

# CHAPTER SIX

## KANSAS STATE LICENSE LAW

**Career**  
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## 1. ACTIVITIES REQUIRING A REAL ESTATE LICENSE

A. For another for compensation to do, offer to do, or negotiate to:

1. sell
2. purchase
3. lease commercial property  
NOTE: Kansas does not require a license to do residential rental
4. list
5. auction or assist by procuring bids
6. procure prospects

**LICENSE**



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## 1. ACTIVITIES REQUIRING A REAL ESTATE LICENSE

B. Real estate includes:

1. freehold estates
2. non-freehold estates (leasehold)

NOTE: This applies even if the real estate is in another state



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**1. ACTIVITIES REQUIRING A REAL ESTATE LICENSE**

C. Persons exempt from licensure requirements

1. owner dealing with owner's own property
2. someone acting under power of attorney as long as no compensation is paid
3. licensed attorney performing attorney's duties
4. person acting under court's authority; examples: receiver, trustee, administrator, executor, guardian



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**1. ACTIVITIES REQUIRING A REAL ESTATE LICENSE**

C. Persons exempt from licensure requirements

5. government officers or employees performing government duties
6. railroads; public utilities (gross easements)
7. employees selling or leasing corporate property who own at least 5% of corporate stock
8. agricultural leasing



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## 2. TYPES OF LICENSES

A. Broker - each office must have its own broker

NOTE: a license can only be issued to people, not to a corporation, partnership, etc.

1. supervising broker
  - a. broker of main office
  - b. holds all licenses of main office
2. branch broker
  - a. responsible for running branch office
  - b. holds all licenses of branch office
3. associate broker
  - a. has passed the broker exam and requirements but chooses to work for another broker
  - b. can NOT hold licenses of others



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## 2. TYPES OF LICENSES

B. Salesperson

1. salesperson
  - a. performs all acts under broker's supervision
  - b. can NOT hold licenses of others



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### 3. KANSAS REAL ESTATE COMMISSION

#### A. Makeup

1. five (5) members appointed by governor
2. paid subsistence and mileage
3. at least three (3) must have been brokers for five (5) years
4. at least one (1) is a public member
5. employs director to run office
  - a. keeps records
  - b. calls meeting upon request of two (2) members
  - c. certifies records to court
  - d. does NOT vote



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### 3. KANSAS REAL ESTATE COMMISSION

#### B. Duties

1. KREC may:
  - a. make investigations
  - b. issue licenses
  - c. publish disciplinary actions in newspapers
  - d. revoke, suspend, restrict licenses or censure licensees
  - e. fine up to \$1,000 per violation



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### 3. KANSAS REAL ESTATE COMMISSION

2. KREC may not:
  - a. impose criminal penalties
  - b. arbitrate commission disputes between licensees



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#### 4. THE LICENSE ITSELF

##### A. Qualifications for license for Kansas residents (broker or salesperson)

1. file written application with KREC
2. 18 or older (do not have to be a U.S. citizen)
3. high school diploma or equivalency
4. pass both parts of exam within six (6) months prior to application
5. attend pre-license course within one (1) year prior to exam
6. KREC may require a credit report (but usually does not)
7. honest, trustworthy, have integrity and competence
8. submit fingerprints for KBI and FBI background checks

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#### 4. THE LICENSE ITSELF

##### B. Additional qualifications

1. salesperson - recommended by your employing broker certifying to #7
2. broker - active in real estate sales (in any state) two (2) of the past five (5) years.  
NOTE: KREC can accept equivalent experience or education

##### C. Education - type license education required

- SP - 30 hour pre-license plus 30 hour practice course  
BR - 24 hour pre-license

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#### 4. THE LICENSE ITSELF

##### D. Renewal of License

1. renewal dates are based on first letter of last name

B - December 31 of even years  
C - February 28 of odd years  
D & E - April 30 of odd years  
F & G - June 30 of odd years  
H - August 31 of odd years  
I, J, K & L - October 31 of odd years  
M - December 31 of odd years  
N, O & P - February 28 of even years  
Q & R - April 30 of even years  
S - June 30 of even years  
T, U & V - August 31 of even years  
W, X, Y, Z & A - October 31 of even years



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#### 4. THE LICENSE ITSELF

2. must file renewal form and have continuing education classes completed by the last calendar day of the month preceding the expiration date (i.e. one month before it expires); you may still renew within six (6) months after expiration by paying \$50 late fee



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## 5. REFUSAL OF LICENSE

- A. Reasons why KREC may refuse to issue you a license
1. earlier revocation or suspension
  2. you have already committed an act that could get your license revoked
  3. you plead "guilty" or "no contest" or convicted of:
    - a. forgery
    - b. embezzlement
    - c. obtaining money under false pretenses
    - d. larceny
    - e. extortion
    - f. fraud
    - g. morals crimes
    - h. any felony



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## 5. REFUSAL OF LICENSE

- A. Reasons why KREC may refuse to issue you a license
4. you have sold real estate without a license (illegally) earlier
  5. you lied on your application
  6. other matters deemed pertinent by the KREC



NOTE: KREC, when considering the above, must consider extenuating circumstances, length of time and rehabilitation by the applicant

- B. KREC must give you reasons for refusal
- C. You may request a hearing before the KREC

NOTE: failing the exam is not cause for a hearing

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## 6. NON-RESIDENT LICENSES

### A. Requirements

1. licensed in home state
2. salespersons must associate with broker licensed in Kansas (resident or non-resident)
3. must designate Director of KREC as agent to accept all legal notices for you (statement of "irrevocable consent")
4. fingerprints for KBI/FBI background check
5. pass Kansas portion of exam
6. Salespersons, take 30 hour Kansas practice course; Brokers, take 4 hour Kansas law course



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## **7. TRANSFER OF LICENSE/INACTIVE LICENSE/REPORTING OF INFORMATION**

### A. Transfer of license

1. your broker returns your license to KREC; KREC then sends your license to the new broker
2. transfer fee is \$15

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## **7. TRANSFER OF LICENSE/INACTIVE LICENSE/REPORTING OF INFORMATION**

### B. Inactive licenses

1. you (individual licensee) may deactivate your license upon request (no fee is required)
2. it will be held by KREC (you are no longer licensed with your broker)  
NOTE: You still must renew every two years on an inactive status or your license will lapse
3. you do not need continuing education while inactive
4. you cannot sell for others while inactive

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**7. TRANSFER OF LICENSE/INACTIVE LICENSE/REPORTING OF INFORMATION**

B. Inactive licenses

5. in order to reactivate, you must:
  - a. if inactive less than two (2) years
    1. complete continuing education for two (2) year period
    2. pay fees
  - b. if inactive between two (2) and five (5) years
    1. complete six (6) hours of continuing education per year
    2. pay fees
  - c. if inactive over five (5) years
    1. complete six (6) hours of continuing education per year
    2. pay fees
    3. pass examination

NOTE: fee to reactivate is \$15



**7. TRANSFER OF LICENSE/INACTIVE LICENSE/REPORTING OF INFORMATION**

C. Reporting of information to KREC (within ten (10) days in writing)

1. any court suit regarding real estate sales or commission disputes and the results of the suit
2. any tax lien, mechanic's lien or judgement against you or your company
3. any arrest, indictment or conviction for a major offense, including:
  - a. forgery
  - b. embezzlement
  - c. obtaining money under false pretenses
  - d. larceny
  - e. extortion
  - f. criminal conspiracy to defraud
  - g. any felony



**7. TRANSFER OF LICENSE/INACTIVE LICENSE/REPORTING OF INFORMATION**

- C. Reporting of information to KREC (within ten (10) days in writing)
  - 4. change of personal name or business name
  - 5. change of personal or business address
  - 6. change regarding your trust account
  - 7. any rejection or suspension/revocation of license in another state

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### **8. PLACE OF BUSINESS**

- A. Each broker must have an office (unless inactive or working as an associate broker)
- B. Resident broker's office must be in Kansas (or adjoining state with approval of KREC)
- C. Licenses are displayed at each office
- D. Upon change of company name or address, the broker must notify KREC in writing and return all licenses to KREC
- E. Trade names
  - 1. register name and obtain approval from KREC
  - 2. broker's name must be posted somewhere in office

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**BEST BUY  
REALTY**

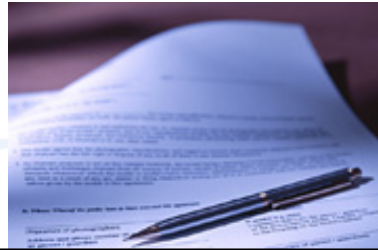


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## **9. OBLIGATIONS TO CUSTOMERS AND CLIENTS**

### A. Disclosure requirements

1. you cannot act as both agent and principal without the knowledge of all parties (example: buying listed property; selling own property to buyer).
2. you must disclose any material information about the property which you know
3. you must disclose your status as a licensee when buying or selling property for yourself or your company in writing on the sales contract.

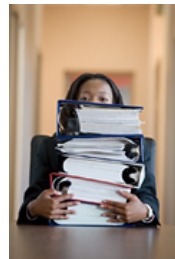


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## **9. OBLIGATIONS TO CUSTOMERS AND CLIENTS**

### B. Legal issues

1. you must recommend to every buyer that an attorney check on the marketability of title and any other legal issues



2. you cannot try to get someone to break a contract of listing, sale or lease

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## 10. DOCUMENTS

### A. Agency agreements

1. written agreement necessary to represent seller or buyer  
NOTE: you must also have written consent to place a sign in yard
2. must have an expiration date (no automatic extensions)
3. must give a copy to principal within a reasonable time
4. net listings are illegal
5. listing may NOT include a power of attorney giving broker the right to sign for the principal
6. can defer payment of commission



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## 10. DOCUMENTS

### B. Sales contract

1. must be in writing and include purchase price, property description and a method of determining the closing date
2. you cannot write dual contracts (one real contract and one fake contract with a higher price in order to borrow more money)
3. you must give buyer (when you write the offer) and seller (when you present the offer) an estimate of their closing costs
4. seller's agents must present all written offers to seller until closing (UNLESS seller specifically states in writing otherwise) and any counter-offers to buyers or buyer's agent promptly



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## 10. DOCUMENTS

- C. Closing statements - broker must give both buyer and seller a detailed closing statement (unless escrow agent handles closing)
- D. Records that must be kept for three (3) years at broker's office
  - 1. contracts (agency agreements and sales contracts)
  - 2. closing statements



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## 11. ESCROW ACCOUNTS - TRUST ACCOUNTS

### A. Account itself

1. in Kansas (or adjoining state with written permission of KREC)
2. in insured bank, savings and loan or credit union
3. may be interest bearing

NOTE: broker can receive interest with written consent of all parties

4. broker must notify KREC about account and file consent to examine
5. broker cannot commingle escrowed funds with personal or business funds. NOTE: broker may keep \$100 in account to cover service charges



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## 11. ESCROW ACCOUNTS - TRUST ACCOUNTS

### B. Deposits to escrow account

1. Earnest money must be deposited in trust account within five (5) business days after acceptance
2. residential security deposits and rent money CANNOT go in the escrow account
3. earnest money must be in cash unless you tell the owner before they accept the offer

NOTE: you must write the form of the earnest money on the contract



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### **11. ESCROW ACCOUNTS - TRUST ACCOUNTS**

- C. Payments from escrow account
1. on behalf of the parties (upon instructions)
  2. upon order of the court
  3. upon broker sending certified letters to both parties

NOTE: Sales contract must contain language saying if neither party goes to court, broker can send out certified letters regarding who gets earnest money; if neither party responds within 7 days, broker can disburse



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### **11. ESCROW ACCOUNTS - TRUST ACCOUNTS**

- D. Records kept in broker's office
1. monthly bank statements (reconciled monthly - unless no activity)
  2. voided trust account checks
  3. individual ledger on each transaction (trust account or transaction ledger)

NOTE: if branch office maintains a separate escrow account, the records must also be maintained at the branch office



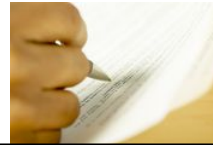
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## **11. ESCROW ACCOUNTS - TRUST ACCOUNTS**

### E. Transaction numbering system

1. Supervising brokers (and any branch broker who maintains a separate trust account in the branch office) must number each transaction and that number must appear on all:
  - a. trust account checks
  - b. trust account deposit slips
  - c. trust account ledger
  - d. trust account receipts
2. Sales contracts and options shall be numbered consecutively each year (2008-1, 2008-2, etc.)
3. A different system can only be used with permission of the KREC.

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## 12. COMMISSIONS/RELATIONSHIPS WITH OTHER LICENSEES

### A. Commissions

1. broker may pay a commission to a broker licensed in another state for referrals only (should be written agreement)
2. salespersons and associate brokers can not accept payment for real estate acts from anyone other than their broker
3. you can not sue for a commission unless licensed at the time you offered to perform the service

NOTE: exception is a real estate brokerage corporation or partnership whose officers or partners are properly licensed (broker can sue in personal or company name)



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## 12. COMMISSIONS/RELATIONSHIPS WITH OTHER LICENSEES

### B. Relationships with other licensees

You cannot negotiate a sale or lease of property that is listed exclusively with another broker



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### 13. ADVERTISING/PROMOTIONAL PRACTICES

#### A. Advertising

1. on listed property
  - a. must have written consent to put a "for sale" or "for lease" sign on a property
  - b. in trade or business name of broker
  - c. cannot use blind ads (PO Box, phone # only, etc.)
  - d. cannot offer property for sale or lease without knowledge of owner or on different terms than owner authorized
2. on licensee's own property sold as a for-sale-by-owner
  - a. must indicate in ad, sign, etc. that owner is a licensee
  - b. licensees usually write "owner-agent"



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#### **14. REASONS FOR SUSPENSION OR REVOCATION OF LICENSE**

KREC may suspend, revoke, restrict your license or you may be censured if you:

1. Violate any of the obligations listed in this act
2. Fraudulently obtained your license
3. Plead "guilty" or "no contest" or convicted of:
  - a. forgery
  - b. embezzlement
  - c. obtaining money under false pretenses
  - d. larceny
  - e. extortion
  - f. fraud
  - g. morals crimes
  - h. any felonies



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#### **14. REASONS FOR SUSPENSION OR REVOCATION OF LICENSE**

4. Are found guilty of "fair housing" violations
5. Have been judged mentally disabled by a court
6. "Equity skimming" - buying redemption rights on properties in foreclosure; collecting rent and then not making payments on the loan  

(regarding foreclosure, if agent does purchase property or redemption rights, agent MUST notify mortgage holder within 20 days after purchase)
7. The KREC must give the licensee reasons for the suspension or revocation



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**15. HEARING PROCEDURE/PENALTIES FOR VIOLATION**

A. Complaint itself must be filed within 3 years after the act

emergency proceedings (hearing) - only used when a licensee's escrow account is found to be unsound or has been convicted of a felony



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**15. HEARING PROCEDURE/PENALTIES FOR VIOLATION**

B. Penalties for violating license law

1. Penalties by KREC

- a. fine not more than \$1,000 per violation
- b. suspend your license (for definite period of time)
- c. revoke your license
- d. restrict your license

1. when?

- a. licensee has violated the law; or
- b. person applies for license but does not meet all requirements
- c. can restrict to types of transactions, certain broker, etc.

2. Penalties by court - violation of this law is a misdemeanor



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## **15. HEARING PROCEDURE/PENALTIES FOR VIOLATION**

### C. Appeals process

1. if licensee is aggrieved by order of KREC (i.e., suspension, revocation, etc.), then licensee may appeal to court for judicial review  
(NOTE: During suspension, can bring in another supervising broker)



2. if the KREC revokes a broker's license and that broker's name is included in the trade or business name, then the KREC may deny continued use of the name

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## 16. RECOVERY REVOLVING FUND

### A. Purpose

1. to reimburse citizens who lose due to dishonest actions by licensees
2. can also collect due to violations by unlicensed employees of brokers



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## 16. RECOVERY REVOLVING FUND

### B. To collect

1. claimant must first get a judgment against licensee from Kansas court
2. claimant then can ask the court to order the balance paid from the recovery fund

### C. Persons who can not collect from the fund - licensed broker or salesperson

### D. Amounts payable

1. \$15,000 per transaction (no matter how many claimants)
2. \$30,000 against a licensee per year
3. \$50,000 against a licensee totally



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## **16. RECOVERY REVOLVING FUND**

E. When money is paid, license is automatically revoked

F. Fund itself

1. originally established in 1974 at \$200,000
2. if balance drops below \$100,000, KREC will assess:

- a. brokers - \$10
- b. salespersons - \$5

if licensee does not pay the assessment within 30 days, licensee's license will be suspended until it is paid

3. any disputed earnest money held in broker's escrow account over 5 years can be paid into the recovery fund (or so mandated by KREC)



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## **17. CONTINUING EDUCATION**

A. Hours required every renewal (can not carry hours over into next period)

1. for brokers - twelve (12) hours per renewal period (6 mandatory core and 6 elective)
2. for salesperson's licenses - 12 hours (3 mandatory core and 9 elective) per renewal period

NOTE: if a new salesperson's license renewal date is 5 months or less from issuance, then the 12 hours are not required for the first renewal.



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**18. BRRETA (BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS ACT)**

A. Definitions

1. Seller's or Landlord's agent - broker has entered into a written agency agreement with seller or landlord
2. Buyer's or Tenant's agent - broker has entered into a written agency agreement with buyer or tenant
3. Designated agent - licensee affiliated with a broker is designated by the broker to act as agent for broker's buyer or seller client (the supervising broker CANNOT be a designated agent)



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**18. BRRETA (BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS ACT)**

A. Definitions

4. Transaction broker - broker who assists one or more parties without being an agent for the parties
5. Client - seller, landlord, buyer or tenant who has an agency agreement
6. Customer - seller, landlord, buyer or tenant in which a broker is involved but has not entered into an agency agreement



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**18. BRRETA (BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS ACT)**

A. Definitions

7. Ministerial acts - acts a licensee may perform that do not rise to agency status
  - a. phone inquiries as to pricing of property and brokerage services
  - b. attending open house and answering questions
  - c. setting appointments to view property
  - d. answering questions in the office from a consumer walk-in
  - e. accompanying an appraiser, inspector or contractor on a visit to a property
  - f. describing a property in response to a person's inquiry
  - g. referral to another broker



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**18. BRRETA (BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS ACT)**

B. Agency agreements

1. licensee CANNOT be a dual agent
2. a licensee may represent a party in various capacities in separate transactions (e.g. representing a seller in the sale of property and representing that same person in the purchase of another property)
3. a licensee is a transaction broker UNLESS:
  - a. an agency agreement has been signed
  - b. broker accepts subagency of seller



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**18. BRRETA (BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS ACT)**

B. Agency agreements

4. written agreements
  - a. seller or landlord - must be signed before doing agency duties for client
  - b. buyer or tenant - must be signed before signing of offer to purchase or lease

NOTE: government property can be ORAL;  
transaction broker listing can be ORAL

5. broker cannot assign agency agreement without written consent of all parties



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**18. BRRETA (BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS ACT)**

C. Requirements of seller's or buyer's agent

1. client - promote interests of client with loyalty including:
  - a. disclosing to client all adverse material facts known by licensee
  - b. advising client to obtain expert advice in areas outside expertise of licensee
2. customer - disclose all adverse material facts known by licensee including:
  - a. environmental hazards
  - b. physical condition of property
  - c. material defects in property or title to property




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**18. BRRETA (BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS ACT)**

D. Transaction broker and designated agents

1. if there are no designated agents, a broker can act as a transaction broker for a seller and buyer client on an in-house sale by having both clients sign a transaction broker addendum (TBA-RES form)
2. if a buyer client of a designated agent wants to see a property owned by a seller client of the same designated agent, the designated agent may become a transaction broker with written informed consent of both parties - addendum must be signed before contract is signed




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**18. BRRETA (BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS ACT)**

E. Real estate brokerage relationships

1. a licensee must give a brochure (explaining seller agency, buyer agency and transaction broker) to buyer or seller at first practical opportunity
2. disclosure of brokerage relationship between all licensees and clients must be included in the sales contract





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**18. BRRETA (BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS ACT)**

F. Transaction broker

1. not an agent for either party
2. owes the following duties:
  - a. suggest parties obtain expert advice in areas outside expertise of transaction broker
  - b. disclose to buyer or tenant all adverse material facts known by the transaction broker
    1. environmental hazards
    2. physical condition of property
    3. material defects in property or title



**18. BRRETA (BROKERAGE RELATIONSHIPS IN REAL ESTATE TRANSACTIONS ACT)**

G. Termination of relationships

broker owes no duties to client after termination EXCEPT:

1. account for moneys relating to transaction
2. account for property that changed hands during transaction
3. keep all confidential information confidential

H. KREC is responsible for providing suggested forms for real estate agents to use

A client is not liable for any misrepresentation by their agent and visa versa (unless the parties had knowledge); no imputed knowledge

