

Removing language prohibiting dealing in assignable contracts

Prepared by Office of Revisor of Statutes

Session of 2024

HOUSE BILL No. 2598

By Committee on Commerce, Labor and Economic Development

Requested by Mark Tomb on behalf of Kansas Association of Realtors

1-25

1 AN ACT concerning real estate; relating to brokers and salespersons and
2 real estate transactions; authorizing the Kansas real estate commission
3 to issue cease and desist orders; prohibiting dealing in assignable
4 contracts for the purchase or sale of or options on real estate or
5 improvements thereon for certain residential housing; providing that
6 certain violations thereof are subject to penalties and remedies under
7 the Kansas consumer protection act; amending K.S.A. 58-3065 and
8 K.S.A. 2023 Supp. 58-3062 and repealing the existing sections.
9

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

11 Section 1. K.S.A. 2023 Supp. 58-3062 is hereby amended to read as
12 follows: 58-3062. (a) No licensee, whether acting as an agent, transaction
13 broker or a principal, shall:

14 (1) Fail to account for and remit any money which comes into the
15 licensee's possession and which belongs to others.

16 (2) Misappropriate moneys required to be deposited in a trust account
17 pursuant to K.S.A. 58-3061, and amendments thereto, convert such
18 moneys to the licensee's personal use or commingle the money or other
19 property of the licensee's principals with the licensee's own money or
20 property, except that nothing herein shall prohibit a broker from having
21 funds in an amount not to exceed \$100 in the broker's trust account to pay
22 expenses for the use and maintenance of such account.

23 (3) Accept, give or charge any rebate or undisclosed commission.

24 (4) Pay a referral fee to a person who is properly licensed as a broker
25 or salesperson in Kansas or another jurisdiction or who holds a corporate
26 real estate license in another jurisdiction if the licensee knows that the
27 payment of the referral fee will result in the payment of a rebate by the
28 Kansas or out-of-state licensee.

29 (5) Represent or attempt to represent a broker without the broker's
30 express knowledge and consent.

31 (6) Guarantee or authorize any person to guarantee future profits that
32 may result from the resale of real property.

33 (7) Place a sign on any property offering it for sale or lease without
34 the written consent of the owner or the owner's authorized agent.

35 (8) Offer real estate for sale or lease without the knowledge and

Conforming changes will be made to Title and to section 3, the repealing section of bill, to remove references to Section 1.

1 (g) A branch broker shall not be employed by or associated with more
 2 than one supervising broker at any one time unless each supervising broker
 3 who employs or associates with the branch broker consents to such
 4 multiple employment or association. Such consent shall be on a form
 5 provided by the commission and shall not be effective until a signed copy
 6 of the completed form has been filed with the commission.

7 ~~(h) (1) No person, association, corporation, limited liability~~
 8 ~~company, limited liability partnership, partnership, professional~~
 9 ~~corporation or trust shall buy, sell, offer to buy or sell, market for sale,~~
 10 ~~exchange or otherwise deal in assignable contracts for the purchase or~~
 11 ~~sale of or options on real estate or improvements thereon for single family~~
 12 ~~residential housing and multifamily residential housing of four units or~~
 13 ~~less.~~

14 ~~(2) Any violation of paragraph (1) constitutes a deceptive act or~~
 15 ~~practice under the Kansas consumer protection act pursuant to K.S.A.~~
 16 ~~2023 Supp. 50-626, and amendments thereto, and shall be subject to a~~
 17 ~~civil penalty as provided in K.S.A. 50-636(a), and amendments thereto,~~
 18 ~~and any other remedy or penalty as provided by the Kansas consumer~~
 19 ~~protection act. Each unlawful transaction shall constitute a separate~~
 20 ~~violation.~~

21 (i) Nothing in this section shall be construed to grant any person a
 22 private right of action for damages, ~~except a violation of subsection (h)~~, or
 23 to eliminate any right of action pursuant to other statutes or common law.

24 Sec. 2. K.S.A. 58-3065 is hereby amended to read as follows: 58-
 25 3065. (a) Willful violation of any provision of this act or the brokerage
 26 relationships in real estate transactions act is a misdemeanor punishable by
 27 imprisonment for not more than 12 months or a fine of not less than \$100
 28 or more than \$1,000, or both, for the first offense and imprisonment for not
 29 more than 12 months or a fine of not less than \$1,000 or more than
 30 \$10,000, or both, for a second or subsequent offense.

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

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

43 Sec. 3. K.S.A. 58-3065 and K.S.A. 2023 Supp. 58-3062 are hereby

NOTE: Because the new text that is removed is the only amendment to this section, the section in its entirety will show as stricken from the bill.