

LEGAL RESOURCES

DO YOU KNOW THE LAWS IN YOUR SERVICE AREA?

Always check with your attorney for questions involving potential legal issues. Having access to an attorney may help you with:

- Brokerage form review and approval: Only an attorney may write contracts. Brokers and salespeople are allowed to fill in the blanks. If you create brokerage-specific contracts make sure that your attorney reviews, tweaks them, and approves them.
- Legal questions that arise while managing a brokerage.
- Lawsuit threat risk estimates and responses.

It is recommended that you consult with your attorney PRIOR to calling your E&O Insurance Representative about the threat of a lawsuit unless you have received notice of a lawsuit against you or your firm. Many "threats of lawsuit" may be able to be negotiated or settled for less than the cost of your E&O Deductible. Your E&O Insurance costs may increase significantly if you're getting your E&O Company involved before there is an actual lawsuit. Again, check with your own legal counsel on all matters with legal implications.

LEGAL RISKS BROKERS FACE

- [Top 10 Legal Risks](#) – REALTOR® Magazine
- In our local area most litigation centers around non-disclosure issues. Agents and property sellers are often accused of not disclosing everything that they know about the property. In Missouri this extends to "should have known" for brokers and agents. The best advice to give agents and for agents to give to sellers is "**When in doubt – disclose.**" If an agent questions "Should I disclose this, or not?" then they probably should.

[Missouri REALTORS® Association](#)

[Risk Management](#)

- Legal Line: Supports legal questions from brokers and agents.
- Keeping it Legal: Monthly video series about the most commonly asked questions.
- Legal Line Library: A collection of legal questions and answers organized by topic.
- Forms: Attorney approved forms for various types of real estate

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[Kansas Association of REALTORS®](#)

[Legal Hotline](#)

- Annual membership required for this access

National Association of REALTORS®

[National Association of REALTORS® Digital Assets](#) (requires your NRDS ID to access)

- Wide variety of eBooks available, many free, to help you with many legal-related issues or potential issues.

[National Association of REALTORS® Code of Ethics](#) (COE)

- Make sure your agents are aware of the latest changes along with following the COE.
- [Process for filing citations/complaints with KCRAR](#)

ADDRESS CHANGES

- Must be processed with KCRAR | MREC | KREC within 10 days for agents, brokers, and brokerages.
 - [KCRAR](#)
 - [MREC](#)
 - [KREC](#)
 - [Kansas Secretary of State](#)
 - [Missouri Secretary of State](#)

BROKERAGE NAME - Doing Business As (DBA)

- Missouri allows the use of a DBA in the normal course of business. It must be registered with the [Missouri Secretary of State](#) and that registration must be provided to the Missouri Real Estate Commission. These registrations must be renewed periodically (refer to the MO SOS Website for current renewal information).
- Kansas does not allow the use of a DBA and therefore the Brokerage name used **MUST BE THE SAME AS IS REGISTERED WITH THE STATE OF KANSAS and KREC.**

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ADVERTISING

Both Kansas and Missouri have different advertising laws for real estate brokerages and agents. Both states require that the broker approve all advertising that takes place whether by the brokerage or the agents. There are very specific requirements for both brokerages and agents. You must review these statutes and ask questions of either MREC, KREC, or your attorney if you are unclear or need an interpretation of these statutes. These are state laws and as such you will be required to abide by them. Any validated complaints filed with MREC or KREC may accompany a fine for both the broker and the agent. If there are further incidents MREC or KREC may increase the consequences for violating these state statutes.

- MREC Statutes 20 CSR 2250-8.070 Advertising
 - 6. "Advertising" shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one or more licensees and the public, and shall include, but not be limited to, **business cards**, **signs**, insignias, letterheads, radio, television, newspaper and magazine ads, **Internet advertising**, **websites**, display or group ads in telephone directories, and billboards.
 - (2) No real estate advertisement by a licensee shall show only a post office box number, telephone number or street address. Every advertisement of real estate by a licensee shall contain the broker's regular business name or the name under which the broker or the broker's firm is licensed and shall indicate that the party advertising is a real estate broker and not a private party
- KREC Statutes
 - [KREC Guide to Advertising Changes](#)

FILE COMPLIANCE

Who in your brokerage will be responsible for file compliance? Document this and have solid written requirements in both your Independent Contractor Agreement (ICA) and as a job aid for both the file compliance personnel and agents.

File compliance may differ by state so you should check what is required for each state and blend your compliance efforts accordingly if your brokerage operates in two or more states.

- [KREC Compliance](#)
- [KREC Frequently Asked Questions](#)
- [MREC Frequently Asked Questions](#)

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UNLICENSED ASSISTANTS

Unlicensed assistants are often used to assist the broker. Teams large and small also use a variety of unlicensed assistants to assist the team. Specific duties you will allow unlicensed assistants to perform should be addressed in both your Brokerage Process Manual and your Independent Contractor Agreement. Both Kansas and Missouri address unlicensed assistants in their State Statutes:

KANSAS

Citation: KREC

Legal/Regulatory Action: [Guidelines on Activities by Unlicensed Personnel](#)

The Kansas Real Estate Commission published an article in its quarterly newsletter that provides guidance about what unlicensed personal assistants may and may not do. The article indicates that it was adapted from similar articles published by the Missouri and North Carolina real estate commissions. (Revised Nov. 2011)

Unlicensed assistants in Kansas may not do the following:

1. Show property.
2. Discuss or explain a contract, listing, lease agreement, or other real estate document with anyone outside the firm.
3. Negotiate or agree to any commission, commission split, or referral fee on behalf of a licensee.
4. Discuss anything related to the property or related to its purchase, except to confirm the property is listed, identify the listing broker or salesperson and furnish publicly available information on the listings of the employing brokerage to real estate licensee affiliated with other brokerage firms and members of the public upon an inquiry about a particular property.
5. May not conduct any activities that require a license under K.S.A. 58-3035(f) including but not limited to, negotiating contracts and leases on behalf of a licensee.
6. A licensee may not, as a personal assistant for another licensee or as a secretary/employee, perform any activity which requires a license while licensed with another firm.
7. Explain or interpret information concerning properties listed with the firm, except to confirm the property is listed, identify the listing broker or salesperson and furnish publicly available information on the listings of the employing brokerage to real estate licensee affiliated with other brokerage firms and members of the public upon an inquiry about a particular property.

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MISSOURI

Citation: M.R.S. § 339.010; 20 CSR 2250-8.010

Legal/Regulatory Action: [MREC Guidelines on Activities by Unlicensed Personnel](#)

The Missouri Real Estate Commission issued a rule setting forth its position on the permissible and impermissible activities of unlicensed assistants. (June 2011)

According to the Commission, an unlicensed assistant may not do the following:

1. Host open houses, kiosks, home show booths or fairs, or hand out materials.
2. Prepare promotional materials or ads without the review and approval of licensee and supervising broker.
3. Show property.
4. Answer any questions on listings, title, financing, closing, etc.
5. Discuss or explain a contract, listing, lease, agreement, or other real estate document with anyone outside the firm.
6. Work as a licensee/secretary in one firm and do real estate-related activities with that firm, while licensed with another firm.
7. Be paid on the basis of real estate activity, such as a percentage of commission, or any amount based on listings, sales, etc.
8. Negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee.