

Kansas Real Estate Commission Issues a New Rule on When a Real Estate Licensee Must Disclose Licensure Status and Ownership in a Property During a Real Estate Transaction

On July 1st, the Kansas Real Estate Commission approved changes to the language in **K.A.R. 86-3-19** that specifies when a real estate licensee must make certain disclosures in the sales contract during a real estate transaction. The Commission approved a new definition of the term “interest” and expanded the disclosure requirements to include situations where a real estate licensee’s immediate family member has an interest in the property subject to the transaction.

Under the previous version of the regulation, a real estate licensee was required to disclose their “position” in the transaction in the sales contract when they bought or sold real estate in which the licensee had an unspecified “interest.” Unfortunately, the terms “position” and “interest” were not defined and there was considerable uncertainty as to when these disclosures needed to be made.

Real Estate Licensees Must Disclose When They Have an “Interest” in the Real Estate Involved in the Transaction

In order to correct these problems, the Commission included a definition of the term “interest” in **HB 2746** that was passed during the 2008 Legislative Session. Under this definition, a real estate licensee has an “interest” in a property when:

- (1) They have any type of ownership in the real estate involved in the transaction; or
- (2) They serve as an officer, member, partner or shareholder in any entity (i.e. limited liability corporation, partnership, corporation or not-for-profit organization) that owns the real estate involved in the transaction excluding an ownership interest of less than 5% in a publicly traded entity.

Therefore, if real estate licensees either personally have an ownership interest in or serve in some capacity in any entity that owns the real estate involved in the transaction, they need to make a disclosure in the sales contract stating the following:

- (1) That they are a licensed real estate salesperson or broker in the State of Kansas; and
- (2) That they have an ownership interest in or serve in a specified capacity in an entity that has an ownership in the real estate involved in the transaction.

Real Estate Licensees Must Make a Similar Disclosure When Any Immediate Family Member Has an “Interest” in the Property

Under the new language in **K.A.R. 86-3-19**, the disclosure requirements also extend to situations where an immediate family member of the real estate licensee has any type of ownership interest in the property or serves as an officer, member, partner or shareholder in any entity that owns the real estate involved in the transaction. Under the regulation, an “immediate family member” means a spouse, parent, child or sibling.

Therefore, when a spouse, parent, child or sibling of the real estate licensee either personally has an ownership interest in or serves in some capacity in any entity that owns the real estate involved in the transaction, the real estate licensee needs to make a disclosure in the sales contract stating the following:

- (1) That they are a licensed real estate salesperson or broker in the State of Kansas; and
- (2) That their spouse, parent, child or sibling has an ownership interest in or serves in a specified capacity in any entity that has any ownership in the real estate involved in the transaction.

For more information on this and other issues, please go to <http://www.kansasrealtor.com/>. You may also contact Luke Bell, KAR Director of Governmental Relations at lbell@kansasrealtor.com or 785-267-3610 Ext. 2133.