, or suspend a registration; or censure, bar, or impose a civil penalty or cease and desist order on a registrant before final determination of an administrative proceeding. If a hearing is not requested and none is ordered by the administrator within 30 days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

(g) *Procedural requirements.* (1) An order issued may not be issued under this section, except under subsection (f), without:

- (A) Appropriate notice to the applicant or registrant;
- (B) opportunity for hearing; and
- (C) findings of fact and conclusions of law in a record.

(2) Proceedings under this subsection shall be conducted in accordance with the Kansas administrative ~~procedures~~ *procedure* act.

(h) *Control person liability.* A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the administrator under subsections (a) through (c) to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

(i) *Limit on investigation or proceeding.* The administrator may not institute a proceeding under subsection (a), (b); or (c) based solely on material facts actually known by the administrator unless an investigation or the proceeding is instituted within one year after the administrator actually acquires knowledge of the material facts.

Sec. 16. K.S.A. 44-1017a is hereby amended to read as follows:
44-1017a. (a) No declaration or other governing document of an association shall include a restrictive covenant in violation of K.S.A. 44-1016 and 44-1017, and amendments thereto.

(b) Within 60 days of the effective date of this act, the board of directors of an association shall amend any declaration or other governing document that includes a restrictive covenant in violation of K.S.A. 44-1016 and 44-1017, and amendments thereto, by removing such restrictive covenant. Such amendment shall not require the approval of the members of the association. No other change shall be required to be made to the declaration or other governing document of the association pursuant to this section. Within 10 days of the adoption of the amendment, the amended declaration or other governing document shall be recorded in the same manner as the original declaration or other governing document *and shall be subject to recording fees pursuant to K.S.A. 28-115, and amendments thereto.* ~~No fee shall be charged for such recording.~~

(c) If the commission, a city or county ~~in which~~ *where* the association is located provides written notice to an association requesting that the association delete a restrictive covenant in violation of K.S.A. 44-1016 and 44-1017, and amendments thereto, the association shall delete the restrictive covenant within 30 days of receiving the notice. If the association fails to delete the restrictive covenant in violation of K.S.A. 44-1016 and 44-1017, and amendments thereto, the commission, a city or county ~~in which~~ *where* the association is located, or any person adversely affected by such restrictive covenant may bring an action against the homeowners association for injunctive relief to enforce the provisions of subsections (a) and (b) ~~of this section~~. The court may award attorney's fees to the prevailing party.

(d) *If a city or county determines that the association is no longer active such that the written notice described in subsection (c) cannot be provided to the association, then the city or county, upon adoption of a resolution by the governing body of such city or county, may remove such restrictive covenant that is in violation of K.S.A. 44-1016 or 44-1017, and amendments thereto, by recording a certificate of release of prohibited covenants in accordance with section 14, and amendments thereto. A resolution may authorize the removal of more than one restrictive covenant that is in violation of K.S.A. 44-1016 or 44-1017, and amendments thereto. No signature or other consent of any property owner affected by such recording shall be required to record any certificate of release of prohibited covenants pursuant to this subsection. Any such certificate recorded pursuant to this subsection shall not affect the validity of any property interest recorded within the original or redacted plat. No city or county shall incur any liability arising from the recording of any certificate of release of prohibited covenants pursuant to this subsection. No fee shall be charged for any recording filed pursuant to this subsection. Any such recording shall be exempt from the survey requirements of K.S.A. 58-2001 et seq., and amendments thereto.*

(e) For the purposes of this section:

(1) "Association" means a non-profit homeowners association as defined in K.S.A. 60-3611, and amendments thereto.

(2) "Commission" means the Kansas human rights commission as defined in K.S.A. 44-1002, and amendments thereto.

~~(e)(f)~~ This section shall be a *part of and supplemental to* ~~and a part of~~ the Kansas act against discrimination.

Sec. 17. K.S.A. 58-3065 is hereby amended to read as follows: 58-3065. (a) Willful violation of any provision of this act or the brokerage

relationships in real estate transactions act is a misdemeanor punishable by imprisonment for not more than 12 months or a fine of not less than \$100 or more than \$1,000, or both, for the first offense and imprisonment for not more than 12 months or a fine of not less than \$1,000 or more than \$10,000, or both, for a second or subsequent offense.

(b) Nothing in this act or the brokerage relationships in real estate transactions act shall be construed as requiring the commission or the director to report minor violations of the acts for criminal prosecution whenever the commission or the director believes that the public interest will be adequately served by other administrative action.

(c) *If the commission determines that a person or associated association, corporation, limited liability company, limited liability partnership, partnership, professional corporation or trust has practiced without a valid broker's or salesperson's license issued by the commission, in addition to any other penalties imposed by law, the commission, in accordance with the Kansas administrative procedure act, may issue a cease and desist order against the unlicensed person.*

Sec. 18. K.S.A. 17-12a412, 44-1017a and 58-3065 are hereby repealed.

Sec. 19. 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 was adopted by 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.