

## 2018 Kansas Statutes

### **58-3043. Granting or renewal of license; considerations of the commission; conviction of crime; effect of.**

(a) In determining whether to grant or renew a license the commission shall consider:

- (1) Any revocation or suspension of a prior real estate license;
- (2) (A) Whether an applicant has committed any of the following during the term of any prior real estate license:
  - (i) A violation of any of the practices enumerated in K.S.A. 58-3062, and amendments thereto;
  - (ii) a violation of this act or rules and regulations adopted hereunder; or
  - (iii) a violation of the brokerage relationships in real estate transactions act, K.S.A. 58-30,101 et seq., and amendments thereto;
- (B) whether an applicant has been finally adjudicated and a determination was made by a federal, state or other appropriate licensing body that the applicant committed any violation that is comparable to a violation in subparagraph (A) during the term of any real estate license issued to the applicant by another jurisdiction;
- (3) any plea of guilty or nolo contendere to, or any conviction of any misdemeanor which reflects on the applicant's honesty, trustworthiness, integrity or competence to transact the business of real estate;
- (4) any conduct of the applicant which reflects on the applicant's honesty, trustworthiness, integrity or competence to transact the business of real estate; and
- (5) such other matters as the commission deems pertinent.

(b) The commission may renew or grant an original license to an applicant who has any prior revocation or suspension, conduct or plea of guilty or nolo contendere to or conviction of a misdemeanor as specified in subsection (a) if the applicant presents to the commission satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity and competence to transact the business of real estate in such a manner as to safeguard the interest of the public. The burden of proof shall be on the applicant to present such evidence to the commission. In its consideration of any prior revocation, conduct or plea of guilty or nolo contendere to or conviction of a misdemeanor as specified in subsection (a), the commission shall consider the following factors:

- (1) The nature of the offense;
- (2) any aggravating or extenuating circumstances;
- (3) the time elapsed since such revocation, conduct or plea of guilty or nolo contendere to or conviction of a misdemeanor;
- (4) the rehabilitation or restitution performed by the applicant; and
- (5) any other factors that the commission deems relevant.

(c) The commission may deny a license to any person who, without a license, has engaged in a real estate activity for which a license was required.

(d) When an applicant has made a false statement of material fact on the application, such false statement may be sufficient reason for refusal of a license.

(e) (1) Except as provided in paragraph (2), the commission shall refuse to grant a license to an applicant if the applicant has entered a plea of guilty or nolo contendere to, or has been convicted of:

- (A) (i) Any offense that is comparable to any crime which would require the applicant to register as provided in the Kansas offender registration act; or
- (ii) any federal, military or other state conviction for an offense that is comparable to any crime under the laws of this state which would require the applicant to register as provided in the Kansas offender registration act; or
- (B) (i) Any felony other than a felony under subparagraph (A); or
- (ii) any federal, military or other state conviction for an offense that is comparable to any under the laws of this state other than a felony under subparagraph (A).

(2) The commission may grant an original license pursuant to subsection (f) if the applicant's application is received at least:

(A) Fifteen years after the date of the applicant's discharge from postrelease supervision, completion of any nonprison sanction or suspension of the imposition of the sentence resulting from any plea of guilty or nolo contendere to or conviction of any offense specified in subparagraph (A) of paragraph (1); or

(B) five years after the date of the applicant's discharge from postrelease supervision, completion of any nonprison sanction or suspension of the imposition of the sentence resulting from any plea of guilty or nolo contendere to or conviction of any offense specified in subparagraph (B) of paragraph (1), whichever is applicable.

(3) For the purposes of this subsection, "postrelease supervision" and "nonprison sanction" shall have the meaning ascribed to them in K.S.A. 2018 Supp. 21-6803, and amendments thereto.

(f) (1) The commission may renew or grant an original license to an applicant who has entered a plea of guilty or nolo contendere to, or has been convicted of any crime listed in paragraph (1) of subsection (e) if the applicant presents to the commission satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity and competence to transact the business of real estate in such a manner as to safeguard the interest of the public. The burden of proof shall be on the applicant to present such evidence to the commission.

(2) In addition to the factors listed in subsections (a) and (b), in determining whether or not the applicant presently has a good reputation as required in subsection (f), the commission shall consider the following additional factors:

- (A) The extent and nature of the applicant's past criminal activity;
- (B) the age of the applicant at the time of the commission of the crime or crimes;
- (C) the amount of time elapsed since the applicant's last criminal activity;
- (D) the conduct and work activity of the applicant prior to and following the criminal activity;
- (E) evidence of the applicant's rehabilitation or rehabilitative effort; and
- (F) all other evidence of the applicant's present fitness for a license.

**History:** L. 1980, ch. 164, § 10; L. 1984, ch. 313, § 85; L. 1986, ch. 209, § 5; L. 2002, ch. 82, § 5; L. 2004, ch. 82, § 1; L. 2007, ch. 88, § 2; L. 2008, ch. 155, § 2; L. 2010, ch. 104, § 6; L. 2011, ch. 30, § 205; July 1.