

58-3077. Commercial real estate; sharing commissions with unlicensed persons, when authorized. (a) As used in this section:

(1) "Commercial real estate" means any real estate for which the present use is other than (A) one to four residential units or (B) for agricultural purposes.

(2) "Foreign licensee" means a real estate licensee, in good standing of another state or country.

(3) Words and phrases used in this section have the meanings ascribed thereto in K.S.A. 58-3035, and amendments thereto.

(b) A branch broker or supervising broker may cooperate with and share commissions or other compensation for services related to commercial real estate with a foreign licensee and such foreign licensee shall be permitted to perform services requiring a license under K.S.A. 58-3034 et seq., and amendments thereto, with respect to commercial real estate in this state even though such foreign licensee is not licensed thereunder if:

(1) The real estate is not improved with a single family residence; and

(2) the foreign licensee agrees to cooperate with a branch broker or supervising broker of this state in any commercial real estate transaction, as evidenced by execution of and compliance with a broker cooperation agreement which shall include, but not be limited to, provisions requiring:

(A) The foreign licensee to comply with all applicable laws and regulations of this state;

(B) the foreign licensee to submit to the jurisdiction of the courts of this state, the jurisdiction of the Kansas real estate commission and the applicability of the laws and regulations of this state for the conduct of the foreign licensee with respect to commercial real estate and any and all claims related thereto;

(C) the foreign licensee to give its written irrevocable written consent to service of process upon such foreign licensee by valid service upon the secretary of state of this state and upon the secretary of state of the state or province of the foreign licensee's real estate licensure;

(D) all escrow funds, including but not limited to, earnest deposits and security deposits, concerning the commercial real estate to be held in this state either in the trust account of a Kansas-licensed branch broker or supervising broker or by a third-party escrow agent located in this state;

(E) a description of how any and all compensation earned on any commercial real estate transaction shall be shared between the foreign licensee and the branch broker or supervising broker of this state;

(F) the foreign licensee and the branch broker or supervising broker of this state to agree to each keep the other informed of all showings and negotiations for commercial real estate;

(G) the foreign licensee and the branch broker or supervising broker of this state to agree to furnish to the other copies of all documents related to any commercial real estate transaction required by Kansas law to be retained, including but not limited to, agency disclosure, offers, counter-offers, purchase and sale contracts, leases and closing statements.

(c) A copy of any broker cooperation agreement shall be provided to the commission within five business days of the execution thereof.

(d) The provisions of this section shall be a part of and supplemental to the Kansas real estate brokers' and salespersons' license act.

History: L. 2004, ch. 67, § 2; L. 2006, ch. 159, § 3; July 1.