

86-3-26. Real estate brokerage relationships brochure. (a) The commission's document titled "real estate brokerage relationships," as approved by the commission on October 10, 2017, is hereby adopted by reference.

(b) As required by K.S.A. 58-30,110, and amendments thereto, each licensee shall give any prospective buyer or seller a brochure entitled titled "real estate brokerage relationships." Each Any brokerage firm may either obtain a copy of this brochure from the commission for reproduction and use by its affiliated licensees use the commission document adopted by reference in subsection (a) or design a brochure that contains the minimum at least the same information contained in subsections (a), (b), (c), and (d) that document. If a brokerage firm designs its own "Real estate brokerage relationships" brochure, the brochure may be in a format determined by the brokerage firm and may include the company name, company logo, and an explanation of the firm's brokerage relationships policy. Each brochure shall also provide the name of the licensee providing the brochure, the name of the supervising or branch broker of the licensee if applicable, and the name of the brokerage firm as registered with the commission.

~~(a) Seller's agent. The seller's agent represents the seller only, so the buyer may be either unrepresented or represented by another agent.~~

~~(1) The seller's agent is responsible for performing the following duties:~~

~~(A) Promoting the interests of the seller with the utmost good faith, loyalty and fidelity;~~

~~(B) protecting the seller's confidences, unless disclosure is required;~~

~~(C) presenting all offers in a timely manner;~~

~~(D) advising the seller to obtain expert advice;~~

~~(E) accounting for all money and property received;~~

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~~(F) disclosing to the seller all adverse material facts about the buyer that the agent knows;~~

and

~~(G) disclosing to the buyer all adverse material facts actually known by the agent,~~

including the following:

~~(i) Environmental hazards affecting the property that are required to be disclosed;~~

~~(ii) the physical condition of the property;~~

~~(iii) any material defects in the property or in the title to the property; and~~

~~(iv) any material limitation on the seller's ability to complete the contract.~~

~~(2) The seller's agent has no duty to perform the following:~~

~~(A) Conduct an independent inspection of the property for the benefit of the buyer; or~~

~~(B) independently verify the accuracy or completeness of any statement by the seller or~~

~~any qualified third party.~~

~~(b) Buyer's agent. The buyer's agent represents the buyer only, so the seller may be either unrepresented or represented by another agent.~~

~~(1) The buyer's agent is responsible for performing the following duties:~~

~~(A) Promoting the interests of the buyer with the utmost good faith, loyalty, and fidelity;~~

~~(B) protecting the buyer's confidences, unless disclosure is required;~~

~~(C) presenting all offers in a timely manner;~~

~~(D) advising the buyer to obtain expert advice;~~

~~(E) accounting for all money and property received;~~

~~(F) disclosing to the buyer all adverse material facts that the agent knows; and~~

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~~(G) disclosing to the seller all adverse material facts actually known by the agent, including all material facts concerning the buyer's financial ability to perform the terms of the transaction.~~

~~(2) The buyer's agent has no duty to perform the following:~~

~~(A) Conduct an independent investigation of the buyer's financial condition for the benefit of the seller; or~~

~~(B) independently verify the accuracy or completeness of statements made by the buyer or any qualified third party.~~

~~(e) Transaction broker. The transaction broker is not an agent for either party, so the transaction broker does not advocate the interests of either party.~~

~~(1) The transaction broker is responsible for performing the following duties:~~

~~(A) Protecting the confidences of both parties, including the following information:~~

~~(i) the fact that a buyer is willing to pay more;~~

~~(ii) the fact that a seller is willing to accept less;~~

~~(iii) the factors that are motivating any party;~~

~~(iv) the fact that a party will agree to different financing terms; and~~

~~(v) any information or personal confidences about a party that might place the other party at an advantage;~~

~~(B) exercising reasonable skill and care;~~

~~(C) presenting all offers in a timely manner;~~

~~(D) advising the parties regarding the transaction;~~

~~(E) suggesting that the parties obtain expert advice;~~

~~(F) accounting for all money and property received;~~

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~~(G) keeping the parties fully informed;~~

~~(H) assisting the parties in closing the transaction;~~

~~(I) disclosing to the buyer all adverse material facts actually known by the transaction broker, including the following:~~

~~(i) environmental hazards affecting the property that are required to be disclosed;~~

~~(ii) the physical condition of the property;~~

~~(iii) any material defects in the property or in the title to the property; and~~

~~(iv) any material limitation on the seller's ability to complete the contract; and~~

~~(J) disclosing to the seller all adverse material facts actually known by the transaction broker, including all material facts concerning the buyer's financial ability to perform the terms of the transaction.~~

~~(2) The transaction broker has no duty to perform any of the following:~~

~~(A) conduct an independent inspection of the property for the benefit of any party;~~

~~(B) conduct an independent investigation of the buyer's financial condition; or~~

~~(C) independently verify the accuracy or completeness of statements by the seller, buyer, or any qualified third party.~~

~~(d) Statement of representation. The following statement, in bold faced type, shall be included in the brochure. "Do not assume that an agent is acting on your behalf, unless you have signed a contract with the agent's firm to represent you. As a customer, you represent yourself. Any information that you, the customer, disclose to the agent representing another party will be disclosed to that other party. Even though licensees may be representing other parties, they are obligated to treat you honestly, give you accurate information, and disclose all known adverse material facts."~~

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(e) ~~This regulation shall take effect on and after October 1, 1997.~~ (Authorized by K.S.A. 58-30,110 and K.S.A. 1996 2017 Supp. 74-4202(b), as amended by 1997 H.B. 2264, Sec. 46; implementing K.S.A. 1996 Supp. 58-30,110(a)(1), as amended by 1997 H.B. 2264, Sec. 40; effective, T-86-10-1-97, Oct. 1, 1997; effective Oct. 24, 1997; amended P-\_\_\_\_\_.)

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## Real Estate Brokerage Relationships

Kansas law requires real estate licensees to provide the following information about brokerage relationships to prospective sellers and buyers at the first practical opportunity. This brochure is provided for informational purposes and does not create an obligation to use the broker's services.

**Types of Brokerage Relationships:** A real estate licensee may work with a buyer or seller as a seller's agent, buyer's agent or transaction broker. The disclosure of the brokerage relationship between all licensees involved and the seller and buyer must be included in any contract for sale and in any lot reservation agreement.

**Seller's Agent:** The seller's agent represents the seller only, so the buyer may be either unrepresented or represented by another agent. In order to function as a seller's agent, the broker must enter into a written agreement to represent the seller. Under a seller agency agreement, all licensees at the brokerage are seller's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a seller's agent and the supervising broker of the designated agent functions as a transaction broker.

**Buyer's Agent:** The buyer's agent represents the buyer only, so the seller may be either unrepresented or represented by another agent. In order to function as a buyer's agent, the broker must enter into a written agreement to represent the buyer. Under a buyer agency agreement, all licensees at the brokerage are buyer's agents unless a designated agent is named in the agreement. If a designated agent is named, only the designated agent has the duties of a buyer's agent and the supervising broker of the designated agent functions as a transaction broker.

**A Transaction Broker** is not an agent for either party and does not advocate the interests of either party. A transaction brokerage agreement can be written or verbal.

**Duties and Obligations:** Agents and transaction brokers have duties and obligations under K.S.A. 58-30,106, 58-30,107, and 58-30,113, and amendments thereto. A summary of those duties are:

**An Agent**, either seller's agent or buyer's agent, is responsible for performing the following duties:

- promoting the interests of the client with the utmost good faith, loyalty, and fidelity
- protecting the clients confidences, unless disclosure is required
- presenting all offers in a timely manner
- advising the client to obtain expert advice
- accounting for all money and property received
- disclosing to the client all adverse material facts actually known by the agent
- disclosing to the other party all adverse material facts actually known by the agent

**The transaction broker** is responsible for performing the following duties:

- protecting the confidences of both parties
- exercising reasonable skill and care
- presenting all offers in a timely manner
- advising the parties regarding the transaction
- suggesting that the parties obtain expert advice
- accounting for all money and property received
- keeping the parties fully informed
- assisting the parties in closing the transaction
- disclosing to the parties all adverse material facts actually known by the transaction broker

**Agents and Transaction Brokers** have no duty to:

- conduct an independent inspection of the property for the benefit of any party
- conduct an independent investigation of the buyer's financial condition
- independently verify the accuracy or completeness of statements made by the seller, buyer, or any qualified third party.

**General Information:** Each real estate office has a supervising broker or branch broker who is responsible for the office and the affiliated licensees assigned to the office. Below are the names of the licensee providing this brochure, the supervising/branch broker, and the real estate company.

\_\_\_\_\_  
Licensee

\_\_\_\_\_  
Real estate company name approved by the commission

\_\_\_\_\_  
Supervising/branch broker

\_\_\_\_\_  
Buyer/Seller Acknowledgement (not required)