Kansas Real Estate Commission
Jayhawk Tower
700 SW Jackson Street, Suite 404
Topeka, KS 66603-3785

Kansas
Real Estate Commission

Phone: (785) 296-3411
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www.krec.ks.gov
krec@ks.gov

Erik Wisner, Executive Director

Laura Kelly, Governor

AGENDA
August 24, 2020
https://global.gotomeeting.com/join/874750381
Phone: +1 (312) 757-3121
Access Code: 874-750-381

9:00 a.m. Call to Order – Additions to Agenda

1. Approval of the Minutes of the July 20, 2020 Commission Meeting

2. Staff Reports
   - Compliance Report
   - Licensee, Education and Exam Report
   - Director's Report (includes FY21 through 23 Budget Review and Approval)

3. Unlicensed Activity Discussion

4. Overview of Felony Bar Provisions in KSA 58-3043

5. Possible Public Comment

Adjournment

Upcoming Commission Meeting Dates:
- October 19, 2020
- December 7, 2020

KOMA SCRIPT

Script for an Open Meeting Via Conference Call Under Disaster Declaration – **August 24, 2020**

Hello, I am **Errol Wuertz** and I serve as chairperson of the Kansas Real Estate Commission pursuant to K.S.A. 74-4202. I ask the members of the Commission to respond to a roll call to signify their presence at this open meeting via conference call (**Executive Director, Erik Wisner** will conduct roll-call vote):

Bryon Schlosser, Vice-Chair
Connie O'Brien
Joe Vaught
Sue Wenger

I note that the following staff members are also present:

Erik Wisner
Kelly White
Amber Nutt
Stacey Serra
Wendy Alkire
Athena Andaya
Jane Weiler

For the members of the public who are attending this meeting, we note that we provided the agenda to the individuals who have asked for notice of our meetings. If you wish to have a copy, you may request it by sending an email to **krec@ks.gov** with the subject line "REQUEST FOR THE AGENDA" and it will be sent to you.

Public comment has been noticed up in the agenda and public comment will be taken today. Public comment allows the public to address the Commission about its concerns. However, the Commission is not required to comment or deliberate on the matter pursuant to the Kansas Open Meetings Act (KOMA). Further, as it is likely we do not know what the individual is concerned about, we would want to provide notice to the public of our intent to discuss a particular matter so that they may listen and observe our discussion. Each individual will have 5 minutes to present their concerns to the Commission. If additional time is required, the Commission will ask the individual to send us a written correspondence stating the concern.

Because we are conducting this public meeting by conference call, I state for the record the following information or requirements:

1. A public notice of this meeting was issued on **July 20, 2020**. The notice contains the call in number to allow the public to attend this meeting free of charge.
2. As of the start of this meeting, Governor Kelly has not temporarily suspended the requirements of the KOMA. We will be conducting this meeting pursuant to KOMA and the requirements of K.A.R. 16-20-1.
3. Conference call is the only medium for interactive communication offered for this meeting.

DRAFT

4. Each member of the Commission, staff or presenter shall state the person's name and title each time the person speaks or votes, as the case may be.
5. Each participant to this meeting shall ensure microphones, phones, or other electronic devices are muted when the participant is not speaking.
6. Each motion will be clearly stated before the Commission votes and the Chairperson will announce the result of the final vote; and
7. Clearly identify and authorize by delegation each member of the public body or staff who will be permitted to sign any binding document for the Board.

We have **five** items listed on our agenda. We will begin our discussions of these items now.

DRAFT

MINUTES OF THE JULY 20, 2020 COMMISSION MEETING

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MINUTES OF THE MEETING
Kansas Real Estate Commission
July 20, 2020

The Kansas Real Estate Commission held its regular meeting on Monday, July 20, 2020, at 9:00 a.m. by telephone conference call

Commissioners Present:
Errol Wuertz, Chairperson
Bryon Schlosser, Vice-Chairperson
Joe Vaught, Member
Sue Wenger, Member
Connie O'Brien, Member

Staff Present:
Erik Wisner, Executive Director
Kelly White, Deputy Director, Director of Licensing and Education
Wendy Alkire, Director of Compliance
Amber Nutt, Real Estate Education Specialist
Stacey Serra, Legal Assistant

Kansas Real Estate Commission Legal Counsel:
Christine Sankoorikal, Assistant Attorney General
Jane Weiler, Assistant Attorney General

Members of the Public:
Mark Barker
Kathy McCarty
Mark Tomb

Call to Order
Mr. Wuertz called the meeting to order at 9:04 a.m. and called the roll to signify presence at the open meeting via conference call.

Approval of the Minutes of the June 15, 2020 Meeting
Mr. Schlosser made the motion, seconded by Mr. Vaught, to approve the minutes from the June 15, 2020 meeting. Motion carried unanimously, with Ms. O'Brien abstaining.

Hearing of Jamie Vanhamme, Docket No. 20-8403

Hearing of Sydnee Jeanis, Docket No. 20-8560

Mr. Wuertz recessed the KOMA meeting at 9:36 a.m.
Mr. Wuertz reconvened the KOMA meeting at 9:53 a.m.

Hearing of Kyle Shaffer, Docket No. 20-8758

Hearing of Connor Berg, Docket No. 20-8604

Hearing of Michael Hales, II, Docket No. 20-8396

Mr. Wuertz recessed the KOMA meeting at 11:12 a.m.
Mr. Wuertz reconvened the KOMA meeting at 11:22 a.m.

Hearing of Charles Gasser, Docket No. 20-8395

I-Team Procedures and Delegation of Authority
The Commission reviewed staff's proposed revision to the Delegation of Authority for Compliance and Reporting of Information to allow a quicker turnaround time for compliance review files. Staff requested authority to issue another warning letter to an applicant or licensee if the same or similar violation was committed more than 10 years ago or a directive if a warning letter for the past violation was issued less than 10 years ago.

It was the consensus of the Commission to allow staff to forward to a Commission member on the I-Team the question of whether to send a warning letter or a directive when the same or similar violation occurs regardless of the time elapsed since the original violation.

Compliance Report
The Commission reviewed the status of open legal cases. The oldest complaint pending review (non-litigation) is from September 10, 2019. The oldest disciplinary file pending staff review is from September 17, 2018. The oldest disciplinary file pending review by the attorney general's staff is from September 17, 2018.

Staff completed 278 compliance reviews in FY2020. The current turnaround time for compliance review results is 17 months. Zero transactions were reported by 35% of brokers in the last four fiscal years. Fifteen repeat violations were found during 51 follow up reviews in FY2020. Nine percent of complaints in the last four fiscal years were reported anonymously.

Compliance courses are scheduled for July 21 and October 1, 2020.

Licensee, Education and Exam Report
As of June 30, 2020, there are 17,316 licensees and 275 pending applications (86 salesperson, 21 broker and 168 fingerprint-only files).

Staff approved one principles of real estate course and four elective continuing education courses from June 1 to June 30, 2020.

In FY2020, Pearson Vue administered 2,650 exams with an overall pass rate of 67%. Fifty-four brokers and 361 salespersons tested based on requirements met in another state. Brokers had a 74% pass rate, and salespersons had an 87% pass rate.

The Commission issued 1,702 salesperson licenses in FY2018, 1,618 in FY2019, and 1,409 in FY2020.

Director's Report
Real estate fee fund receipts are $1,188,089 which is 1% higher than estimated. Real estate fee fund expenditures including encumbrances for FY2020 are $1,118,904 which is 1% or $10,201 lower than estimated.

The real estate fee fund balance is $980,0701 which is up $65,381 from July 1, 2019. Background investigation fee fund receipts for FY2020 are $108,475 which is 11% lower than estimated. Combined March-June 2020 revenue was down $32,182 from the revenue collected in March-June 2019. Real estate recovery fund receipts for FY2020 are $5,074 and the balance in the fund is $293,118.

Public Comments
No public comments were made.

Executive Session
Mr. Schlosser made the motion, seconded by Ms. Wenger, that the Commission recess into executive session pursuant to K.S.A. 75-4319(b)(2) for discussion of confidential attorney-client advice with Christine Sankoorikal, Jane Weiler and Erik Wisner. The Commission will reconvene the open meeting in the same location in 20 minutes at 12:50 p.m. Motion carried unanimously.

Mr. Wuertz recessed for executive session at 12:31 p.m.
Mr. Wuertz reconvened the KOMA meeting at 12:51 p.m.

Executive Session
Mr. Schlosser made the motion, seconded by Ms. O'Brien, that the Commission recess into executive session to discuss personnel matters of non-elected personnel with general counsel Christine Sankoorikal to protect the privacy of the parties involved pursuant to K.S.A. 75-4319(b)(1). The Commission will reconvene the open meeting in this same location in 10 minutes at 1:03 p.m. Motion carried unanimously.

Mr. Wuertz recessed for executive session at 12:53 p.m.
Mr. Wuertz reconvened the KOMA meeting at 1:03 p.m.

Mr. Schlosser made the motion, seconded by Mr. Vaught, to grant Mr. Wuertz the authority to request a bonus from the Department of Administration or Governor's office for Mr. Wisner. Motion carried unanimously.

Mr. Schlosser made the motion, seconded by Mr. Vaught, to adjourn the meeting. Motion carried unanimously.

Mr. Schlosser adjourned the meeting at 1:08 p.m.

COMPLIANCE REPORT

MEMO

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DATE: August 24, 2020

TO: Kansas Real Estate Commission Members

FROM: Wendy Alkire, Compliance Director

Compliance Department Status Report

Complaint Status

- Legal case review summary
  - Oldest Complaint Pending Review (not on hold)—01/15/20
  - Oldest Disciplinary File Pending KREC Staff Review—01/03/19
  - Oldest Disciplinary File Pending AG Review—03/04/19
- FY2021 Complaints
  - Complaints logged– See attached chart (dated 8/13/20) 41

Compliance Review/Audit

- Compliance Reviews complete in FY 2021 9
  - An additional 8 brokers were contacted but had no transaction records to review. See attached chart for FY comparison.

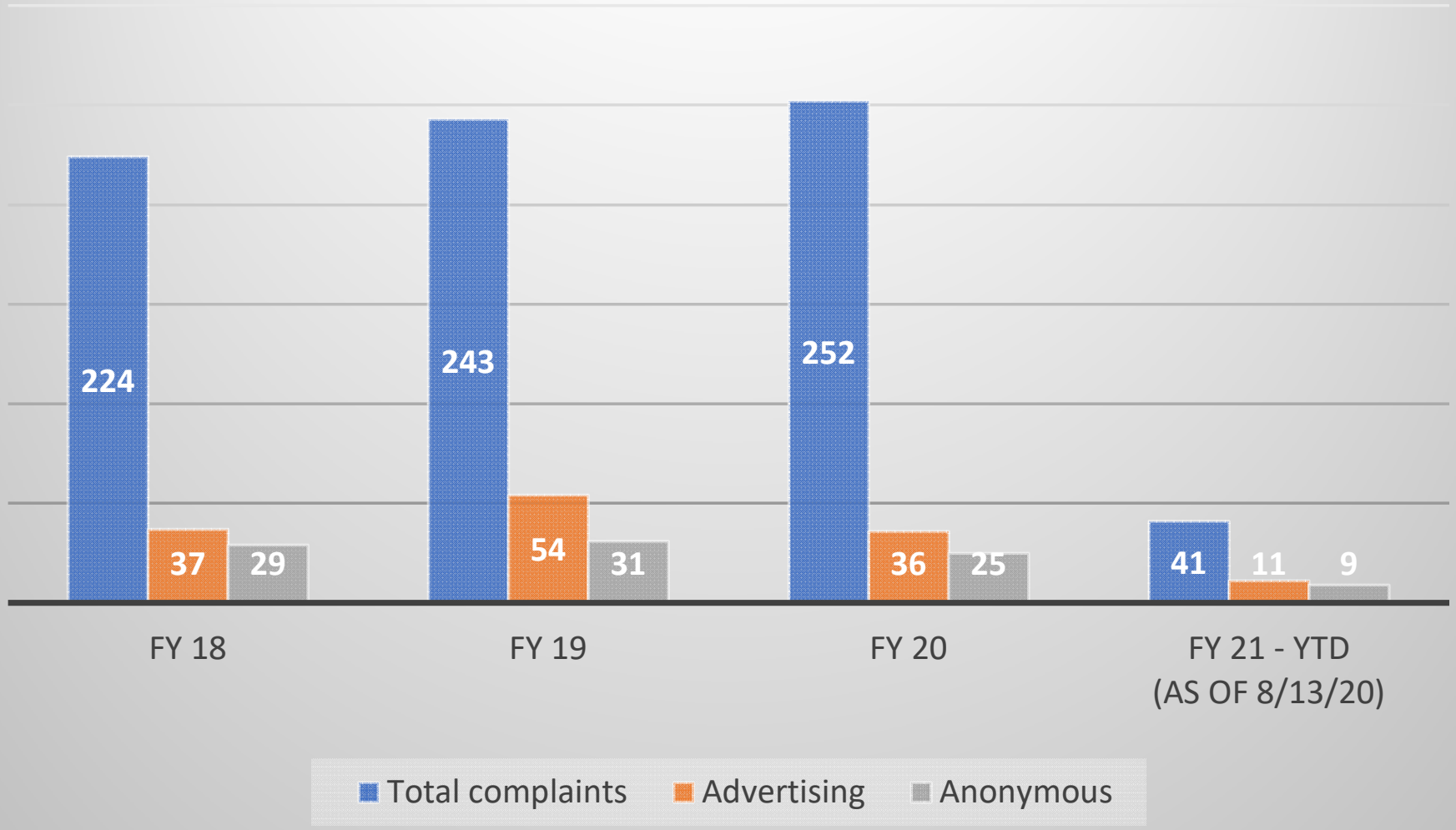
- Approximate turn-around time for Compliance Review results 13 months

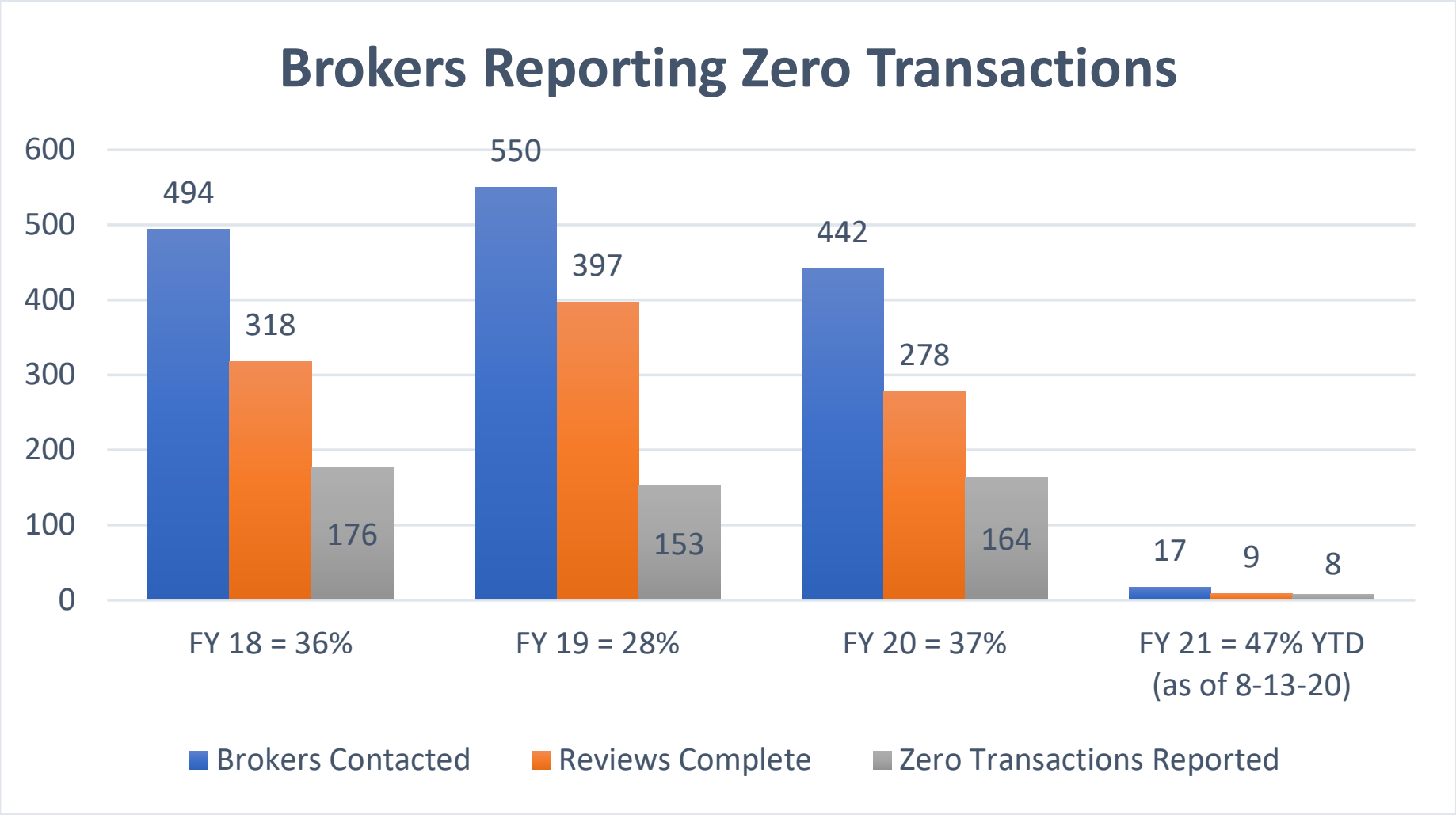
- Commission Directive follow up reviews – See attached summary (dated 8/14/20)
  - Follow up compliance reviews complete FY 2021 3
  - Percentage with repeat violations 0%
  - Percentage with no violations or minor violations 33%

Miscellaneous

- Compliance Course:
  - Next scheduled dates: Broker Supervision- October 1, 2020 and January 28, 2021
    BRRETA - October 13, 2020 and January 21, 2021

Complaint Data




Brokers Reporting Zero Transactions
600
500
400
300
200
100
0
494
318
176
550
397
153
442
278
164
17
9
8
FY 18 = 36%
FY 19 = 28%
FY 20 = 37%
FY 21 = 47% YTD
(as of 8-13-20)
Brokers Contacted
Reviews Complete
Zero Transactions Reported

FY2021 Results of follow up compliance review Updated: 8/14/2020

Month	Total	No violations	Minor only	Repeat	New major	In process	Other	Notes:			
July 2020	3		1		2			1 additional broker w/no transactions			
August 2020						7					
September 2020											
October 2020											
November 2020											
December 2020											
January 2021											
February 2021											
March 2021											
April 2021											
May 2021											
June 2021											
Total	3	0	1	0	2		0				

Completed	3
Repeat violation	0
Percentage	0

LICENSEE AND EDUCATION REPORTS

Report Date: 7/31/20

APPLICANT STATUS REPORT

Total Pending Applications: 314

Salespersons	92
Awaiting:	
KBI/FBI Reports	51
Application	8
Kansas Practice Course	23
Brokers	17
Awaiting:	
KBI/FBI Reports	11
Application	2
Pre License	205
Awaiting:	
KBI/FBI Reports	53
Applications	151

Report Date: 7/31/20

	Status	Lic Type	Number
Active/Inactive/Suspended			
	Active	Broker	3,575
	Active	Salesperson	13,060
Active			**16,635**
	Inactive	Broker	73
	Inactive	Salesperson	764
Inactive			**837**
	Suspended	Salesperson	6
Suspended			**6**
Grand Total	**17,478**		
Expired			
	Expired Renewable - A	Broker	15
	Expired Renewable - A	Salesperson	104
Expired Renewable - A			**119**
	Expired Renewable - I	Broker	6
	Expired Renewable - I	Salesperson	85
Expired Renewable - I			**91**
Grand Total	**210**		
Open			
	Open	Branch Office	188
	Open	Company	2,297
Open			**2,485**
Grand Total	**2,485**		

Approved Courses from 7/1/20 to 7/31/20

Course Type	Course #	Course Title	Hours	Status	Location
Kansas City Regional Association of Realtors					
Elective	E20006	At Home with Diversity Certification	6	Active	Distance
Kansas Real Estate Commission					
Elective	E20000	Commission Meeting (one meeting per renewal period)	3	Active	Classroom
Pinnacle Real Estate School					
Salesperson Pre-License Course	P20001	Principles of Real Estate	30	Active	Classroom
Kansas Practice Course	P20002	Kansas Practice Course	30	Active	Classroom
The CE Shop, Inc.					
Elective	E20005	Buyers by Generation	6	Active	Distance
TheVAloan.org					
Elective	E20007	The VA Mortgage for Real Estate Professionals	3	Active	Classroom
Training Cove					
Mandatory Kansas Required Core	M20004	Kansas Required Core	3	Active	Distance
WebCE, Inc. (RealEstateCE.com)					
Mandatory Kansas Required Core	M20003	Kansas Required Core	3	Active	Distance

Exam Performance Summary by Fiscal Year (FY17-FY21)

Kansas Real Estate Commission

Fiscal Year	First Time Takers					Repeat Takers					Overall Statistics				
	Total Exams	*Total Pass*	*Pass Rate*	*Total Fail*	*Fail Rate*	*Total Exams*	*Total Pass*	*Pass Rate*	*Total Fail*	*Fail Rate*	*Total Exams*	*Total Pass*	*Pass Rate*	*Total Fail*	*Fail Rate*
FY2017															
Broker	172	143	83%	29	17%	60	32	53%	28	47%	232	175	**75%**	57	25%
Salesperson	1,907	1,369	72%	538	28%	870	482	55%	388	45%	2,777	1,851	**68%**	926	33%
Total	2,079	1,512	73%	567	27%	930	514	55%	416	45%	3,009	2,026	**67%**	983	33%
FY2018															
Broker	208	172	83%	36	17%	64	37	58%	27	42%	272	209	**77%**	63	23%
Salesperson	1,952	1,401	72%	551	28%	929	478	51%	451	49%	2,881	1,879	**65%**	1,002	35%
Total	2,160	1,573	73%	587	27%	993	515	52%	478	48%	3,153	2,088	**66%**	1,065	34%
FY2019															
Broker	209	150	72%	59	28%	101	55	54%	46	46%	310	205	**66%**	105	34%
Salesperson	1,857	1,340	72%	527	28%	978	457	47%	521	53%	2,845	1,797	**63%**	1,048	37%
Total	2,076	1,490	72%	586	28%	1,079	512	47%	567	53%	3,155	2,022	**63%**	1,153	37%
FY2020															
Broker	207	151	73%	56	27%	95	60	63%	35	37%	302	211	**70%**	91	30%
Salesperson	1,617	1,169	72%	448	28%	731	389	53%	342	47%	2,348	1,558	**66%**	790	34%
Total	1,824	1,320	72%	504	28%	826	449	54%	377	46%	2,650	1,769	**67%**	881	33%
FY2021															
Broker	8	6	75%	2	25%	3	1	33%	2	67%	11	7	**64%**	4	36%
Salesperson	218	160	73%	58	27%	88	49	56%	39	44%	306	209	**68%**	97	32%
Total	226	166	73%	60	27%	91	50	55%	41	45%	317	216	**68%**	101	32%

PASSING RATE BY SCHOOL FOR FY2021 (July)

Kansas Real Estate Commission

Kansas Broker	First Time Takers					Repeat Takers					Overall Statistics				
School Name	***Total Exams***	***Total Pass***	***Pass Rate***	***Total Fail***	***Fail Rate***	***Total Exams***	***Total Pass***	***Pass Rate***	***Total Fail***	***Fail Rate***	***Total Exams***	***Total Pass***	***Pass Rate***	***Total Fail***	***Fail Rate***
Career Education Systems - Kansas City	3	3	100%	0	0%	0	0	0%	0	0%	3	3	**100%**	0	0%
Kansas Real Estate Commission	1	1	100%	0	0%	0	0	0%	0	0%	1	1	**100%**	0	0%
Waiver - Equivalent Requirement Met	1	1	100%	0	0%	1	0	0%	1	100%	2	1	**50%**	1	50%
Lowry School of Real Estate	2	1	50%	1	50%	2	1	50%	1	50%	4	2	**50%**	2	50%
Career Education Systems - Online	1	0	0%	1	100%	0	0	0%	0	0%	1	0	**0%**	1	100%
Total	**8**	**6**	**75%**	**2**	**25%**	**3**	**1**	**33%**	**2**	**67%**	**11**	**7**	**64%**	**4**	**36%**

Kansas Salesperson	First Time Takers					Repeat Takers					Overall Statistics				
School Name	***Total Exams***	***Total Pass***	***Pass Rate***	***Total Fail***	***Fail Rate***	***Total Exams***	***Total Pass***	***Pass Rate***	***Total Fail***	***Fail Rate***	***Total Exams***	***Total Pass***	***Pass Rate***	***Total Fail***	***Fail Rate***
Training Partners	1	1	100%	0	0%	0	0	0%	0	0%	1	1	**100%**	0	0%
ReeceNichols Training – Online	1	1	100%	0	0%	0	0	0%	0	0%	1	1	**100%**	0	0%
Waiver - Equivalent Requirement Met	29	25	86%	4	14%	5	5	100%	0	0%	34	30	**88%**	4	12%
Career Education Systems - Online	39	32	82%	7	18%	9	8	89%	1	11%	48	40	**83%**	8	17%
The CE Shop, Inc.	21	16	76%	5	24%	5	4	80%	1	20%	26	20	**77%**	6	23%
Kansas Real Estate School	2	1	50%	1	50%	2	2	100%	0	0%	4	3	**75%**	1	25%
Career Education Systems - Kansas City	59	47	80%	12	20%	23	12	52%	11	48%	82	59	**72%**	23	28%
American School of Real Estate Express, LLC	8	6	75%	2	25%	6	4	67%	2	33%	14	10	**71%**	4	29%
Career Academy of Real Estate - Penfed Realty	4	3	75%	1	25%	2	1	50%	1	50%	6	4	**67%**	2	33%
Lowry School of Real Estate	3	2	67%	1	33%	2	1	50%	1	50%	5	3	**60%**	2	40%
Kansas Association of Realtors	19	8	42%	11	58%	8	6	75%	2	25%	27	14	**52%**	13	48%
Career Education Systems - Wichita	20	12	60%	8	40%	15	4	27%	11	73%	35	16	**46%**	19	54%
ReeceNichols Training	10	6	60%	4	40%	8	1	13%	7	88%	18	7	**39%**	11	61%
PDH Academy	2	0	0%	2	100%	3	1	33%	2	67%	5	1	**20%**	4	80%
Total	**218**	**160**	**73%**	**58**	**27%**	**88**	**49**	**56%**	**39**	**44%**	**306**	**209**	**68%**	**97**	**32%**

MEMO

Kansas
Real Estate Commission

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DATE: August 24, 2020
TO: Kansas Real Estate Commission Members
FROM: Kelly White, Deputy Director
Licensing & Education Director
RE: Salesperson Pre-License Outlines

On November 18, 2019, the Commission reviewed staff's proposed changes to the Principles of Real Estate and Kansas Practice Course outlines. The changes to the Principles course were designed to reflect the current outline for the Pearson VUE licensure exam. Staff only proposed housekeeping changes to the Practice course because expertise in current real estate practice is necessary to propose substantive changes. Providers suggested the following additions.

Principles of Real Estate – proposed effective date January 1, 2022 to allow for implementation

- Add a subsection for common violations under prohibited acts
- Add a glossary of real estate terms

Kansas Practice Course - proposed effective date January 1, 2022 to allow for implementation

Section 1 – Brokerage Agreements

- Use KREC's site for the brochure and agreements; complete according to Supervising Broker
- Explain Agency vs Transaction Brokerage and what the consumer can expect either way
- Transaction Brokerage Addendum – instructions for completion; Only for agency agreement parties on this **one** property.
- Follow supervising broker's policy when showing another firm's listing

Section 2 – Property Valuations

- Give comparables to help price it right. Overpricing is hard to overcome.

Section 3 – Financing

- No two deals are alike. Don't rely on a title company's "canned" estimate. Prepare estimates yourself for the seller's net or buyer's cost.

Section 4 – Contracts/Earnest Money/Misrepresentation

- Go over contract line by line. Do you use a separate form for contingencies?
- Earnest money checks are not held until closing – let the buyer know.
- Identify sources of information, i.e. county records, abstract/title company, etc.

Section 5 – Environmental Issues

- Identify forms available from the EPA and how to complete them.

Section 7 – Expand "New Developments in Kansas License Law" to reflect specific changes

Staff are seeking direction from the Commission as to how to proceed. Is the Principles outline okay with the additions proposed by providers? Does the Practice outline require further review by a task force of Commissioners, licensees, or schools or feedback by email from licensees and/or schools? Staff are open to any suggestions. Any proposed outline changes will be submitted for the Commission's approval.

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Public access is available by appointment only

PRINCIPLES OF REAL ESTATE COURSE

30-HOUR COURSE OUTLINE APPROVED XX/XX/2019

REQUIRED FOR SALESPERSON APPLICANTS WITHOUT A CURRENT LICENSE IN ANOTHER STATE

All salesperson candidates without a current real estate license in another state must complete this course no more than 12 months prior to passing the national and state portions of the Kansas real estate salesperson exam. Candidates must additionally complete a 30-hour Kansas Practice Course no more than six months prior to the Commission's receipt of the license application.

This course follows the national and state content outline for the Kansas salesperson's exam. Primary emphasis is on contracts, financing, settlement, the prohibited acts found in K.S.A. 58-3062, and the Brokerage Relationships in Real Estate Transactions Act (BRRETA).

Commented [KMW1]: These areas have the most questions on the national and state portion of the licensure exam.

National Portion

I. REAL PROPERTY CHARACTERISTICS, LEGAL DESCRIPTIONS, AND PROPERTY USE

- **A. Real property vs. personal property**
  1. Fixtures, trade fixtures, emblements
  2. Attachment, severance, and bill of sale
- **B. Characteristics of real property**
  1. Economic characteristics
  2. Physical characteristics
- **C. Legal descriptions**
  1. Methods used to describe real property
  2. Survey
- **D. Public and private land use controls – encumbrances**
  1. Public controls – governmental powers
     a. Police power, eminent domain, taxation, escheat
     b. Zoning ordinances
  2. Private controls, restrictions, and encroachments
     a. Covenants, conditions, and restrictions
     b. Easements
     c. Licenses and encroachments

II. FORMS OF OWNERSHIP, TRANSFER, AND RECORDING OF TITLE

A. Ownership, estates, rights, and interests

1. Forms of ownership
2. Freehold estate
   a. Fee simple absolute
   b. Fee simple defeasible, determinable, and condition subsequent
   c. Life estate
   d. Bundle of rights
3. Leasehold estates and types of leases
   a. Estate for years and from period to period
   b. Estate at will and estate at sufferance
   c. Gross, net, and percentage leases
4. Liens and lien priority
5. Surface and sub-surface rights

B. Deed, title, transfer of title, and recording of title

1. Elements of a valid deed
2. Types of deeds
3. Title transfer
   a. Voluntary alienation
   b. Involuntary alienation
4. Recording the title
   a. Constructive and actual notice
   b. Title abstract and chain of title
   c. Marketable title and cloud on title
   d. Attorney title opinion, quiet title lawsuit, and title insurance

III. PROPERTY VALUE AND APPRAISAL

A. Concept of Value

1. Market value vs. market price
2. Characteristics of value
3. Principles of value

B. Appraisal process

1. Purpose and steps to an appraisal
2. Federal oversight of the appraisal process

C. Methods of estimating value and Broker Price Opinions (BPO)

1. Sales comparison approach (market data)
2. Cost approach
   a. Improvements and depreciation
   b. Physical deterioration, functional, and economic obsolescence
   c. Reproduction or replacement costs

3. Income approach
4. Gross rent and gross income multipliers
5. Comparative Market Analysis (CMA)
6. Broker Price Opinion (BPO)
7. Assessed value and tax implications

IV. REAL ESTATE CONTRACTS

Commented [KMW2]: The National portion had subsections on agency which I moved to the State portion under BRRETA.

A. Types of contracts

1. Express vs. implied
2. Unilateral vs. bilateral

B. Required elements of a valid contract

C. Contract performance

1. Executed vs. executory
2. Valid vs. void
3. Voidable vs. unenforceable
4. Breach of contract, rescission, and termination
5. Liquidated, punitive, or compensatory damages
6. Statute of Frauds
7. Time is of the essence

D. Sales contract

1. Offer and counteroffer
2. Earnest money and liquidated damages
3. Equitable title
4. Contingencies
5. Disputes and breach of contract
6. Option contract and installment sales contract

V. REAL ESTATE PRACTICE

Commented [KMW3]: The National portion had a subsection on brokerage agreements which I moved to the State portion under BRRETA.

A. Responsibilities of broker

1. Practicing within scope of expertise
2. Unauthorized practice of law
3. Privacy and Do Not Contact

B. Fair Housing

1. Equal opportunity in housing
2. Protected classes
3. Fair housing laws
4. Illegal practices, enforcement, and penalties
5. Prohibited advertising
6. Housing and Urban Development (HUD)
7. Americans with Disabilities Act (ADA)

C. Risk management

1. Supervision
2. Compliance with federal regulations

3. Vicarious liability
4. Antitrust laws
5. Fraud and misrepresentation
6. Types of insurance
   a. Errors and Omissions
   b. General Liability

VI. PROPERTY DISCLOSURES AND ENVIRONMENTAL ISSUES

A. Property conditions and environmental issues

1. Hazardous substances
   a. Lead-based paint
   b. Asbestos, radon, and mold
   c. Groundwater contamination and underground storage tanks
   d. Waste disposal sites and brownfields
   e. Flood plain and flood insurance
2. Clean Air and Water Acts
3. Environmental Protection Agency (EPA)
   a. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
   b. Superfund Amendment and Reauthorization Act (SARA)
   c. Environmental site assessments and impact statements
   d. Wetlands protection

B. Disclosure obligations and liability

VII. FINANCING AND SETTLEMENT

A. Financing concepts and components

1. Methods of financing
   a. Mortgage financing – conventional and non- conventional loans,
   b. Seller financing – land contract/contract for deed
2. Lien theory vs. title theory and deed of trust
3. Sources of financing (primary and secondary mortgage markets, and seller financing)
4. Types of loans and loan programs
5. Mortgage clauses

B. Lender Requirements

1. FHA requirements
2. VA requirements
3. Buyer qualification and Loan to Value (LTV)
4. Hazard and flood insurance
5. Private mortgage insurance (PMI) and mortgage insurance premium (MIP)

C. Federal Financing Regulations and Regulatory Bodies

1. Truth-in-Lending and Regulation Z

2. TILA-RESPA Integrated Disclosures (TRID)
   a. Consumer Financial Protection Bureau (CFPB)
   b. Loan Estimate (LE)
   c. Closing Disclosure (CD)
3. Real Estate Settlement Procedures Act (RESPA)
   a. Referrals
   b. Rebates
4. Equal Credit Opportunity Act (ECOA)
5. Mortgage fraud and predatory lending

D. Settlement and closing the transaction

VIII. REAL ESTATE MATH CALCULATIONS

A. Property area calculations

1. Square footage
2. Acreage total

B. Property valuation

1. Comparative Market Analysis (CMA)
2. Net Operating Income (NOI)
3. Capitalization rate
4. Equity in property
5. Establishing a listing price
6. Assessed value and property taxes

C. Commission/compensation

D. Loan financing costs

1. Interest
2. Loan to Value (LTV)
3. Amortization
4. Discount Points
5. Prepayment penalties
6. Fees

E. Settlement and closing costs

1. Purchase price and down payment
2. Monthly mortgage calculations - principal, interest, taxes, and insurance (PITI)
3. Net to the seller
4. Cost to the buyer
5. Prorated items
6. Debits and credits
7. Transfer tax and recording fee

F. **Investment**
   1. Return on investment
   2. Appreciation
   3. Depreciation
   4. Tax implications on investment

G. **Commercial Property management calculations**
   1. Property management and budget calculations
   2. Tenancy and rental calculations

Commented [KMW4]: I added the word "Commercial."

State Portion

Commented [KMW5]: I deleted portions that only pertain to the broker's exam.

I. DUTIES AND POWERS OF THE KANSAS REAL ESTATE COMMISSION

A. General powers and duties; membership
B. Investigations, hearings, and appeals
C. License revocation, suspension, condition, restriction, censure of licensee, and civil fines
D. Criminal prosecution

II. LICENSING REQUIREMENTS

A. Activities requiring a license
B. Renewal of license
C. Education requirements
D. Deactivation and reinstatement of licenses

III. REQUIREMENTS GOVERNING ACTIVITIES OF LICENSEES

A. Place of business and company names
B. Records
C. Reporting requirements (Review of K.A.R. 86-3-15)
D. Advertising
E. Commissions/referral/relocation fees
F. Required residential contract language

Commented [KMW6]: Added for emphasis since it was recently revised.

IV. PROHIBITED ACTS

A. Review of K.S.A. 58-3062

Commented [KMW7]: Added to clarify what is to be covered.

V. BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS ACT (BRRETA)

A. Real estate brokerage relationships brochure
B. Brokerage agreements between the broker and principal
   - Minimum requirements of a seller's, landlord's, buyer's, or tenant's agent
   - Designated Agent
   - Transaction Brokerage
C. Ministerial Acts
D. Compensation
E. Termination of relationships

Commented [KMW8]: Added A. – E. to specify what to include.

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Public access is available by appointment only

KANSAS PRACTICE COURSE

30-HOUR COURSE OUTLINE APPROVED XX/XX/2019

REQUIRED FOR ALL SALESPERSON APPLICANTS

All salesperson candidates must complete this course no more than six months prior to the Commission's receipt of the license application. Candidates without a current real estate license in another state must additionally complete a 30-hour Principles of Real Estate course no more than 12 months prior to passing the national and state portions of the Kansas real estate salesperson exam.

SECTION 1

BROKERAGE AGREEMENTS

UNIT 1
REAL ESTATE BROKERAGE RELATIONSHIPS BROCHURE
~~(amendments effective October 1, 1997)~~
When and how to present it

UNIT 2
~~LISTING A PROPERTY~~ AGENCY AGREEMENTS
A. ~~Examples: Types of Seller Agency Agreements~~
Exclusive ~~Right to Sell~~ Representation
Non-Exclusive ~~Agency~~ Representation
Open
Net (not allowed)

B. Review of customer/client relationship
Who's who in the agency agreement?
May you sign the agency agreement for your broker?
What are your broker's responsibilities under the agency agreement?
What determines the kind of agency agreement(s) your company uses?
When is pay day?
What information is needed to help you better service a listing?
Where and how do you find this information?
~~Flood plain issues~~
~~Lead paint~~

~~C. Title Issues~~
~~Death, divorce or other issues that may cause closing problems~~

~~UNIT 3~~
~~BUYER REPRESENTATION - LISTING THE BUYER~~
~~A. Examples: Types of Buyer Agency Agreements~~
~~Exclusive Representation~~
~~Non-Exclusive Representation~~

~~B. Review of customer/client relationship~~
~~Who's who in the agency agreement?~~
~~May you sign the agency agreement for your broker?~~
~~What are your broker's responsibilities under the agency agreement?~~
~~What determines the kind of agency agreement(s) your company uses?~~
~~When is pay day?~~
~~What information is needed to help you better service a listing?~~
~~Where and how do you find this information?~~

~~C. In-Depth Discussion, Examples & Exercises~~

UNIT ~~4~~ 3
ACTING AS A TRANSACTION BROKER
~~(amendments effective October 1, 1997)~~
How is the term "transaction broker" defined?
What are the obligations and responsibilities of a transaction broker?
Is a written brokerage agreement required?
May a transaction broker cooperate with other brokers?
What is meant by "presumption of transaction broker"?
When is a transaction broker addendum required?
Example~~s:~~of a Transaction Broker Addendum
~~1. Transaction Broker Addendum (TBA-RES)~~
~~2. Transaction Broker Addendum (TBA-COMM)~~
~~3. Transaction Broker Addendum (TBA-DA)~~
~~4. Transaction Broker Addendum (TBA-AG)~~

UNIT ~~5~~ 4
TERMINATION OF BROKERAGE RELATIONSHIPS (K.S.A. 58-30,104 of the Brokerage Relationships in Real Estate Transactions Act - BRRETA)
Public's right to terminate agency and consequences of such

UNIT ~~6~~ 5
COMPENSATION (K.S.A. 58-30,105 of BRRETA ~~the Brokerage Relationships in Real Estate Transactions Act~~)

UNIT ~~7~~ 6
THINGS TO REMEMBER WHEN WORKING WITH ANOTHER COMPANY
What are the types of agency relationships?
When to disclose agency?
Ask and Tell

UNIT ~~8~~ 7
LISTING AGENTS, SUBAGENTS, SINGLE AGENTS
What are the listing broker's obligations to a: ~~the~~
_____seller/client?
_____~~What are the listing broker's obligations to the~~ buyer/customer?
_____~~What are the buyer broker's obligations to the~~ buyer/client?
_____~~What are the buyer broker's obligations to the~~ seller/customer?
Who is a Subagent?
Who is a Single agent?
How to cover business in designated agency

UNIT ~~9~~ 8
SHOWING ANOTHER FIRM'S LISTING
If you call another company and ask permission to show a property it has listed, may that company refuse?
What to do when you want to show another company's listing and establish your firm as a subagent?
What should you do before showing another company's listing when you are acting as agent of the purchaser?
What to do when a salesperson with another company calls for permission to show one of your listings
A typical response of a listing company when asked for permission to show one of its properties when the selling agent wants to act as a subagent
A typical response of a listing company when asked for permission to show one of its properties when the selling agent wants to act as a buyer's agent

SECTION 2

PROPERTY VALUATIONS

Note: Unit 1 **and/or** Unit 2 below may be covered depending on the types of transactions the class intends to perform~~s~~. However, the information not covered should be provided through handouts, glossary, etc.

UNIT 1
PRICING RESIDENTIAL PROPERTY
What is a market analysis and when do you use it?
Where do you find information?
~~When do you use a market analysis?~~
How does financing ~~can~~ affect the selling price?
Steps to follow when completing the market analysis
What does a sample market analysis look like?
Who or what determines property values?

UNIT 2
PRICING NON-RESIDENTIAL PROPERTY
What factors affect the value~~s~~ of income-producing property?
Where to find information about these factors?
Steps to follow when using the income approach

UNIT 3
THE APPRAISER'S ROLE
What is the difference between an appraisal and a market analysis?
What comparables do appraisers use?
Who does the appraiser work for?

SECTION 3

FINANCING

TYPES OF FINANCING
Why is it important to financially qualify the purchaser?
When and how to qualify the purchaser (buyer interview)
Pitfalls to avoid when qualifying the purchaser
Pre-qualification vs. pre-approval
Conventional, FHA, and VA loan guidelines and qualifying
~~FHA loan guidelines and qualifying~~
~~VA loan guidelines and qualifying~~
Other sources of financing (e.g. seller, ~~FmHA~~ USDA Rural Development)

CLOSING COSTS

UNIT 1
BUYERS ESTIMATED CLOSING COSTS
What is required by state law?
When and how to prepare an estimate
~~How to prepare an estimate~~

UNIT 2
SELLERS ESTIMATED CLOSING COSTS
What is required by state law?
When and how to prepare an estimate
~~How to prepare an estimate~~
NOTE: Additional instruction regarding the closing process may be included here.

SECTION 4

CONTRACTS

HOW TO AVOID PROBLEMS WHEN WRITING A SALES CONTRACT
How do you complete and explain an offer to purchase?
What is the purpose of an addendum/amendment?
How to handle counteroffers and multiple offers?
How does agency affect negotiating offers?
What are possible consequences of a breach of contract?
When to consult your broker when writing a sales contract
When to suggest competent legal advice for your customer/client
If the purchaser asks, "Should I put the home in my spouse's name too?", what should you say?
What to do if the Purchaser or Seller wants to write a second contract just to take to the lender
What has to be disclosed when ~~P~~purchasing a property you or your company has listed~~ -- what has to be disclosed~~?
Contract cancellation
What are some common contingencies?
Title issues - Death, divorce or other issues that may cause closing problems

EARNEST MONEY

THINGS TO REMEMBER ABOUT EARNEST MONEY BEFORE WRITING A SALES CONTRACT
What is earnest money?
Are you required to get earnest money from the prospective purchaser when he or she makes an offer?
For how much earnest money should you ask?
What are different forms of earnest money?
Who is the earnest money made payable to?
What to do when you get an earnest money check
Can the buyer and seller agree to the deposit of earnest money other than that provided by state law?
Who decides if the buyer or seller is entitled to the earnest money?
If the property ~~has to be~~ is ~~-~~appraised for loan purposes or because the purchaser requests it, can the appraisal fee be paid out of the earnest money?

MISREPRESENTATION

UNIT 1
DEFINITION AND TYPES
Intentional
Negligent

UNIT 2
MISREPRESENTATION RED FLAGS
Buyer's perspective
Seller's perspective
Agent's perspective
Property value
Legal access to property
Title defects
Physical and mechanical condition of improvements
Quality of the construction
Age of the improvements
Quantity of land

UNIT 2
MISREPRESENTATION RED FLAGS - Continued
Rights of the parties in possession
Absence of termites or other pests
Availability of public services and utilities
Location of boundaries, easements and improvements
Compliance with and existence of zoning, subdivision regulations, building codes, and restrictive covenants
Taxes, municipal assessments
Expenses incident to operation or use of property
Neighborhood demographics
Facts ~~that are~~ not readily apparent upon an inspection of the property by the buyer

Qualification of the buyer for a loan
Availability of mortgage funds or owner financing
Amount of closing costs
Market and economic conditions
~~Economic conditions~~
Net operating income of commercial property
Salability of buyer's own property
Right to return of earnest money deposit
Risk of loss
~~Any m~~Matters ~~that isn't~~ not easily apparent ~~to party because of~~ due to lack of expertise or experience and relying on agent to provide information
Effect of mortgage contingency clause
Performance obligations of buyer and seller
~~Performance obligation of seller~~
Remedies of seller or buyer on default
~~Remedies of buyer on default~~
Dual contracts
Advertising – by individual agents, teams, etc. and any other information required by broker

UNIT 3
WAYS TO AVOID MISREPRESENTATION
Check completeness and accuracy of all information
  Errors of Omission
  Errors of Commission
Make a thorough visual inspection of the property
Does the seller's statement of condition match the agent's observation?
Avoid reliance on disclaimers
Follow up on "red flags"
Clearly identify opinions as opinions
Exercise caution when making affirmations of fact
Avoid "puffing" a property
Never interpret the rights and duties of parties to contracts for others
Establish procedures to minimize the possibilities of misrepresentation
Establish a "paper trail"
Importance of seller's disclosure
Flood plain issues
~~Lead paint~~
Opportunities for discovering latent defects through inspections

UNIT 4
PROCEDURE UPON DISCOVERY
Disclose immediately
Confirm disclosure in writing
Indicate the nature of the misrepresentation in the disclosure
Caution the party not to rely on the misrepresented fact

SECTION 5

ENVIRONMENTAL ISSUES

Environmental Protection Agency - EPA
Examples of red flags
  lead paint, radon, wells, septic tank, asbestos, specific to the area, mold, meth labs

SECTION 6

LAND AND IMPROVEMENTS

STRUCTURES
Construction
Style
Plumbing and Heating

SECTION 7

LEGAL ISSUES

New ~~D~~developments in Kansas ~~R~~real ~~E~~estate license ~~L~~law ~~And License Act~~
Advertising and Fair Housing - Sample Ads
Megan's law
Stigmatized properties

PRINCIPLES OF REAL ESTATE

Outline for 30-hour salesperson's pre-license course
Approved by the Kansas Real Estate Commission 5/13/97

I. Real Property
   A. Definitions and Components
      1. Elements of Real Property
      2. Methods of Legal Description
      3. Estates in Real Property
      4. Forms of Ownership
   B. Transfer/Alienation of Real Property
      1. Voluntary
      2. Involuntary
      3. Deeds
         a. Types
         b. Characteristics/elements
         c. Warranties
   C. Assurances of Title
   D. Land Use Controls
      1. Public
      2. Private/Covenants, Conditions and Restrictions (CC&R's)
   E. Encumbrances
      1. Types and Priority of Liens
      2. Easements
      3. Encroachments

II. Government Controls and Laws Affecting Real Estate
   A. Real Property Tax Computations
   B. Income Tax Considerations and Computations
      1. Owner-occupied property
      2. Investment property
      3. Other income tax considerations (refinance, capital gains on sale)
   C. Federal Fair Housing
   D. Americans with Disabilities Act

III. Valuation and Appraisal
   A. Types of Value
   B. Principles of Value
   C. Influences on Value
   D. Approaches to Value
   E. Appraisal Process

IV. Real Estate Finance
   A. Financing Components
      1. Sources
         a. Primary mortgage market
         b. Secondary mortgage market
      2. Elements/Provisions
      3. Loan Types

4. Instruments
    a. Notes
    b. Mortgages
    c. Contract for deed (land contract)
    d. Deeds of trust

B. Lender Requirements
C. Truth in Lending (Regulation Z)
D. Other Financing Issues

V. Settlement/Closing
A. Settlement Procedures
B. Documents
C. Real Estate Settlement & Procedures Act - RESPA
D. Closing Costs/Pro-rations

VI. Contracts/Agency
A. Types/Characteristics
B. Elements/Requirements
C. Listing Contracts
1. Types
2. Rights and Obligations of the Parties
3. Specific Property Data
4. Termination/Expiration
D. Purchase/Sales Contract
E. Property Management Contracts
1. Management Contracts
2. Leases/Rental Agreements
F. Agency Relationships and Responsibilities
G. Disclosures
1. Property
2. Agency
3. Environmental
4. Federal Fair Housing
H. Brokerage Relationships in Real Estate Transactions Act (BRRETA)

VII. Duties and Powers of the Kansas Real Estate Commission
A. General powers and duties, membership
B. Examination of records
C. Investigations, hearings, and appeals

VIII. Licensing Requirements
A. Activities requiring a license
B. Exemptions from licensure
C. Qualifications, examinations, denial of license
D. Nonresident license
E. Restricted license
F. Corporations, partnerships, associations, and limited liability companies (LLCs)
G. Temporary license (effective October 1, 1997)
H. Renewal of license
I. Education requirements
J. Change in license
K. Deactivated ("inactive") license

IX. Requirements governing activities of licensees
   A. Prohibited acts
   B. Place of business and company names
   C. Handling of trust funds and trust account
   D. Records
   E. Recommending legal advice
   F. Reporting requirements
   G. Advertising

X. Penalties for violation
   A. License revocation, suspension and restriction, censure of license, civil fines
   B. Criminal prosecution

XI. Kansas Real Estate Recovery Revolving Fund

Commission-approved outline, 5/13/97

KANSAS REAL ESTATE COMMISSION

"KANSAS PRACTICE COURSE"

30-HOUR COURSE OUTLINE APPROVED 4/12/07
REQUIRED FOR ALL SALESPERSON APPLICANTS EFFECTIVE 7/1/07

SECTION 1

BROKERAGE AGREEMENTS

UNIT 1
REAL ESTATE BROKERAGE RELATIONSHIPS BROCHURE
(amendments effective October 1, 1997)
When and how to present it

UNIT 2
LISTING A PROPERTY
A. Examples: Types of Seller Agency Agreements
Exclusive Right to Sell
Exclusive Agency
Open
Net (not allowed)

B. Who's who in the agency agreement?
May you sign the agency agreement for your broker?
What are your broker's responsibilities under the agency agreement?
What determines the kind of agency agreement(s) your company uses?
When is pay day?
What information is needed to help you better service a listing?
Where and how do you find this information?
Flood plain issues
Lead paint

C. Title Issues
Death, divorce or other issues that may cause closing problems

UNIT 3
BUYER REPRESENTATION - LISTING THE BUYER
A. Examples: Types of Buyer Agency Agreements
Exclusive Representation
Non-Exclusive Representation

B. Review of customer/client relationship
Who's who in the agency agreement?
May you sign the agency agreement for your broker?
What are your broker's responsibilities under the agency agreement?
What determines the kind of agency agreement(s) your company uses?
When is pay day?
What information is needed to help you better service a listing?
Where and how do you find this information?

C. In-Depth Discussion, Examples & Exercises

UNIT 4
ACTING AS A TRANSACTION BROKER
(amendments effective October 1, 1997)
How is the term "transaction broker" defined?
What are the obligations and responsibilities of a transaction broker?
Is a written brokerage agreement required?
May a transaction broker cooperate with other brokers?
What is meant by "presumption of transaction broker"?
When is a transaction broker addendum required?
Examples:

1. Transaction Broker Addendum (TBA-RES)
2. Transaction Broker Addendum (TBA-COMM)
3. Transaction Broker Addendum (TBA-DA)
4. Transaction Broker Addendum (TBA-AG)

UNIT 5
TERMINATION OF BROKERAGE RELATIONSHIPS (K.S.A. 58-30,104 of the Brokerage Relationships in Real Estate Transactions Act)
Public's right to terminate agency and consequences of such

UNIT 6
COMPENSATION (K.S.A. 58-30,105 of the Brokerage Relationships in Real Estate Transactions Act)

UNIT 7
THINGS TO REMEMBER WHEN WORKING WITH ANOTHER COMPANY
What are the types of agency relationships?
When to disclose agency?
Ask and Tell

UNIT 8
LISTING AGENTS, SUBAGENTS, SINGLE AGENTS
What are the listing broker's obligations to the seller/client?
What are the listing broker's obligations to the buyer/customer?
What are the buyer broker's obligations to the buyer/client?
What are the buyer broker's obligations to the seller/customer?
Who is a Subagent?
Who is a Single agent?
How to cover business in designated agency

UNIT 9
SHOWING ANOTHER FIRM'S LISTING
If you call another company and ask permission to show a property it has listed, may that company refuse?
What to do when you want to show another company's listing and establish your firm as a subagent?
What should you do before showing another company's listing when you are acting as agent of the purchaser?
What to do when a salesperson with another company calls for permission to show one of your listings
A typical response of a listing company when asked for permission to show one of its properties when the selling agent wants to act as a subagent
A typical response of a listing company when asked for permission to show one of its properties when the selling agent wants to act as a buyer's agent

SECTION 2

PROPERTY VALUATIONS

Note: Unit 1 **and/or** Unit 2 may be covered depending on the types of transactions the class performs. However, the information not covered should be provided through handouts, glossary, etc.

UNIT 1
PRICING RESIDENTIAL PROPERTY
What is a market analysis?
Where do you find information?
When do you use a market analysis?
How financing can affect the selling price
Steps to follow when completing the market analysis
What does a sample market analysis look like?
Who or what determines property values?

UNIT 2
PRICING NON-RESIDENTIAL PROPERTY
What factors affect the values of income-producing property?
Where to find information about these factors
Steps to follow when using the income approach

UNIT 3
THE APPRAISER'S ROLE
What is the difference between an appraisal and a market analysis
What comparables do appraisers use?
Who does the appraiser work for?

SECTION 3

FINANCING

TYPES OF FINANCING
Why is it important to financially qualify the purchaser?
When and how to qualify the purchaser (buyer interview)
Pitfalls to avoid when qualifying the purchaser
Pre-qualification vs. pre-approval
Conventional loan guidelines and qualifying
FHA loan guidelines and qualifying
VA loan guidelines and qualifying
Other sources of financing (e.g. seller, FmHA)

CLOSING COSTS

UNIT 1
BUYERS ESTIMATED CLOSING COSTS
What is required by state law?
When to prepare an estimate
How to prepare an estimate

UNIT 2
SELLERS ESTIMATED CLOSING COSTS
What is required by state law?
When to prepare an estimate
How to prepare an estimate
NOTE: Additional instruction regarding the closing process may be included here.

SECTION 4

CONTRACTS

HOW TO AVOID PROBLEMS WHEN WRITING A SALES CONTRACT
How do you complete and explain an offer to purchase?
What is the purpose of an addendum/amendment?
How to handle counteroffers and multiple offers?
How does agency affect negotiating offers?
What are possible consequences of a breach of contract?
When to consult your broker when writing a sales contract
When to suggest competent legal advice for your customer/client
If the purchaser asks, "Should I put the home in my spouse's name too?", what should you say?
What to do if the Purchaser or Seller wants to write a second contract just to take to the lender
Purchasing a property you or your company has listed -- what has to be disclosed?
Contract cancellation
What are some common contingencies?
Title issues

EARNEST MONEY

THINGS TO REMEMBER ABOUT EARNEST MONEY BEFORE WRITING A SALES CONTRACT
What is earnest money?
Are you required to get earnest money from the prospective purchaser when he or she makes an offer?
For how much earnest money should you ask?
What are different forms of earnest money?
Who is the earnest money made payable to?
What to do when you get an earnest money check
Can the buyer and seller agree to the deposit of earnest money other than that provided by state law?
Who decides if the buyer or seller is entitled to the earnest money?
If the property has to be appraised for loan purposes or because the purchaser requests it, can the appraisal fee be paid out of the earnest money?

MISREPRESENTATION

UNIT 1
DEFINITION AND TYPES
Intentional
Negligent

UNIT 2
MISREPRESENTATION RED FLAGS
Buyer's perspective
Seller's perspective
Agent's perspective
Property value
Legal access to property
Title defects
Physical and mechanical condition of improvements
Quality of the construction
Age of the improvements
Quantity of land

UNIT 2
MISREPRESENTATION RED FLAGS - Continued
Rights of the parties in possession
Absence of termites or other pests
Availability of public services and utilities
Location of boundaries, easements and improvements
Compliance with and existence of zoning, subdivision regulations, building codes, and restrictive covenants
Taxes, municipal assessments
Expenses incident to operation or use of property
Neighborhood demographics
Facts that are not readily apparent upon an inspection of the property by the buyer
Qualification of the buyer for loan
Availability of mortgage funds or owner financing
Amount of closing costs
Market conditions
Economic conditions
Net operating income of commercial property
Salability of buyer's own property
Right to return of earnest money deposit
Risk of loss
Any matter that isn't easily apparent to party because of lack of expertise or experience and relying on agent to provide information
Effect of mortgage contingency clause
Performance obligation of buyer
Performance obligation of seller
Remedies of seller on default
Remedies of buyer on default
Dual contracts
Advertising – by individual agents, teams, etc. and any other information required by broker

UNIT 3
WAYS TO AVOID MISREPRESENTATION
Check completeness and accuracy of all information
  Errors of Omission
  Errors of Commission
Make a thorough visual inspection of the property
Does the seller’s statement of condition match the agent’s observation?
Avoid reliance on disclaimers
Follow up on "red flags"
Clearly identify opinions as opinions
Exercise caution when making affirmations of fact
Avoid "puffing" a property
Never interpret the rights and duties of parties to contracts for others
Establish procedures to minimize the possibilities of misrepresentation
Establish a "paper trail"
Importance of seller's disclosure
Flood plain issues
Lead paint
Opportunities for discovering latent defects through inspections

UNIT 4
PROCEDURE UPON DISCOVERY
Disclose immediately
Confirm disclosure in writing
Indicate the nature of the misrepresentation in the disclosure
Caution the party not to rely on the misrepresented fact

SECTION 5

ENVIRONMENTAL ISSUES

Environmental Protection Agency - EPA
Examples of red flags
lead paint, radon, wells, septic tank, asbestos, specific to the area, mold, meth labs

SECTION 6

LAND AND IMPROVEMENTS

STRUCTURES
Construction
Style
Plumbing and Heating

SECTION 7

LEGAL ISSUES

New Developments in Kansas Real Estate Law And License Act
Advertising and Fair Housing - Sample Ads
Megan's law
Stigmatized properties

DIRECTOR'S REPORT

MEMO

Kansas
Real Estate Commission

Jayhawk Tower
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Phone: 785-296-3411 Fax: 785-296-1771
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www.krec.ks.gov

DATE: August 24, 2020
TO: Kansas Real Estate Commission Members
FROM: Erik Wisner, Executive Director
RE: Director's Report

Fiscal

- FY21 current year financials will be presented at the October Commission meeting
- FY21-23 Budget Submission. See attached memo and supporting documentation.

Legislative and Policy Issues

- **Transaction Identification and Trust Account Regulations.** Referred to VC Schlosser for review.

Dates and Events

- 2020 Commission Meeting Dates (Third Monday of the month unless *italicized*)
  - October 19
  - *December 7*

- 2021 Possible Commission Meeting Dates
  - Feb. 15
  - Mar. 29 (three weeks earlier due to ARELLO conference)
  - May 17
  - Jun. 21 (possible offsite meeting in north central Kansas)
  - Jul. 19 (possible offsite meeting in north central Kansas)
  - Aug. 30 (two weeks later due to budget deadline)
  - Oct 18
  - Dec 6 (two weeks earlier due to the holidays)

- Upcoming Staff Presentations
  - Lawrence Board of Realtors, October 15 (Wendy) Webinar

- Other Events
  - Sept. 22-28, 2020—ARELLO Annual Meeting (Virtual)
  - Sept. 28-Oct. 9, 2020—KAR Annual Meeting (Virtual)
  - Oct. 27, 2020—KREC Educators Meeting (Virtual)
  - Sept-Nov TBD—Pearson Test Development Meeting (Virtual)
  - Nov. 13-16, 2020 --NAR Annual Meeting (Virtual)
  - June 2021--ARELLO Dist. 2/3 Meeting—(Kansas City, MO)???

MEMO

Kansas Real Estate Commission

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DATE: August 24, 2020
TO: Kansas Real Estate Commission Members
FROM: Erik Wisner, Executive Director
RE: FY 21-23 Budget Overview

The Commission will need to submit a realigned budget estimate for FY21 using approved amounts from the totals approved by the 2020 Legislature and proposed budgets for FY22 and 23 by September 15, 2020.

Proposed realignments for FY 21 and changes to past year budget line items for FY22 and 23.

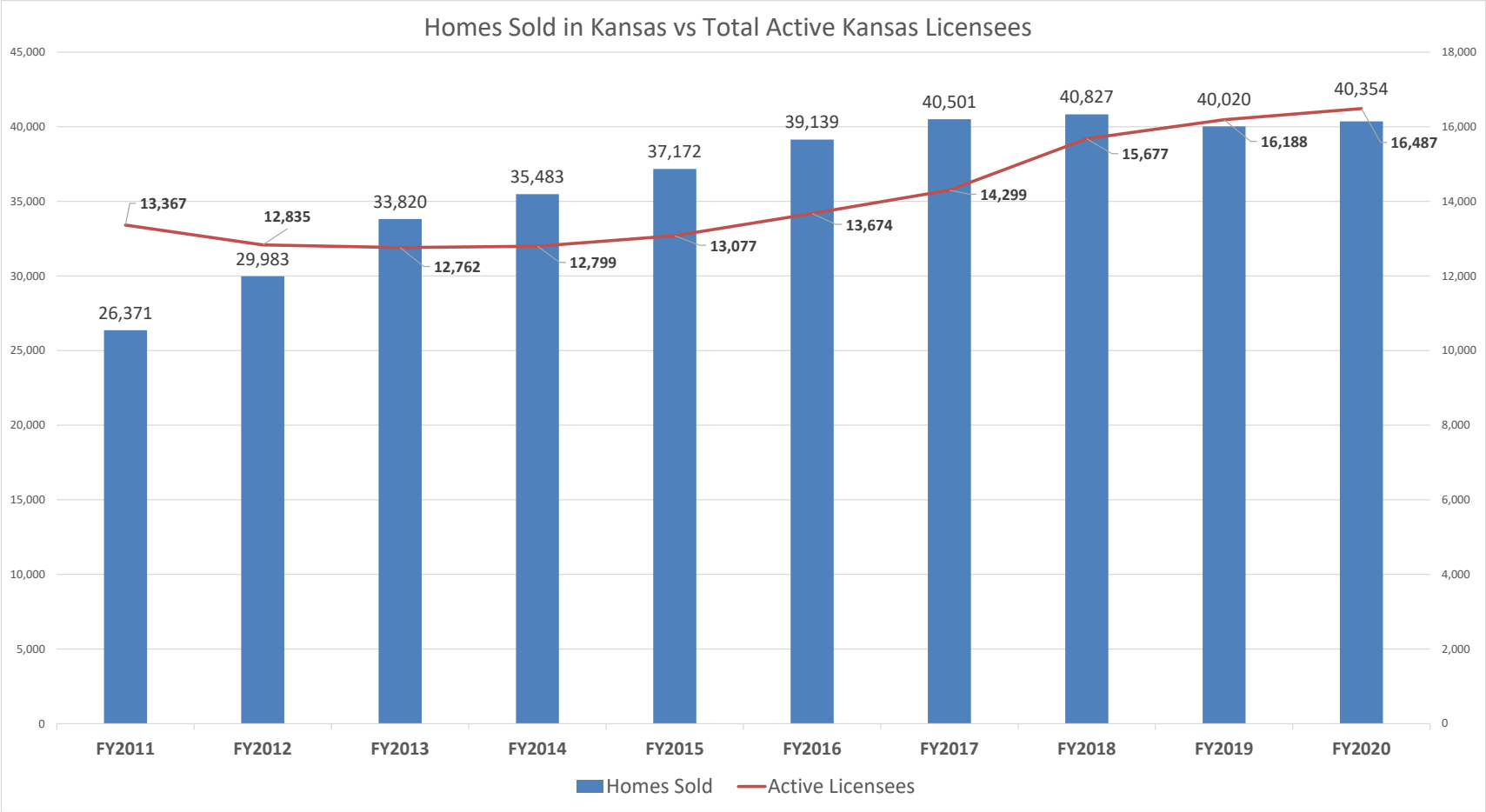
- No enhancement requests proposed for FY21-23. All changes proposed are within approved amounts. Year over year changes are related to existing projects or due to budget cost indices rate changes.
- Increase real estate fee fund revenue in FY21 due to delayed application and renewal fees from FY20.
- Reduce real estate fee fund revenues in FY22 and FY23 due to decrease in application and licensee fees. See supporting charts.
- Reduce background fee fund revenue in FY22 and 23 due to decrease in license applications.
- Increase expenditures from FY22 and 23 from recovery fund for salary expense related to monitoring education courses.
- Increase in rent and DofA building charges in FY23 due to escalation in year 5 of 10-year contract and monumental building surcharge respectively.
- Increase in database and information technology services in FY21-23 for contract vendor. This is to implement phase 3 of online licening modernization plan to automate initial application process.
- Decrease in OITS fees in FY22 and 23.
- Decrease in projected expenditures on conference registrations and travel expenses in FY21 due to pandemic. These will go back up to pre-pandemic levels in FY22 and 23.
- Transfer $20,000 annually from KREC fee fund to special litigation reserve fund.

Summary: Overall expenditures outside of salary and wage increases are estimated to remain unchanged from FY19 and 20 (pre-pandemic) levels for FY21-23. Overall revenue is expected to decline in FY22 and 23 due to a decrease in license applications. Overall fee fund carryover is expected to decline by about $76,000 but carryover should still be above 75% of operating expenses which will provide ample security.

Possible motion to approve FY21-23 budget: I move that the Commission approve the realigned fiscal year 2021 and proposed fiscal year 2022 and 2023 Commission budgets and to give Mr. Wisner authority to make any technical changes and other changes requested by the Division of Budget and the Governor's office during their review.

Real Estate FF (2721)	FY19 Actual	FY20 Actual	FY21 Revised	FY22 Estimate	FY23 Estimate
Expenses	$ 1,071,433	$ 1,122,444	$ 1,185,799	$ 1,176,014	$ 1,190,729
Revenue	$ 1,231,701	$ 1,188,109	$ 1,212,500	$ 1,159,000	$ 1,155,500
Total	$ 160,268	$ 65,665	$ 26,701	$ (17,014)	$ (35,229)
Transfer to SLRF	$ -	$ (20,000)	$ (20,000)	$ (20,000)	$ (20,000)
Carryover	**$ 912,347**	**$ 958,012**	**$ 964,713**	**$ 927,699**	**$ 872,470**
Carryover/Expense	**85%**	**85%**	**81%**	**79%**	**73%**
Background FF (2722)					
Expenses	$ 141,387	$ 129,815	$ 126,000	$ 108,750	$ 105,000
Revenue	$ 134,686	$ 108,475	$ 126,000	$ 108,750	$ 105,000
Total	$ (6,701)	$ (21,340)	$ -	$ -	$ -
Carryover	**$ 32,240**	**$ 10,900**	**$ 10,900**	**$ 10,900**	**$ 10,900**
RE Recovery (7368)					
Expenses	$ 51,813	$ 1,537	$ 2,743	$ 38,437	$ 38,415
Revenue	$ 81,329	$ 5,074	$ 15,000	$ 15,000	$ 15,000
Total	$ 29,516	$ 3,537	$ 12,257	$ (23,437)	$ (23,415)
Carryover	**$ 289,581**	**$ 293,118**	**$ 305,375**	**$ 281,938**	**$ 258,523**

Fee Fund Receipts (2721)	FY2019 (Actual)	FY2020 (Actual)	FY 2021 (rev)	FY 2022 (est)	FY 2023 (est)
Application Fees	33,991	32,939	30,000	27,000	24,000
Broker-Original Licenses	22,005	35,648	22,500	17,000	15,000
Salesperson-Original Licenses	157,340	168,638	160,000	145,000	140,000
Broker-Renewal Licenses	258,760	255,474	255,000	248,500	250,000
Salesperson-Renewal Licenses	637,961	583,485	645,000	625,000	630,000
Late Fees	52,642	41,690	35,000	32,500	32,500
Affiliation Changes	30,480	29,283	30,000	30,000	30,000
Miscellaneous	17,565	22,305	20,000	19,000	19,000
Other Reciepts (Fines, Clerical, Recovery)	20,760	18,055	15,000	15,000	15,000
Non-Revenue Transfers In					
Revenue	**1,231,504**	**1,187,515**	**1,212,500**	**1,159,000**	**1,155,500**


Homes Sold in Kansas vs Total Active Kansas Licensees
45,000
40,000
35,000
30,000
25,000
20,000
15,000
10,000
5,000
0
18,000
16,000
14,000
12,000
10,000
8,000
6,000
4,000
2,000
0
26,371
29,983
33,820
35,483
37,172
39,139
40,501
40,827
40,020
40,354
13,367
12,835
12,762
12,799
13,077
13,674
14,299
15,677
16,188
16,487
FY2011
FY2012
FY2013
FY2014
FY2015
FY2016
FY2017
FY2018
FY2019
FY2020
Homes Sold
Active Licensees

OBJECTIVES:

To protect the public interest by:

1. Licensing only those individuals who have successfully completed all pre-licensing and continuing education requirements required by Kansas law;
2. Increasing consumers' and licensees' knowledge of Kansas real estate practice law through education and outreach;
3. Regulating real estate licensed activities to require compliance with commission statutes and regulations.

Strategies for Objective #1:

- Thoroughly review applications for licensure to ensure they meet statutory requirements.
- Contract with a reliable third-party testing service to develop and administer pre-licensure examinations.
- Renew only real estate salesperson and broker licenses meeting mandatory continuing education requirements.
- Provide more online services to licensees including license transfers, change of company affiliation and demographic data.

Output Measures:	FY 19 Actual	FY 20 Actual	FY 21 Estimate	FY 22 Estimate	FY 23 Estimate
Total number of active Real Estate Licenses	16188	16498	16700	16700	16700
Total number of original Real Estate Licenses issued	1803	1661	1800	1575	1500
Total number of applicants taking Kansas licensing examination	3155	2651	3000	2600	2300
Percent of candidates for salespersons' examination eligible for licensure	63%	66%	67%	68%	69%
Percent of candidates for brokers' license examination eligible for licensure	66%	70%	71%	72%	73%
Number of completed real estate applications denied	18	42	35	34	33
Number of hearings requested because of denials of original applications for licensure	11	25	22	21	20
Average regulatory cost per real estate license*	$78.53	$75.94	$78.63	$79.17	$79.82
Percent of licenses that take more than one business day to be issued	1%	1%	1%	1%	1%
Percentage of licenses renewed online	91%	94%	95%	96%	96%
Percentage of licensees who use online system to make license changes	84%	87%	91%	93%	95%

* Calculated using total number of active real estate licensees divided by total expenditures in each fiscal year.

Strategies for Objective #2:

- Ensure education course outlines submitted for approval meet the objectives of pre-licensing and continuing education.
- Monitor education courses to ensure education provided by instructors match approved outlines.
- Facilitate meetings with schools and staff members to identify common violations of the license law, and brokerage relationships law, and new topics that should be taught to licensees.

Output Measures:	FY 19 Actual	FY 20 Actual	FY 21 Estimate	FY 22 Estimate	FY 23 Estimate
Number of salesperson pre-license courses approved	20	24	26	28	30
Number of schools providing continuing education	51	55	57	59	60

Strategies for Objective #3:

- Review trust account records and transaction files of real estate brokers to ensure licensees' compliance with the license law and the Brokerage Relationships in Real Estate Transactions Act.
- Respond promptly to inquiries and complaints made by consumers and licensees.
- Respond promptly with disciplinary action against licensees who violate Kansas real estate practice laws and regulations.

Output Measures:	FY 19 Actual	FY 20 Actual	FY 21 Estimate	FY 22 Estimate	FY 23 Estimate
Number of complaints logged	248	252	260	265	260
Percent of closed complaints resulting in disciplinary action*	25%	12%	18%	25%	20%
Number of compliance reviews performed	397	281	300	350	350
Percent of companies found with violations because of compliance reviews	75%	73%	70%	65%	65%
Number of transactions of companies that had compliance reviews	40,616	12,839	20,000	30,000	30,000
Percent of licensees who consent to electronic service of disciplinary action	N/A	55%	76%	82%	87%

* Represents only those cases closed during the fiscal year. Cases may carry-over into the next fiscal year before they close. If disciplinary action is recommended, the agency order may not be drafted yet, the licensee may have accepted the agency order imposing disciplinary action or the licensee may have requested a hearing on the discipline imposed.

UNLICENSED ACTIVITY DISCUSSION

2019 Kansas Statutes

58-3035. Definitions. As used in this act, unless the context otherwise requires:
(a) "Act" means the real estate brokers' and salespersons' license act.
(b) "Advance listing fee" means any fee charged for services related to promoting the sale or lease of real estate and paid in advance of the rendering of such services, including any fees charged for listing, advertising or offering for sale or lease any real estate, but excluding any fees paid solely for advertisement or for listing in a publication issued for the sole purpose of promoting the sale or lease of real estate wherein inquiries are directed to the owner of the real estate or to real estate brokers and not to unlicensed persons who publish the listing.
(c) "Associate broker" means an individual who has a broker's license and who is employed by another broker or is associated with another broker as an independent contractor and participates in any activity described in subsection (f).
(d) "Branch broker" means an individual who has a broker's license and who has been designated to supervise a branch office and the activities of salespersons and associate brokers assigned to the branch office.
(e) "Branch office" means a place of business other than the principal place of business of a broker.
(f) "Broker" means an individual, other than a salesperson, who advertises or represents that such individual engages in the business of buying, selling, exchanging or leasing real estate or who, for compensation, engages in any of the following activities as an employee of, or on behalf of, the owner, purchaser, lessor or lessee of real estate:
(1) Sells, exchanges, purchases or leases real estate.
(2) Offers to sell, exchange, purchase or lease real estate.
(3) Negotiates or offers, attempts or agrees to negotiate the sale, exchange, purchase or leasing of real estate.
(4) Lists or offers, attempts or agrees to list real estate for sale, lease or exchange.
(5) Auctions or offers, attempts or agrees to auction real estate or assists an auctioneer by procuring bids at a real estate auction.
(6) Buys, sells, offers to buy or sell or otherwise deals in options on real estate.
(7) Assists or directs in the procuring of prospects calculated to result in the sale, exchange or lease of real estate.
(8) Assists in or directs the negotiation of any transaction calculated or intended to result in the sale, exchange or lease of real estate.
(9) Engages in the business of charging an advance listing fee.
(10) Provides lists of real estate as being available for sale or lease, other than lists provided for the sole purpose of promoting the sale or lease of real estate wherein inquiries are directed to the owner of the real estate or to real estate brokers and not to unlicensed persons who publish the list.
(g) "Commission" means the Kansas real estate commission.
(h) "Exchange" means a type of sale or purchase of real estate.
(i) "Interest" means: (1) Having any type of ownership in the real estate involved in the transaction; or (2) an officer, member, partner or shareholder

of any entity that owns such real estate excluding an ownership interest of less than 5% in a publicly traded entity.
(j) "Lease" means rent or lease for nonresidential use.
(k) "Licensee" means any person licensed under this act as a broker or salesperson.
(l) (1) "Office" means any permanent location where one or more licensees regularly conduct real estate business as described in subsection (f) or a location that is held out as an office.
(2) "Office" does not mean a model home office in a new home subdivision if the real estate transaction files are maintained in the primary office or branch office.
(m) "Primary office" means a supervising broker's principal place of business for each company created or established by the broker.
(n) "Real estate" means any interest or estate in land, including any leasehold or condominium, whether corporeal, incorporeal, freehold or nonfreehold and whether the real estate is situated in this state or elsewhere, but does not include oil and gas leases, royalties and other mineral interests, and rights of way and easements acquired for the purpose of constructing roadways, pipelines, conduits, wires and facilities related to these types of improvement projects for private and public utilities, municipalities, federal and state governments, or any political subdivision. For purpose of this act, any rights of redemption are considered to be an interest in real estate.
(o) "Salesperson" means an individual, other than an associate broker, who is employed by a broker or is associated with a broker as an independent contractor and participates in any activity described in subsection (f).
(p) "Supervising broker" means an individual, other than a branch broker, who has a broker's license and who has been designated as the broker who is responsible for the supervision of the primary office of a broker and the activities of salespersons and associate brokers who are assigned to such office and all of whom are licensed pursuant to subsection (b) of K.S.A. 58-3042, and amendments thereto. "Supervising broker" also means a broker who operates a sole proprietorship and with whom associate brokers or salespersons are affiliated as employees or independent contractors.
History: L. 1980, ch. 164, § 2; L. 1986, ch. 209, § 1; L. 1988, ch. 197, § 1; L. 1989, ch. 167, § 1; L. 1993, ch. 241, § 1; L. 1995, ch. 149, § 1; L. 1996, ch. 212, § 19; Revived, L. 1997, ch. 65, § 3; L. 1997, ch. 65, § 4; L. 2000, ch. 102, § 2; L. 2006, ch. 151, § 1; L. 2008, ch. 155, § 1; L. 2009, ch. 7, § 1; L. 2010, ch. 104, § 1; July 1.

2019 Kansas Statutes

58-3036. Licensure required. Unless exempt from this act under K.S.A. 58-3037, and amendments thereto, no person shall:

(a) Directly or indirectly engage in or conduct or represent that such person engages in or conducts the business of a broker, associate broker or salesperson within this state unless such person is licensed as such a broker, associate broker or salesperson in accordance with this act.

(b) Directly or indirectly act or represent that such person acts as a broker, associate broker or salesperson within this state unless such person is licensed as such a broker, associate broker or salesperson in accordance with this act.

(c) Perform or offer, attempt or agree to perform any act described in subsection (f) of K.S.A. 58-3035, and amendments thereto, whether as a part of a transaction or as an entire transaction, unless such person is licensed pursuant to this act.

History: L. 1980, ch. 164, § 3; L. 1986, ch. 209, § 15; L. 1989, ch. 167, § 2; L. 1995, ch. 252, § 15; L. 1996, ch. 212, § 3; L. 1997, ch. 65, § 5; L. 2002, ch. 82, § 1; July 1.

2019 Kansas Statutes

58-3037. Exemptions. The provisions of this act shall not apply to:
(a) Any person, other than a person licensed under this act, who directly performs any of the acts within the scope of this act with reference to such person's own property.
(b) Any person who directly performs any of the acts within the scope of this act with reference to property that such person is authorized to transfer in any way by a power of attorney from the owner, provided that such person receives no commission or other compensation, direct or indirect, for performing any such act.
(c) Services rendered by an attorney licensed to practice in this state in performing such attorney's professional duties as an attorney.
(d) Any person acting as receiver, trustee in bankruptcy, administrator, executor or guardian, or while acting under a court order or under the authority of a will or a trust instrument or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency.
(e) Any officer or employee of the federal or state government, or any political subdivision or agency thereof, when performing the official duties of the officer or employee.
(f) Any multiple listing service wholly owned by a nonprofit organization or association of brokers.
(g) Any nonprofit referral system or organization of brokers formed for the purpose of referral of prospects for the sale or listing of real estate.
(h) Railroads or other public utilities regulated by the state of Kansas, or their subsidiaries, affiliated corporations, officers or regular employees, unless performance of any of the acts described in subsection (f) of K.S.A. 58-3035, and amendments thereto, is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof.
(i) The sale or lease of real estate by an employee of a person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation which owns or leases such real estate, if such employee owns 5% or greater interest in such association, limited liability company, limited liability partnership, partnership or professional corporation or of the stock of such corporation.
(j) The sale or lease of new homes by a person, association, corporation, limited liability company, limited liability partnership or professional corporation who constructed such homes, but the provisions of this act shall apply to the sale or lease of any such homes by any employee of such person, association, corporation, limited liability company, limited liability partnership, partnership or professional corporation if such employee owns less than 5% interest in such association, limited liability company, limited liability partnership, partnership or professional corporation or by any employee of a corporation who owns less than 5% of the stock of such corporation.
(k) The lease of real estate for agricultural purposes.

History: L. 1980, ch. 164, § 4; L. 1986, ch. 209, § 16; L. 1989, ch. 167, § 3; L. 1991, ch. 163, § 1; L. 1995, ch. 252, § 16; L. 1996, ch. 212, § 4; L. 1997, ch. 65, § 6; L. 2002, ch. 82, § 2; L. 2010, ch. 104, § 2; July 1.

2019 Kansas Statutes

58-3065. Penalties for violations; reporting of minor violations for prosecution not required. (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.

History: L. 1980, ch. 164, § 32; L. 1995, ch. 252, § 22; L. 1996, ch. 212, § 9; Revived, L. 1997, ch. 65, § 18; L. 1997, ch. 65, § 19; Oct. 1.

Kansas Board of Veterinary Examiners Cease and Desist language for Unlicensed Persons

2019 Kansas Statutes

47-834. Prohibition against practice without license; unlawful practice of veterinary medicine; unlawful operation or management by a person of veterinary premises; criminal penalties; remedies of board; actions by board against persons other than licensees, registrants or veterinarians. (a) Unlawful practice of veterinary medicine is the practice of veterinary medicine by a person without a license unless that person is exempt from such requirement pursuant to the provisions of K.S.A. 47-817, and amendments thereto.
(b) Unlawful operation or management of veterinary premises is the operation or management by a person of a veterinary premises that is not registered pursuant to the provisions of K.S.A. 47-840, and amendments thereto.
(c) (1) Unlawful practice of veterinary medicine is a class B nonperson misdemeanor.
(2) Unlawful operation or management of veterinary premises is a class B nonperson misdemeanor.
(3) Each act that violates the provisions of subsection (a) or (b) constitutes a distinct and separate offense.
(d) The board may order the remedying of any violations of any provision of this act or any rules and regulations of the board. The board may issue a cease and desist order upon board determination that a licensee, registrant or any veterinarian has violated any provision of this act, an order of the board or any rules and regulations of the board.
(e) If the board determines that a person is practicing veterinary medicine without a license on a companion animal or is operating or managing a veterinary premises that is not registered pursuant to K.S.A. 47-480, and amendments thereto, in addition to any other penalties imposed by law, the board may take any or all of the following actions:
(1) Issue a cease and desist order;
(2) issue a citation and fine in accordance with the procedures in K.S.A. 47-843 and 47-844, and amendments thereto; and
(3) bring an injunction action in its own name in a court of competent jurisdiction.
(f) For purposes of investigations and proceedings conducted by the board, the board may issue subpoenas compelling the attendance and testimony of any person or the production for examination or copying of documents or any other physical evidence according to the procedures in subsection (a)(19) of K.S.A. 47-821, and amendments thereto, if such evidence relates to practicing veterinary medicine without a license on a companion animal or operating or managing a veterinary premises that is not registered pursuant to K.S.A. 47-840, and amendments thereto.
(g) The successful maintenance of an action based on any one of the remedies set forth in this section shall in no way prejudice the prosecution of an action based on any other of the remedies.
History: L. 1969, ch. 261, § 21; L. 1980, ch. 155, § 16; L. 1993, ch. 129, § 15; L. 1999, ch. 25, § 11; L. 2006, ch. 112, § 4; July 1.

Kansas Board of Cosmetology Cease and Desist language for Unlicensed Persons

2019 Kansas Statutes

65-1908. Revocation, censure, limitation or condition, suspension, nonrenewal or refusal of license; assessment of fines; grounds; authority of inspectors. (a) The board, in accordance with the provisions of the Kansas administrative procedure act, may refuse to issue or renew a license, or revoke, suspend, censure, limit or condition a license for any of the following reasons:
(1) Failure to comply with the sanitation standards prescribed by the secretary of health and environment pursuant to K.S.A. 65-1,148, and amendments thereto;
(2) failure to comply with any provision of this act, with the rules and regulations of the board of cosmetology or with any order issued by the board;
(3) has become a danger to the public by reason of alcohol or drug abuse;
(4) conviction of a felony unless the applicant or licensee is able to demonstrate to the board's satisfaction that such person has been sufficiently rehabilitated to warrant the public trust;
(5) the obtaining of, or the attempt to obtain, a license by fraudulent misrepresentation or bribery;
(6) advertising by means of false or knowingly deceptive matter or statement;
(7) failure to display the annual license or inspection report as provided for in this act;
(8) gross negligence or unprofessional conduct as defined by rules and regulations of the board; or
(9) has had a license revoked, suspended or limited, or has had other disciplinary action taken, or an application for a license denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.
(b) The board may order the remedying of any violations of rules and regulations of the board or any provision of this act, and the board may issue a cease and desist order upon board determination that the holder of a license or any person has violated any order of the board, any rules and regulations of the board or any provision of this act.
(c) Inspectors employed by the board shall have such powers as the board may prescribe by rules and regulations to make inspections, investigations, and inquiries, except that a permanent order for closing any establishment licensed by the board shall be issued only by the board.
(d) In addition to the board's authority to refuse licensure or impose discipline pursuant to subsection (a), the board shall have the authority to assess a fine not in excess of $1,000 against a licensee for each of the reasons specified in subsection (a). Such fine may be assessed in lieu of or in addition to such discipline.
History: L. 1927, ch. 245, § 11; L. 1961, ch. 385, § 5; L. 1975, ch. 322, § 8; L. 1984, ch. 313, § 116; L. 1989, ch. 195, § 7; L. 1992, ch. 108, § 4; L. 1995, ch. 119, § 2; L. 1998, ch. 160, § 10; L. 2002, ch. 187, § 8; L. 2008, ch. 108, § 7; July 1.

OVERVIEW OF FELONY BAR PROVISIONS

2019 Kansas Statutes

58-3043. Granting or renewal of license; considerations of the commission; conviction of crime; effect of. (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) (A) Whether an applicant has committed any of the following during the term of any prior real estate license:
(i) A violation of any of the practices enumerated in K.S.A. 58-3062, and amendments thereto;
(ii) a violation of this act or rules and regulations adopted hereunder; or
(iii) a violation of the brokerage relationships in real estate transactions act, K.S.A. 58-30,101 et seq., and amendments thereto;
(B) whether an applicant has been finally adjudicated and a determination was made by a federal, state or other appropriate licensing body that the applicant committed any violation that is comparable to a violation in subparagraph (A) during the term of any real estate license issued to the applicant by another jurisdiction;
(3) any plea of guilty or nolo contendere to, or any conviction of 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.
(b) The commission may renew or grant an original license to an applicant who has any prior revocation or suspension, conduct or plea of guilty or nolo contendere to or conviction of a misdemeanor as specified in subsection (a) 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. In its consideration of any prior revocation, conduct or plea of guilty or nolo contendere to or conviction of a misdemeanor as specified in subsection (a), the commission shall consider the following factors:
(1) The nature of the offense;
(2) any aggravating or extenuating circumstances;
(3) the time elapsed since such revocation, conduct or plea of guilty or nolo contendere to or conviction of a misdemeanor;
(4) the rehabilitation or restitution performed by the applicant; and
(5) any other factors that the commission deems relevant.
(c) 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.
(d) 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.
(e) (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 subparagraph (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 subparagraph (A).
(2) The commission may grant an original license pursuant to subsection (f) if the applicant's application is received at least:
(A) Fifteen years after the date of the applicant's discharge from postrelease supervision, completion of any nonprison sanction or suspension of the imposition of the sentence resulting from any plea of guilty or nolo contendere to or conviction of any offense specified in subparagraph (A) of paragraph (1); or
(B) five years after the date of the applicant's discharge from postrelease supervision, completion of any nonprison sanction or suspension of the imposition of the sentence resulting from any plea of guilty or nolo contendere to or conviction of any offense specified in subparagraph (B) of paragraph (1), whichever is applicable.
(3) For the purposes of this subsection, "postrelease supervision" and "nonprison sanction" shall have the meaning ascribed to them in K.S.A. 2019 Supp. 21-6803, and amendments thereto.
(f) (1) The commission may renew or grant an original 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 (e) 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 subsections (a) and (b), in determining whether or not the applicant presently has a good reputation as required in subsection (f), 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;
(E) evidence of the applicant's rehabilitation or rehabilitative effort; and
(F) all other evidence of the applicant's present fitness for a license.
History: L. 1980, ch. 164, § 10; L. 1984, ch. 313, § 85; L. 1986, ch. 209, § 5; L. 2002, ch. 82, § 5; L. 2004, ch. 82, § 1; L. 2007, ch. 88, § 2; L. 2008, ch. 155, § 2; L. 2010, ch. 104, § 6; L. 2011, ch. 30, § 205; July 1.