

## 2012 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.