

RE 310 – Principles of Real Estate Real Estate Agency

1) Real Estate Brokerage

- a) A broker is an intermediary who _____ buyers and sellers, without ever actually owning the asset being sold.
- Examples include:

The broker receives compensation in the form of a _____ from either the buyer or the seller.

b) According to Kansas real estate licensing law:

- A real estate broker is an individual who engages in the business of buying, selling, exchanging or leasing real estate or who, for compensation, engages in activities requiring a license as an employee of, or on behalf of, the owner, purchaser, lessor or lessee of real estate.
- A real estate salesperson is an individual who is affiliated with a broker to participate in activities requiring a real estate license.

c) Benefits of using broker in a real estate transaction:

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d) Realtor is NOT another term for a real estate agent. Realtor[®] is a trademark name reserved for members of the National Association of REALTORS.

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- www.kansasrealtor.com
- www.wichita-realtors.org

2) Agency

a) The relationship between a buyer or seller of real estate and the licensee who represents that person is an *agency relationship*.

- An *agent* is an individual who is authorized and consents to represent the interests of another person.

- A *principal* is the person on whose behalf the agent acts.

It is important to distinguish between the *client*, who is the principal to whom the agent owes a _____, and the *customer*, to whom the agent owes only _____.

b) Single agency, dual agency and transaction brokers

- Under single agency the agent represents only _____ in any single transaction.
 - Subagency is created when one broker, appoints other brokers or salespersons to help perform client-based functions on the principal's behalf.
 - Multiple listing services typically make participating brokers subagents of the seller, unless a separate agency agreement has been set up.
 - A subagent has the _____ to the principal as the original agent.

- Dual agency occurs when the agent represents _____ in the same transaction.
 - Dual agency is not permitted in Kansas.

- What does a real estate agent do if he has a client that wants to purchase or lease a property from another client?
 - The agent may assume the role of a _____ and facilitate the sale without being an agent for either party.
 - A larger office may assign a _____ to each principal to provide client-based services; the broker then functions as a transaction broker.

- 3) Brokerage Relationships in Real Estate Transactions Act (BRRETA)
- a) BRRETA is the law that governs real estate agency relationships in Kansas
- Defines duties of different types of agents
 - Mandates disclosure of different types of possible agency relationships
- b) Duties of a seller's (landlord's) agent
- Promote the interests of the client with utmost good faith, loyalty, and fidelity
 - Present all offers to the seller in a timely manner
 - Disclose all facts about the buyer or tenant
 - Advise the client to obtain outside expert advice regarding problems or questions which are present but are outside the agent's expertise
 - Account in a timely manner for all money and property received
 - Protect the client's confidences, unless disclosure is required. Kansas law requires brokers to notify the buyer or lessee of any adverse material facts actually known to the licensee, including but not limited to
 - Environmental hazards;
 - Physical condition of the property;
 - Material defects in the property;
 - Material defects in the title to the property; and
 - Material limitation on the client's ability to perform under the terms of the contract.
 - Comply with all applicable state, federal, and local laws & regulations.

c) Duties of a buyer's (tenant's) agent

- Essentially the same as above, with appropriate changes to reflect that the agent is working for the buyer or tenant.

d) Duties of a transaction broker

- A transaction broker has all of the same responsibilities outlined above except as it relates to confidentiality and disclosure.
- The transaction broker must protect the confidences of both parties to the transaction.
- The transaction broker must still disclose material adverse facts that he or she actually knows.

e) The State of Kansas has established a Real Estate Recovery Revolving Fund to compensate individuals who have been harmed by a licensee's failure to comply with BRRETA and other regulations, and from whom full compensation cannot otherwise be obtained.

- To recover monies from the fund, an individual must
 - Obtain a court judgment against a licensee for failure to meet their obligations as a real estate agent;
 - File a claim with the fund within 2 years of the judgment; and
 - Have attempted to recover compensation through normal court procedures and provide evidence that no other method of payment is available (e.g., the licensee has no assets to liquidate).
- Payments from the fund are limited to
 - \$15,000 per transaction
 - \$30,000 per licensee per year
 - \$50,000 per licensee lifetime

4) Real Estate Licensing

a) To obtain a salesperson's license, one must

- Be 18 years of age;
- Hold a high school diploma or equivalent;
- Take an approved 30-hour pre-licensing course;
- Pass a licensing exam; and
- File an application for license that is signed by a supervising or branch broker who will be responsible for supervising the licensee's real estate activities.
- After receiving a temporary salesperson's license, the individual must take a 30-hour salesperson's post-license course and then file an application to convert this license to a permanent license.

b) To obtain a broker's license, one must

- Be 18 years of age and hold a high school diploma;
- Take an approved 24-hour broker's pre-licensing course;
- Pass a licensing exam;
- File an application for license that documents that the individual has been licensed as a salesperson and has been actively engaged in activities requiring a license for at least two of the last five years (a real estate degree from WSU may count for up to 16 months of this experience requirement).

c) Salespersons' and brokers' licenses are valid for two years in Kansas

d) Following licensure, both licenses require continuing education (12 hours) in order to renew the license.

e) Current details about licensing can be obtained at the Kansas Real Estate Commission's web site: <http://www.accesskansas.org/krec>.

5) Listing Agreements, MLS Systems and Commissions

a) The listing agreement is the contract that creates the agency relationship between the seller and the broker.

- Exclusive right to sell listing

- Exclusive-agency listing

- Open listing

- Net listing

b) A multiple listing service (MLS) is a mechanism by which brokers make their _____ available to one another.

c) The amount of and who pays the commission are determined by the _____.

- In Wichita, the typical residential brokerage commission is _____, paid by the seller at closing.

- This is completely negotiable, however, according to the listing agreement with the seller or the agency agreement with the buyer.

- Buyer broker agreements may require _____ if the seller is unwilling to pay the commission.

- Commissions on commercial transactions are typically lower more variable.

- Commissions are split between the _____, the _____, the _____, and the _____.

- The amount of the split is determined by the salesperson's contract with the broker and the MLS agreement.