

Session of 2013

HOUSE BILL No. 2122

By Committee on Commerce, Labor and Economic Development

1-29

1 AN ACT concerning real estate brokers and salespersons; pertaining to
2 licensure; pertaining to technical amendments; amending K.S.A. 58-
3 30,106 and K.S.A. 2012 Supp. 58-3046a, 58-3050, 58-3062 and 58-
4 30,103 and repealing the existing sections.
5

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

7 Section 1. K.S.A. 2012 Supp. 58-3046a is hereby amended to read as
8 follows: 58-3046a. (a) Except as provided in K.S.A. 58-3040, and
9 amendments thereto, any person who applies for an original license in this
10 state as a salesperson shall submit evidence, satisfactory to the
11 commission, of attendance of a principles of real estate course, of not less
12 than 30 hours of instruction, approved by the commission and received
13 within the 12 months immediately preceding the filing of application for
14 salesperson's license. The commission may require the evidence to be
15 furnished to the commission with the original application for license or it
16 may require the applicant to furnish the evidence to the testing service
17 designated by the commission as a prerequisite to taking the examination
18 required by K.S.A. 58-3039, and amendments thereto. If the evidence is
19 furnished to the testing service, the instruction shall have been received
20 within 12 months immediately preceding the date of the examination.

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

35 (c) Any person who applies for an original license in this state as a
36 salesperson on or after July 1, 2007, shall submit evidence, satisfactory to

- 1 (A) A client or customer ~~of a former client or customer~~
- 2 (B) another licensee;
- 3 (C) commission members or staff;
- 4 (D) staff of the office of administrative hearings;
- 5 (E) staff from any real estate trade association or multiple listing
- 6 service; or
- 7 (F) any person from another business or industry whose services are
- 8 requested or required as part of a real estate transaction.
- 9 (2) threaten to file or file a lien on residential property;
- 10 (3) conduct real estate business with impaired judgment or objectivity
- 11 as the result of mental illness or addiction to alcohol or controlled
- 12 substances;
- 13 (4) be finally adjudicated by a federal or state agency and found to be
- 14 guilty of a violation of a federal or state law regulating the real estate
- 15 industry or regulating a closely related industry whose licensees or
- 16 members are commonly involved in real estate matters;
- 17 (5) be finally adjudicated by a federal or state agency and found to be
- 18 guilty of a violation of a federal or state law prohibiting discrimination
- 19 against any client or customer on the basis of color, race, gender, religion,
- 20 national origin, age, disability or familial status; or
- 21 (6) intentionally misappropriate or misuse any personal property or
- 22 real property of a client or customer.
- 23 (F) No applicant or licensee shall demonstrate, commit or engage in
- 24 the following conduct if such conduct involves or affects the commission's
- 25 duties and obligations to license and discipline applicants and licensees:
- 26 (1) Fraud or intentional misrepresentation; ←
- 27 (2) forgery;
- 28 (3) sign or initial any application or other document unless
- 29 authorized to do so by a duly executed power of attorney;
- 30 (4) fail to respond in a timely manner to any request from the
- 31 commission or the commission's designee for documents or information
- 32 that concern directly or indirectly any real estate transaction or the
- 33 licensee's real estate business;
- 34 (5) fail without just cause to surrender any document or instrument to
- 35 the rightful owner; or
- 36 (6) demonstrate incompetency to act as a broker, associate broker or
- 37 salesperson;
- 38 (g) A branch broker shall not be employed by or associated with more
- 39 than one supervising broker at any one time unless each supervising broker
- 40 who employs or associates with the branch broker consents to such
- 41 multiple employment or association. Such consent shall be on a form
- 42 provided by the commission and shall not be effective until a signed copy
- 43 of the completed form has been filed with the commission.

- (1) Engage in fraud or make any substantial misrepresentation to the commission;
- (2) commit forgery in any representation or document submitted to the commission;
- (3) sign or initial on behalf of another person any application, form or accompanying document submitted to the commission unless authorized to do so by a duly executed power of attorney;
- (4) interfere with any investigation, administrative proceeding, quasi-judicial proceeding or any other disciplinary matter of the commission including, but not limited to:
 - (A) Threatening to engage in or engaging in physical abuse or harassment toward any witness, complainant or individual listed in subsection (e)(1);
 - (B) destroying evidence;
 - (C) refusing or failing to appear or testify under oath at any hearing; or
 - (D) refusing or failing to respond in a timely manner to any request from the commission or the commission's designee for documents or information that concerns directly or indirectly any real estate transaction or the licensee's real estate business;
- (5) fail without just cause to surrender any document or instrument to the rightful owner; or
- (6) demonstrate incompetency to act as a broker, associate broker or salesperson in dealings with the commission, including the repeated failure to:
 - (A) Submit required forms to the commission in a timely and complete manner;
 - (B) make available to the commission all records relating to the real estate business; or
 - (C) comply with the provisions of this subsection.