

FIRST REGULAR SESSION

# HOUSE BILL NO. 171

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WOOD, PORTWOOD, ST. ONGE, SCHNEIDER,  
BEHNEN (Co-sponsors), STEVENSON, JOHNSON (47) AND KRATKY.

Read 1<sup>st</sup> time January 13, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0851L.011

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### AN ACT

To repeal sections 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.600, 339.603, 339.605, 339.606, 339.607, 339.608, 339.610, 339.612, 339.614, 339.617, 339.710, 339.760, 339.780, and 339.800, RSMo, and to enact in lieu thereof seventeen new sections relating to real estate agents, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105,  
2 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.600, 339.603, 339.605, 339.606,  
3 339.607, 339.608, 339.610, 339.612, 339.614, 339.617, 339.710, 339.760, 339.780, and 339.800,  
4 RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections  
5 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130, 339.150,  
6 339.160, 339.170, 339.180, 339.710, 339.760, 339.780, and 339.800, to read as follows:

339.010. 1. A "real estate broker" is any person, partnership, association, or corporation,  
2 foreign or domestic who, for another, and for a compensation or valuable consideration, [as a  
3 whole or partial vocation,] does, or attempts to do, any or all of the following:

- 4 (1) Sells, exchanges, purchases, rents, or leases real estate;
- 5 (2) Offers to sell, exchange, purchase, rent or lease real estate;
- 6 (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or  
7 leasing of real estate;
- 8 (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is new proposed language.**

9 (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or  
10 improvements thereon;

11 (6) Advertises or holds himself or herself out as a licensed real estate broker while  
12 engaged in the business of buying, selling, exchanging, renting, or leasing real estate;

13 (7) Assists or directs in the procuring of prospects, calculated to result in the sale,  
14 exchange, leasing or rental of real estate;

15 (8) Assists or directs in the negotiation of any transaction calculated or intended to result  
16 in the sale, exchange, leasing or rental of real estate;

17 (9) Engages in the business of charging to an unlicensed person an advance fee in  
18 connection with any contract whereby the real estate broker undertakes to promote the sale of  
19 that person's real estate through its listing in a publication issued for such purpose intended to  
20 be circulated to the general public;

21 (10) Performs any of the foregoing acts as an employee of, or on behalf of, the owner of  
22 real estate, or interest therein, or improvements affixed thereon, for compensation.

23 2. A "real estate salesperson" is any person, who for a compensation or valuable  
24 consideration becomes associated, either as an independent contractor or employee, either  
25 directly or indirectly, with a real estate broker to do any of the things above mentioned[, as a  
26 whole or partial vocation]. The provisions of sections 339.010 to 339.180 **and sections 339.710**  
27 **to 339.860** shall not be construed to deny a real estate salesperson who is compensated solely  
28 by commission the right to be associated with a broker as an independent contractor.

29 3. The term "commission" as used in sections 339.010 to 339.180 **and sections 339.710**  
30 **to 339.860** means the Missouri real estate commission.

31 4. "Real estate" for the purposes of sections 339.010 to 339.180 **and sections 339.710**  
32 **to 339.860** shall mean, and include, leaseholds, as well as any other interest or estate in land,  
33 whether corporeal, incorporeal, freehold or nonfreehold, and [whether] the real estate is situated  
34 in this state [or elsewhere].

35 5. The provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860** shall  
36 not apply to:

37 (1) Any person, partnership, **association**, or corporation who as owner [or], lessor, **or**  
38 **lessee** shall perform any of the acts described in subsection 1 of this section with reference to  
39 property owned or leased by them, or to the regular employees thereof, provided such owner [or],  
40 lessor, **or lessee** is not engaged in the real estate business [as a vocation];

41 (2) Any licensed attorney-at-law;

42 (3) An auctioneer employed by the owner of the property;

43 (4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or  
44 guardian or while acting under a court order or under the authority of a will, trust instrument or

45 deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state  
46 or any governmental subdivision or agency;

47 (5) Any person employed or retained to manage real property by, for, or on behalf of, the  
48 agent or the owner, of any real estate shall be exempt from holding a license, if the person is  
49 limited to one or more of the following activities:

50 (a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

51 (b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental  
52 payment, or any related payment, for delivery to, and made payable to, a broker or owner;

53 (c) Showing a rental unit to any person, as long as the employee is acting under the direct  
54 instructions of the broker or owner, including the execution of leases or rental agreements;

55 (d) Conveying information prepared by a broker or owner about a rental unit, a lease, an  
56 application for lease, or the status of a security deposit, or the payment of rent, by any person;

57 (e) Assisting in the performance of brokers' or owners' functions, administrative, clerical  
58 or maintenance tasks;

59 (f) If the person described in this section is employed or retained by, for, or on behalf of  
60 a real estate broker, the real estate broker shall be subject to discipline under this chapter for any  
61 conduct of the person that violates this chapter or the regulations promulgated thereunder;

62 (6) Any officer or employee of a federal agency or the state government or any political  
63 subdivision thereof performing official duties;

64 (7) Railroads and other public utilities regulated by the state of Missouri, or their  
65 subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless  
66 performance of any of the acts described in subsection 1 of this section is in connection with the  
67 sale, purchase, lease or other disposition of real estate or investment therein unrelated to the  
68 principal business activity of such railroad or other public utility or affiliated or subsidiary  
69 corporation thereof;

70 (8) Any bank, trust company, savings and loan association, credit union, insurance  
71 company, mortgage banker, or farm loan association organized under the laws of this state or of  
72 the United States when engaged in the transaction of business on its own behalf and not for  
73 others;

74 (9) Any newspaper [or], magazine [or], periodical [of general circulation], **or Internet**  
75 **site** whereby the advertising of real estate is incidental to [the] **its** operation [of that publication]  
76 or to any form of communications regulated or licensed by the Federal Communications  
77 Commission or any successor agency or commission;

78 (10) Any developer selling Missouri land owned by the developer [if such developer has  
79 on file with the commission a certified copy of a currently effective statement of record on file  
80 with the Office of Interstate Land Sales pursuant to Sections 1704 through 1706 of Title 15 of

81 the United States Code or a current statement from the Office of Interstate Land Sales of the  
82 United States Department of Housing and Urban Development approving the documentation  
83 (together with a copy of such documentation) submitted to that office with respect to real estate  
84 falling within the scope of subsection 1702(a)(10) of Title 15 of the United States Code];

85 (11) Any employee acting on behalf of a nonprofit community, or regional economic  
86 development association, agency or corporation which has as its principal purpose the general  
87 promotion and economic advancement of the community at large, provided that such entity:

88 (a) Does not offer such property for sale, lease, rental or exchange on behalf of another  
89 person or entity;

90 (b) Does not list or offer or agree to list such property for sale, lease, rental or exchange;  
91 or

92 (c) Receives no fee, commission or compensation, either monetary or in kind, that is  
93 directly related to sale or disposal of such properties. An economic developer's normal annual  
94 compensation shall be excluded from consideration as commission or compensation related to  
95 sale or disposal of such properties; or

96 (12) Any neighborhood association, as that term is defined in section 441.500, RSMo,  
97 that without compensation, either monetary or in kind, provides to prospective purchasers or  
98 lessors of property the asking price, location, and contact information regarding properties in and  
99 near the association's neighborhood, including any publication of such information in a  
100 newsletter, [web] **Internet** site, or other medium.

339.020. It shall be unlawful for any person, partnership, association, or corporation,  
2 foreign or domestic, to act as a real estate broker or real estate salesperson, or to advertise or  
3 assume to act as such without a license first procured from the commission.

339.030. A corporation, partnership, or association shall be granted a license when  
2 individual licenses have been issued to every member, partner or officer of such partnership,  
3 association, or corporation who actively participates in its brokerage business and to every  
4 person who acts as a salesperson for such partnership, association, or corporation and when the  
5 required fee is paid.

339.040. 1. Licenses shall be granted only to persons who present, and corporations,  
2 associations, or partnerships whose officers, associates, or partners present, satisfactory proof  
3 to the commission that they:

4 (1) Are persons of good moral character; and

5 (2) Bear a good reputation for honesty, integrity, and fair dealing; and

6 (3) Are competent to transact the business of a broker or salesperson in such a manner  
7 as to safeguard the interest of the public.

8 2. In order to determine an applicant's qualifications to receive a license under sections

9 339.010 to 339.180 **and sections 339.710 to 339.860**, the commission shall hold oral or written  
10 examinations at such times and places as the commission may determine.

11 3. Each applicant for a broker or salesperson license shall be at least eighteen years of  
12 age and shall pay the broker examination fee or the salesperson examination fee.

13 4. Each applicant for a broker license shall be required to have satisfactorily completed  
14 the salesperson license examination prescribed by the commission. For the purposes of this  
15 section only, the commission may permit a person who is not associated with a licensed broker  
16 to take the salesperson examination.

17 5. Each application for a broker license shall include a certificate from the applicant's  
18 broker or brokers that the applicant has been actively engaged in the real estate business as a  
19 licensed salesperson for at least one year immediately preceding the date of application, or, in  
20 lieu thereof, shall include a certificate from a school accredited by the commission under the  
21 provisions of section 339.045 that the applicant has, within six months prior to the date of  
22 application, successfully completed the prescribed broker curriculum or broker correspondence  
23 course offered by such school, except that the commission may waive all or part of the  
24 educational requirements set forth in this subsection when an applicant presents proof of other  
25 educational background or experience acceptable to the commission.

26 6. Each application for a salesperson license shall include a certificate from a school  
27 accredited by the commission under the provisions of section 339.045 that the applicant has,  
28 within six months prior to the date of application, successfully completed the prescribed  
29 salesperson curriculum or salesperson correspondence course offered by such school, except that  
30 the commission may waive all or part of the educational requirements set forth in this subsection  
31 when an applicant presents proof of other educational background or experience acceptable to  
32 the commission.

33 7. [The commission shall require] **The commission may issue a temporary work**  
34 **permit pending final review and printing of the license to an applicant who appears to have**  
35 **satisfied the requirements for licenses. The commission may, at its discretion, withdraw**  
36 **the work permit at any time.**

37 8. Every active broker, salesperson, officer [or], partner [to present upon license  
38 renewal], **or associate shall provide upon request to the commission** evidence that during the  
39 two years preceding he **or she** has completed twelve hours of real estate instruction in courses  
40 approved by the commission. The commission may, by rule and regulation, provide for  
41 individual waiver of this requirement.

42 [8.] 9. Each entity that provides continuing education required under the provisions of  
43 subsection [7] **8** of this section may make available [videotapes and audiotapes of] instruction  
44 courses that the entity conducts **through means of distance delivery**. The commission shall by

45 rule set standards for [the production of] such [taped] courses[, which may include the  
46 requirement that individuals purchasing such tapes also purchase an accompanying written study  
47 document. The commission shall authorize individuals required to complete instruction under  
48 the provisions of this subsection to fulfill such continuing education requirements by utilizing  
49 such videotape and audiotape courses]. The commission may by regulation require the  
50 individual completing such [videotape or audiotape] **distance delivered** course to complete an  
51 examination on the contents of the course. Such examination shall be designed to ensure that  
52 the licensee displays adequate knowledge of the subject matter of the course, and shall be  
53 designed by the entity producing the [taped] course and approved by the commission.

54 [9.] **10.** In the event of the death or incapacity of a licensed broker, or of one or more of  
55 the licensed partners [or], officers, **or associates** of a real estate partnership [or], corporation, **or**  
56 **association** whereby the affairs of the broker, partnership, or corporation cannot be carried on,  
57 the commission may issue, without examination or fee, to the legal representative or  
58 representatives of the deceased or incapacitated individual, or to another individual approved by  
59 the commission, a temporary broker license which shall authorize such individual to continue  
60 for a period to be designated by the commission to transact business for the sole purpose of  
61 winding up the affairs of the broker, partnership or corporation under the supervision of the  
62 commission.

339.060. 1. The commission shall set the amount of the fees which sections 339.010 to  
2 339.180 **and sections 339.710 to 339.860** authorize and require by rules and regulations  
3 promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce  
4 revenue which shall not substantially exceed the cost and expense of administering sections  
5 339.010 to 339.180 **and sections 339.710 to 339.860**.

6 2. Every license granted under sections 339.010 to 339.180 **and sections 339.710 to**  
7 **339.860** shall be renewed each licensing period and the commission shall issue a new license  
8 upon receipt of the [written] **properly completed** application of the applicant and the required  
9 renewal fee.

339.100. 1. The commission may, upon its own motion, and shall upon **receipt of**  
2 **a written complaint** filed by any person, investigate any [business transaction] **real estate-**  
3 **related activity** of a [person, partnership or corporation] **licensee** licensed under sections  
4 339.010 to 339.180 **and sections 339.710 to 339.860 or an individual or entity acting as or**  
5 **representing themselves as a real estate licensee**. In conducting such investigation, **if the**  
6 **questioned activity or written complaint involves an affiliated licensee, the commission may**  
7 **forward a copy of the information received to the affiliated licensee's designated broker**.  
8 The commission shall have the power to hold an investigatory hearing to determine whether  
9 there is a probability [that the licensee has performed or attempted to perform any act or practice

10 declared unlawful pursuant to] **of a violation of** sections 339.010 to 339.180 **and sections**  
11 **339.710 to 339.860.** [In conducting such a hearing,] The commission shall have the power to  
12 issue a subpoena to compel the production of records and papers bearing on the complaint. The  
13 commission shall have the power to issue a subpoena and to compel any person in this state to  
14 come before the commission to offer testimony or any material specified in the subpoena.  
15 Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same  
16 manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as  
17 that allowed in the circuit court in civil cases.

18         2. The commission may cause a complaint to be filed with the administrative hearing  
19 commission as provided by [law when the commission believes there is a probability that a  
20 licensee has performed or attempted to perform any] **the provisions of chapter 621, RSMo,**  
21 **against any person or entity licensed under this chapter or any licensee who has failed to**  
22 **renew or has surrendered his or her individual or entity license for any one or any**  
23 **combination** of the following acts:

24         (1) Failure to maintain and deposit in a special account, separate and apart from his **or**  
25 **her** personal or other business accounts, all moneys belonging to others entrusted to him **or her**  
26 while acting as a real estate broker[, or as escrow agent,] or as the temporary custodian of the  
27 funds of others, until the transaction involved is consummated or terminated, unless all parties  
28 having an interest in the funds have agreed otherwise in writing;

29         (2) Making substantial misrepresentations or false promises or suppression, concealment  
30 or omission of material facts in the conduct of his **or her** business or pursuing a flagrant and  
31 continued course of misrepresentation through agents, salespersons, advertising or otherwise in  
32 any transaction;

33         (3) Failing within a reasonable time to account for or to remit any moneys, valuable  
34 documents or other property, coming into his **or her** possession, which belongs to others;

35         (4) Representing to any lender, guaranteeing agency, or any other interested party, either  
36 verbally or through the preparation of false documents, an amount in excess of the true and  
37 actual sale price of the real estate or terms differing from those actually agreed upon;

38         (5) Failure to **timely** deliver[, immediately at the time of signing,] a duplicate original  
39 of any and all instruments to any party or parties executing the same where the instruments have  
40 been prepared by the licensee or under his **or her** supervision or are within his **or her** control,  
41 including, but not limited to, the instruments relating to the employment of the licensee or to any  
42 matter pertaining to the consummation of a lease, listing agreement or the purchase, sale,  
43 exchange or lease of property, or any type of real estate transaction in which he **or she** may  
44 participate as a licensee;

45         (6) Acting for more than one party in a transaction without the knowledge of all parties

46 for whom he **or she** acts, or accepting a commission or valuable consideration for services from  
47 more than one party in a real estate transaction without the knowledge of all parties to the  
48 transaction;

49 (7) Paying a commission or valuable consideration to any person for acts or services  
50 performed in violation of sections 339.010 to 339.180 **and sections 339.710 to 339.860**;

51 (8) Guaranteeing or having authorized or permitted any licensee to guarantee future  
52 profits which may result from the resale of real property;

53 (9) Having been finally adjudicated and been found guilty of the violation of any state  
54 or federal statute which governs the sale or rental of real property or the conduct of the real estate  
55 business as defined in subsection 1 of section 339.010;

56 (10) Obtaining a certificate or registration of authority, permit or license for himself **or**  
57 **herself** or anyone else by false or fraudulent representation, fraud or deceit;

58 (11) Representing a real estate broker other than the broker with whom associated  
59 without the express [knowledge and] **written** consent of [that] **the broker**[, or] **with whom**  
60 **associated**;

61 (12) Accepting a commission or valuable consideration for the performance of any of  
62 the acts referred to in section 339.010 from any person except the broker with whom associated  
63 **at the time the commission or valuable consideration was earned**;

64 [(12)] (13) Using prizes, money, gifts or other valuable consideration as inducement to  
65 secure customers **or clients** to purchase, lease, sell or list property when the awarding of such  
66 prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale  
67 or listing; or soliciting, selling or offering for sale real property by offering free lots, or  
68 conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or  
69 prospective purchaser of real property;

70 [(13)] (14) Placing a sign on or advertising any property offering it for sale or rent  
71 without the **written** consent of the owner or his **or her** duly authorized agent;

72 [(14)] (15) Violation of, or attempting to violate, directly or indirectly, or assisting or  
73 enabling any person to violate, any provision of sections 339.010 to 339.180 **and sections**  
74 **339.710 to 339.860**, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 **and**  
75 **sections 339.710 to 339.860**;

76 [(15)] (16) Committing any act which would otherwise be grounds for the commission  
77 to refuse to issue a license under section 339.040;

78 [(16)] (17) Failure to [submit] **timely inform seller of** all written [bona fide] offers [to  
79 a seller when such offers are received prior to the seller accepting an offer in writing and until  
80 the licensee has knowledge of such acceptance] **unless otherwise instructed in writing by the**  
81 **seller**;



82            [(17)] **(18)** Been finally adjudicated and found guilty, or entered a plea of guilty or nolo  
83            contendere, in a criminal prosecution under the laws of this state or any other state or of the  
84            United States, for any offense reasonably related to the qualifications, functions or duties of any  
85            profession licensed or regulated under this chapter, for any offense an essential element of which  
86            is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether  
87            or not sentence is imposed;

88            [(18)] **(19)** Any other conduct which constitutes untrustworthy, improper or fraudulent  
89            business dealings, [or] demonstrates bad faith or [gross] incompetence, **misconduct, or gross**  
90            **negligence;**

91            [(19)] **(20)** Disciplinary action against the holder of a license or other right to practice  
92            any profession regulated under sections 339.010 to 339.180 **and sections 339.710 to 339.860**  
93            granted by another state, territory, federal agency, or country upon grounds for which revocation,  
94            suspension, or probation is authorized in this state;

95            [(20)] **(21)** Been found by a court of competent jurisdiction of having used any controlled  
96            substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability  
97            to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 **and**  
98            **sections 339.710 to 339.860;**

99            [(21)] **(22)** Been finally adjudged insane or incompetent by a court of competent  
100            jurisdiction;

101            [(22)] **(23)** Assisting or enabling any person to practice or offer to practice any  
102            profession licensed or regulated under sections 339.010 to 339.180 **and sections 339.710 to**  
103            **339.860** who is not registered and currently eligible to practice under sections 339.010 to  
104            339.180 **and sections 339.710 to 339.860;**

105            [(23)] **(24)** Use of any advertisement or solicitation which is knowingly false, misleading  
106            or deceptive to the general public or persons to whom the advertisement or solicitation is  
107            primarily directed.

108            3. After the filing of such complaint, the proceedings will be conducted in accordance  
109            with the provisions of law relating to the administrative hearing commission. A finding of the  
110            administrative hearing commissioner that the licensee has performed or attempted to perform one  
111            or more of the foregoing acts shall be grounds for the suspension or revocation of his license by  
112            the commission, or the placing of the licensee on probation on such terms and conditions as the  
113            real estate commission shall deem appropriate.

114            4. The commission may prepare a digest of the decisions of the administrative hearing  
115            commission which concern complaints against licensed brokers or salespersons and cause such  
116            digests to be mailed to all licensees periodically. Such digests may also contain reports as to new  
117            or changed rules adopted by the commission and other information of significance to licensees

339.105. 1. Each broker **who holds funds belonging to another** shall maintain **such funds in** a separate bank [checking] account in a financial institution[, either a bank, savings and loan association or a credit union in this state, or in an adjoining state with written permission of the commission,] which shall be designated an escrow or trust account [in which all money not his own coming into his possession, including]. **This requirement includes** funds in which he **or she** may have some future interest or claim[.]. **Such funds** shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his **or her** personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed [five hundred] **one thousand** dollars in the account from his **or her** personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account. [The commission may, by written waiver issued for good cause as defined by rule and regulation, relieve a broker from the obligation to maintain a separate escrow or trust account.]

2. [Before issuance of a broker license,] Each broker shall notify the commission of **his or her intent not to maintain an escrow account, or** the name of the financial institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission [but shall not be required in any case where maintenance of an escrow or trust account has been waived pursuant to subsection 1 of this section]. A broker shall notify the commission within [fifteen] **ten business** days of any change of **his or her intent to maintain an escrow account, the** financial institution [or], account numbers, **or change in account status.**

3. In conjunction with each escrow or trust account a broker shall maintain [at his usual place of business,] books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be [open] **provided** to [inspection by] the commission and its duly authorized agents **for inspection** at all times during regular business hours at the broker's usual place of business.

4. **Whenever the ownership of any escrow moneys received by a broker pursuant to this section is in dispute by the parties to a real estate transaction, the broker shall deposit the moneys with the state treasurer within one hundred eighty days of the date of the original deposit, such moneys to be held in trust by the state treasurer until the dispute is mediated, arbitrated, litigated, or otherwise resolved by the parties. The parties to a real estate transaction may agree in writing to extend the time period by which the moneys must be deposited with the state treasurer.**

5. A broker shall not be entitled to any [part of the earnest] money or other money paid

37 to him **or her** in connection with any real estate transaction as part or all of his **or her**  
38 commission or fee until the transaction has been consummated or terminated, unless agreed in  
39 writing by all parties to the transaction.

40 [5.] **6.** When, through investigations or otherwise, the commission has reasonable cause  
41 to believe that a licensee has acted, is acting or is about to act in violation of this section, the  
42 commission may, through the attorney general or any [of his] assistants designated by [him] **the**  
43 **attorney general**, proceed in the name of the commission to institute suit to enjoin any act or  
44 acts in violation of this section.

45 [6.] **7.** Any such suit shall be commenced in either the county in which the defendant  
46 resides or in the county in which the defendant has acted, is acting or is about to act in violation  
47 of this section.

48 [7.] **8.** In such proceeding, the court shall have power to issue such temporary restraining  
49 or injunction orders, without bond, which are necessary to protect the public interest. Any action  
50 brought under this section shall be in addition to and not in lieu of any other provisions of this  
51 chapter. In such action, the commission or the state need not allege or prove that there is no  
52 adequate remedy at law or that any individual has suffered any economic injury as a result of the  
53 activity sought to be enjoined.

339.120. 1. There is hereby created the "Missouri Real Estate Commission", to consist  
2 of seven persons, citizens of the United States and residents of this state for at least one year  
3 prior to their appointment, for the purpose of carrying out and enforcing the provisions of  
4 sections 339.010 to 339.180 **and sections 339.710 to 339.860**. The commission shall be  
5 appointed by the governor with the advice and consent of the senate. All members, except one  
6 voting public member, of the commission must have had at least ten years' experience as a real  
7 estate broker prior to their appointment. The terms of the members of the commission shall be  
8 for five years, and until their successors are appointed and qualified. Members to fill vacancies  
9 shall be appointed by the governor for the unexpired term. The president of the Missouri  
10 Association of Realtors in office at the time shall, at least ninety days prior to the expiration of  
11 the term of the board member, other than the public member, or as soon as feasible after the  
12 vacancy on the board otherwise occurs, submit to the director of the division of professional  
13 registration a list of five Realtors qualified and willing to fill the vacancy in question, with the  
14 request and recommendation that the governor appoint one of the five persons so listed, and with  
15 the list so submitted, the president of the Missouri Association of Realtors shall include in his  
16 or her letter of transmittal a description of the method by which the names were chosen by that  
17 association. The commission shall organize annually by selecting from its members a chairman.  
18 The commission may do all things necessary and convenient for carrying into effect the  
19 provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860**, and may promulgate

20 necessary rules compatible with the provisions of sections 339.010 to 339.180 **and sections**  
21 **339.710 to 339.860**. Each member of the commission shall receive as compensation an amount  
22 set by the commission not to exceed [fifty] **seventy-five** dollars for each day devoted to the  
23 affairs of the commission, and shall be entitled to reimbursement of his or her expenses  
24 necessarily incurred in the discharge of his or her official duties. The governor may remove any  
25 commissioner for cause.

26         2. The public member shall be at the time of his or her appointment a citizen of the  
27 United States; a resident of this state for a period of one year and a registered voter; a person who  
28 is not and never was a member of any profession licensed or regulated pursuant to sections  
29 339.010 to 339.180 **and sections 339.710 to 339.860** or the spouse of such person; and a person  
30 who does not have and never has had a material, financial interest in either the providing of the  
31 professional services regulated by sections 339.010 to 339.180 **and sections 339.710 to 339.860**,  
32 or an activity or organization directly related to any profession licensed or regulated pursuant to  
33 sections 339.010 to 339.180 **and sections 339.710 to 339.860**. All members, including public  
34 members, shall be chosen from lists submitted by the director of the division of professional  
35 registration. The duties of the public member shall not include the determination of the technical  
36 requirements to be met for licensure or whether any person meets such technical requirements  
37 or of the technical competence or technical judgment of a licensee or a candidate for licensure.

38         3. The commission shall employ such board personnel, as defined in subdivision (4) of  
39 subsection 15 of section 620.010, RSMo, as it shall deem necessary to discharge the duties  
40 imposed by the provisions of sections 339.010 to 339.180 **and sections 339.710 to 339.860**.

41         4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
42 is created under the authority delegated in sections 339.010 to 339.180 **and sections 339.710 to**  
43 **339.860** shall become effective only if it complies with and is subject to all of the provisions of  
44 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority  
45 delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this  
46 section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to  
47 August 28, 1999, if it fully complied with all applicable provisions of law. This section and  
48 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly  
49 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul  
50 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
51 proposed or adopted after August 28, 1999, shall be invalid and void.

       339.130. The commission may sue and be sued in its official name, and shall have a seal  
2 which shall be affixed to [all licenses,] certified copies of records and papers on file, and to such  
3 other instruments as the commission may direct, and all courts shall take judicial notice of such  
4 seal. Copies of records and proceedings of the commission, and of all papers on file in its office,

5 certified under the said seal shall be received as evidence in all courts of record. The office of  
6 the commission shall be at Jefferson City.

339.150. 1. No real estate broker shall knowingly employ or engage any person to  
2 perform any service to the broker for which licensure as a real estate broker or a real estate sales  
3 person is required pursuant to sections 339.010 to 339.180 **and sections 339.710 to 339.860**,  
4 unless such a person is a licensed real estate salesperson or a licensed real estate broker as  
5 required by section 339.020, or a person regularly engaged in the real estate brokerage business  
6 outside of the state of Missouri. Any such action shall be unlawful as provided by section  
7 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as  
8 provided by section 339.100.

9 2. No real estate licensee shall pay any part of a fee, commission or other compensation  
10 received by the licensee to any person for any service rendered by such person to the licensee in  
11 buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless  
12 such a person is a licensed real estate salesperson regularly associated with such a broker, or a  
13 licensed real estate broker, or a person regularly engaged in the real estate brokerage business  
14 outside of the state of Missouri.

15 3. Notwithstanding the provisions of subsections 1 and 2 of this section, any real estate  
16 broker who shall refuse to pay any person for services rendered by such person to the broker,  
17 with the consent, knowledge and acquiescence of the broker that such person was not licensed  
18 as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a  
19 loan upon any real estate for which services a license is required, and who is employed or  
20 engaged by such broker to perform such services, shall be liable to such person for the reasonable  
21 value of the same or similar services rendered to the broker, regardless of whether or not the  
22 person possesses or holds any particular license, permit or certification at the time the service  
23 was performed. Any such person may bring a civil action for the reasonable value of his services  
24 rendered to a broker notwithstanding the provisions of section 339.160.

339.160. No person, partnership, corporation, or association engaged within this state  
2 in the business or acting in the capacity of a real estate broker or real estate salesperson shall  
3 bring or maintain an action in any court in this state for the recovery of compensation for services  
4 rendered in the buying, selling, exchanging, leasing, renting or negotiating a loan upon any real  
5 estate without alleging and proving that such person, partnership, corporation, or association was  
6 a licensed real estate broker or salesperson at the time when the alleged cause of action arose.

339.170. Any person or corporation knowingly violating any provision of sections  
2 339.010 to 339.180 **and sections 339.710 to 339.860** shall be guilty of a class B misdemeanor.  
3 Any officer or agent of a corporation, or member or agent of a partnership or association, who  
4 shall knowingly and personally participate in or be an accessory to any violation of sections

5 339.010 to 339.180 **and sections 339.710 to 339.860**, shall be guilty of a class B misdemeanor.  
6 This section shall not be construed to release any person from civil liability or criminal  
7 prosecution under any other law of this state. The commission may cause complaint to be filed  
8 for violation of section 339.020 in any court of competent jurisdiction, and perform such other  
9 acts as may be necessary to enforce the provisions hereof.

339.180. 1. It shall be unlawful for any person **or entity** not licensed under this chapter  
2 to perform any act for which a real estate [broker or salesperson] license is required. Upon  
3 application by the [board] **commission**, and the necessary burden having been met, a court of  
4 general jurisdiction may grant an injunction, restraining order or other order as may be  
5 appropriate to enjoin a person **or entity** from:

6 (1) Offering to engage or engaging in the performance of any acts or practices for which  
7 a [certificate of registration or authority,] permit or license is required by this chapter upon a  
8 showing that such acts or practices were performed or offered to be performed without a  
9 [certificate of registration or authority,] permit or license; or

10 (2) Engaging in any practice or business authorized by a [certificate of registration or  
11 authority,] permit or license issued pursuant to this chapter upon a showing that the holder  
12 presents a substantial probability of serious danger to the health, safety or welfare of any  
13 [resident of this state or client or patient of the licensee] **person with, or who is considering**  
14 **obtaining, a legal interest in real property in this state.**

15 2. Any such action shall be commenced either in the county in which such conduct  
16 occurred or in the county in which the defendant resides.

17 3. Any action brought under this section shall be in addition to and not in lieu of any  
18 penalty provided by this chapter and may be brought concurrently with other actions to enforce  
19 this chapter.

339.710. For purposes of sections 339.710 to 339.860, the following terms mean:

2 (1) "Adverse material fact", a fact related to the [physical condition of the] property not  
3 reasonably ascertainable or known to a party which negatively affects the value of the property.

4 Adverse material facts may include matters pertaining to:

5 (a) Environmental hazards affecting the property;

6 (b) Physical condition of the property which adversely affects the value of the property;

7 (c) Material defects in the property;

8 (d) Material defects in the title to the property;

9 (e) Material limitation of the party's ability to perform under the terms of the contract;

10 (2) "Affiliated licensee", any broker or salesperson who works under the supervision of  
11 a designated broker;

12 (3) "Agent", a person or entity acting pursuant to the provisions of this chapter;

13 (4) "Broker disclosure form", the current form prescribed by the commission for  
14 presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement  
15 for brokerage services;

16 (5) "Brokerage relationship", the relationship created between a designated broker, the  
17 broker's affiliated licensees, and a client relating to the performance of services of a broker as  
18 defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an  
19 appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such  
20 brokerage relationships are created between the appointed licensee or licensees and the client.  
21 Nothing in this subdivision shall:

22 (a) Alleviate the designated broker from duties of supervision of the appointed licensee  
23 or licensees; or

24 (b) Alter the designated broker's underlying contractual agreement with the client;

25 (6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage  
26 relationship with a licensee pursuant to sections 339.710 to 339.860;

27 (7) "Commercial real estate", any real estate other than real estate containing one to four  
28 residential units, real estate on which no buildings or structures are located, or real estate  
29 classified as agricultural and horticultural property for assessment purposes pursuant to section  
30 137.016, RSMo. Commercial real estate does not include single family residential units  
31 including condominiums, townhouses, or homes in a subdivision when that real estate is sold,  
32 leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a  
33 larger building or parcel of real estate containing more than four units;

34 (8) "Commission", the Missouri real estate commission;

35 (9) "Confidential information", information obtained by the licensee from the client and  
36 designated as confidential by the client, information made confidential by sections 339.710 to  
37 339.860 or any other statute or regulation, or written instructions from the client unless the  
38 information is made public or becomes public by the words or conduct of the client to whom the  
39 information pertains or by a source other than the licensee;

40 (10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate  
41 transaction in which a licensee is involved but who has not entered into a brokerage relationship  
42 with [a] **the** licensee;

43 (11) "Designated agent", a licensee named by a designated broker as the limited agent  
44 of a client as provided for in section 339.820;

45 (12) "Designated broker", any individual licensed as a broker who is operating pursuant  
46 to the definition of "real estate broker" as defined in section 339.010, or any individual licensed  
47 as a broker who is appointed by a partnership, association, limited liability corporation, or a  
48 corporation engaged in the real estate brokerage business to be responsible for the acts of the

49 partnership, association, limited liability corporation, or corporation. Every real estate  
50 partnership, association, or limited liability corporation, or corporation shall appoint a designated  
51 broker;

52 (13) "Designated transaction broker", a licensee named by a designated broker or deemed  
53 appointed by a designated broker as the transaction broker for a client pursuant to section  
54 339.820;

55 (14) "Dual agency", a form of agency which may result when an agent licensee or  
56 someone affiliated with the agent licensee represents another party to the same transaction;

57 (15) "Dual agent", a limited agent who, with the written consent of all parties to a  
58 contemplated real estate transaction, has entered into an agency brokerage relationship, and not  
59 a transaction brokerage relationship, with and therefore represents both the seller and buyer or  
60 both the landlord and tenant;

61 (16) "Licensee", a real estate broker or salesperson as defined in section 339.010;

62 (17) "Limited agent", a licensee whose duties and obligations to a client are those set  
63 forth in sections 339.730 to 339.750;

64 (18) "Ministerial acts", those acts that a licensee may perform for a person or entity that  
65 are informative in nature and do not rise to the level which requires the creation of a brokerage  
66 relationship. Examples of these acts include, but are not limited to:

67 (a) Responding to telephone inquiries by consumers as to the availability and pricing of  
68 brokerage services;

69 (b) Responding to telephone inquiries from a person concerning the price or location of  
70 property;

71 (c) Attending an open house and responding to questions about the property from a  
72 consumer;

73 (d) Setting an appointment to view property;

74 (e) Responding to questions of consumers walking into a licensee's office concerning  
75 brokerage services offered on particular properties;

76 (f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to  
77 a property;

78 (g) Describing a property or the property's condition in response to a person's inquiry;

79 (h) Showing a customer through a property being sold by an owner on his or her own  
80 behalf; or

81 (i) Referral to another broker or service provider;

82 (19) "Residential real estate", all real property improved by a structure that is used or  
83 intended to be used primarily for residential living by human occupants and that contains not  
84 more than four dwelling units or that contains single dwelling units owned as a condominium



85 or in a cooperative housing association, and vacant land classified as residential property. The  
86 term "cooperative housing association" means an association, whether incorporated or  
87 unincorporated, organized for the purpose of owning and operating residential real property in  
88 Missouri, the shareholders or members of which, by reason of their ownership of a stock or  
89 membership certificate, a proprietary lease, or other evidence of membership, are entitled to  
90 occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

91 (20) "Single agent", a licensee who has entered into a brokerage relationship with and  
92 therefore represents only one party in a real estate transaction. A single agent may be one of the  
93 following:

94 (a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate  
95 transaction;

96 (b) "Seller's agent", which shall mean a licensee who represents the seller in a real estate  
97 transaction; and

98 (c) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing  
99 transaction;

100 (d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing  
101 transaction;

102 (21) "Subagent", a designated broker, together with the broker's affiliated licensees,  
103 engaged by another designated broker, together with the broker's affiliated or appointed affiliated  
104 licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated  
105 licensees engaged by the designated broker, together with the broker's appointed affiliated  
106 licensees, to act as a limited agent for a client. A subagent owes the same obligations and  
107 responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's  
108 designated broker;

109 (22) "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860,  
110 who:

111 (a) Assists the parties to a transaction without an agency or fiduciary relationship to  
112 either party and is, therefore, neutral, serving neither as an advocate or advisor for either party  
113 to the transaction;

114 (b) Assists one or more parties to a transaction and who has not entered into a specific  
115 written agency agreement to represent one or more of the parties; or

116 (c) Assists another party to the same transaction either solely or through licensee  
117 affiliates.

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119 Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that,  
120 notice of assumption of transaction broker status is provided to the buyer and seller immediately

121 upon such default to transaction broker status, to be confirmed in writing prior to execution of  
122 the contract.

339.760. [1.] Every designated broker **who has affiliated licensees** shall adopt a written  
2 policy which identifies and describes the relationships in which the designated broker and  
3 affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real  
4 estate brokerage activities.

5 [2. A designated broker shall not be required to offer or engage in more than one of the  
6 brokerage relationships enumerated in section 339.720.]

339.780. 1. All written agreements for brokerage services on behalf of a seller, landlord,  
2 buyer, or tenant shall be entered into by the designated broker on behalf of that broker and  
3 affiliated licensees, except that the designated broker may authorize affiliated licensees in writing  
4 to enter into the written agreements on behalf of the designated broker.

5 2. Before engaging in any of the activities enumerated in section 339.010, a designated  
6 broker intending to establish a limited agency relationship with a seller or landlord shall enter  
7 into a written agency agreement with the party to be represented. The agreement shall include  
8 a licensee's duties and responsibilities specified in section 339.730 and the terms of  
9 compensation and shall specify whether an offer of subagency may be made to any other  
10 designated broker.

11 3. Before or while engaging in any acts enumerated in section 339.010, except  
12 ministerial acts defined in section 339.710, a designated broker acting as a single agent for a  
13 buyer or tenant shall enter into a written agency agreement with the buyer or tenant. The  
14 agreement shall include a licensee's duties and responsibilities specified in section 339.740 and  
15 the terms of compensation [and shall specify whether an offer of subagency may be made to any  
16 other designated broker].

17 4. Before engaging in any of the activities enumerated in section 339.010, a designated  
18 broker intending to act as a dual agent shall enter into a written agreement with the seller and  
19 buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The  
20 agreement shall include a licensee's duties and responsibilities specified in section 339.750 and  
21 the terms of compensation.

22 5. Before engaging in any of the activities enumerated in section 339.010, a designated  
23 broker intending to act as a subagent shall enter into a written agreement with the designated  
24 broker for the client. If a designated broker has made a unilateral offer of subagency, another  
25 designated broker can enter into the subagency relationship by the act of disclosing to the  
26 customer that he or she is a subagent of the client. If a designated broker has made an  
27 appointment pursuant to section 339.820, an affiliated licensee that has been excluded by such  
28 appointment may enter into the subagency relationship by the act of disclosing to the customer

29 that he or she is a subagent of the client.

30 6. A designated broker who intends to act as a transaction broker and who expects to  
31 receive compensation from the party he or she assists shall enter into a written transaction  
32 brokerage agreement with such party or parties contracting for the broker's service. The  
33 transaction brokerage agreement shall include a licensee's duties and responsibilities specified  
34 in section 339.755 and the terms of compensation.

35 7. Nothing contained in this section shall prohibit the public from entering into written  
36 contracts with any broker which contain duties, obligations, or responsibilities which are in  
37 addition to those specified in this section.

339.800. 1. In any real estate transaction, the designated broker's compensation may be  
2 paid by the seller, the landlord, the buyer, the tenant, or a third party or by sharing the  
3 compensation between designated brokers.

4 2. Payment of compensation by itself shall not establish an agency relationship or  
5 transaction brokerage relationship between the party who paid the compensation and the  
6 designated broker or any affiliated licensee.

7 3. A seller or landlord may agree that a designated broker may share with another  
8 designated broker the compensation paid by the seller or landlord.

9 4. A buyer or tenant may agree that a designated broker may share with another  
10 designated broker the compensation paid by the buyer or tenant.

11 5. A designated broker may be compensated by more than one party for services in a  
12 transaction with the knowledge of all the parties at or before the time of entering into a written  
13 contract to buy, sell, or lease.

14 **6. Nothing contained in this section shall relieve the licensee from the requirement**  
15 **of obtaining a written agreement for brokerage services or other written agreement**  
16 **addressing compensation.**

[339.600. 1. As used in sections 339.600 to 339.610, the following terms  
2 mean:

3 (1) "Commission", the Missouri real estate commission;

4 (2) "Escrow agent", any person, partnership, association or corporation,  
5 foreign or domestic, who performs any of the following functions: closings or  
6 settlements or any function related thereto in sales, exchanges or other transfers of  
7 real property.

8 2. A person or entity who meets the definition of escrow agent as provided  
9 in subsection 1 of this section is exempt from the provisions of sections 339.600 to  
10 339.610 if such person is:

11 (1) A person or entity doing business under the laws of this state or the  
12 United States as a bank, trust company, savings and loan association, credit union,  
13 commercial or consumer finance company, industrial loan company, insurance

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company or title insurance company or title insurance agency;  
(2) An attorney at law;  
(3) A person or entity licensed pursuant to this chapter rendering services in the performance of his or her duties as a real estate broker or salesperson;  
(4) A mortgage loan company which is subject to licensing, supervision or auditing by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation or the United States Veterans' Administration or the Government National Mortgage Association or the United States Department of Housing and Urban Development or a successor of any of such agencies or entities, as an approved seller or servicer; or  
(5) The United States, the state of Missouri or any state, any political subdivision of this state or any agency, division or corporate instrumentality thereof.]

[339.603. 1. It is unlawful for any person, partnership, association or corporation, foreign or domestic, to act as an escrow agent, or to advertise or attempt to act as such without being properly registered with the commission.

2. Upon application by the commission and upon proof by a preponderance of the evidence, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from unlawfully engaging or attempting to engage in the activities identified in sections 339.600 to 339.610.]

[339.605. 1. A person, partnership, association or corporation, incorporated pursuant to the laws of Missouri, may be registered as an escrow agent pursuant to sections 339.600 to 339.610, if such person, partners of the partnership, members of the association or officers of the corporation are at least eighteen years of age, of good moral character and are competent to transact the business of an escrow agent in such manner as to safeguard the interest of the public. The commission shall require proof that such persons meet the qualifications as provided in this subsection.

2. A corporation, partnership or association may be registered if every partner of the partnership, every member of the association, or every officer of the corporation who actively participates in its escrow business has been registered and the corporation, partnership or association has paid all the required fees.

3. Applications for registration shall be submitted in writing on forms furnished by the commission and accompanied by such information and recommendations as the commission may require.

4. The commission may refuse to register any person, partnership, association or corporation if the person, partner, member or a direct or indirect controlling stockholder has been found guilty of, or pleaded guilty to, stealing, forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud or any similar offense.]

[339.606. The commission may promulgate rules and regulations and perform all duties necessary for carrying out the provisions of sections 339.600 to 339.610. The commission shall set the amount of the fees which are authorized pursuant to sections 339.600 to 339.610 by rules and regulations promulgated

5 pursuant to section 536.021, RSMo. The fees shall be set at a level to produce  
6 revenue which shall not substantially exceed the cost and expense of administering  
7 sections 339.600 to 339.610.]

2 [339.607. Each registration granted pursuant to sections 339.600 to 339.610  
3 shall be renewed every two years and the commission shall issue a new registration  
4 upon receipt of a proper renewal application and the  
5 required renewal fee.]

2 [339.608. The fees collected pursuant to the provisions of sections 339.600  
3 to 339.610 shall be collected by the Missouri real estate commission and shall be sent  
4 to the director of the department of revenue for deposit in the state treasury in the  
5 "Escrow Agent Administration Fund" which is hereby created. The commission shall  
6 administer the fund and shall use the moneys in the fund solely for the administration  
7 and enforcement of sections 339.600 to 339.610. Notwithstanding the provisions of  
8 section 33.080, RSMo, to the contrary, any unexpended balance in the fund at the end  
9 of the biennium shall not be transferred to the general revenue fund, but shall remain  
10 in the escrow agent administration fund.]

2 [339.610. Any funds received by an escrow agent from any person that are  
3 to be used for third-party expenses shall be deposited no later than five banking days  
4 after receipt in an escrow account in any federally insured bank, savings and loan  
5 association or credit union. The funds in such escrow account shall be expended for  
6 the intended use by the escrow agent within ninety days after the obligations of the  
7 third party have been completed.]

2 [339.612. The commission or its designated agent may inspect and audit the  
3 escrow accounts or accounting records of any escrow agent at any time during normal  
4 business hours to determine if escrow funds are being expended and disbursed in a  
5 timely fashion and for the intended use. If the commission determines that such  
6 escrow funds have been used for any purpose other than the intended purposes, the  
7 escrow agent is liable to the intended payee of the funds for any misappropriated  
8 funds and the Missouri real estate commission shall cause legal proceedings to be  
9 held in any court of competent jurisdiction to enforce the provisions of this section  
10 and sections 339.610, 339.614, and 339.617. The commission's authority to instigate  
11 legal proceedings to enforce the provisions of this section is in addition to the  
12 authority to file a complaint with the administrative hearing commission.]

2 [339.614. The records of any inspection or audit made pursuant to the  
3 authority in section 339.612 shall be made available to the escrow agent and the  
4 parties to the transaction but shall not be considered open to the public unless public  
5 money is directly involved or a court of competent jurisdiction orders that such  
6 records be opened.]

2 [339.617. 1. The commission may, upon its own motion or upon a written  
3 complaint filed by any person, investigate any business transaction, regulated by the  
4 provisions of sections 339.600 to 339.610, of any person, partnership, association or  
5 corporation registered pursuant to the provisions of sections 339.600 to 339.610. The  
6 commission may use all investigatory and subpoena powers provided in section

6 339.100 in investigating such business transaction. The commission may file a  
7 complaint with the administrative hearing commission and the proceedings shall be  
8 conducted as provided in chapter 621, RSMo. If the administrative hearing  
9 commission finds that the escrow agent is not in compliance with sections 339.610  
10 to 339.617 or is operating in an unsafe or unsound manner, the commission may  
11 cancel the registration of such escrow agent. If the registration of any escrow agent  
12 is canceled pursuant to this subsection, such escrow agent may not accept any referral  
13 of business which is regulated by the provisions of sections 339.600 to 339.610.

14 2. No real estate licensee may knowingly refer escrow or real estate closing  
15 business to any escrow agent which does not hold a current registration pursuant to  
16 sections 339.600 to 339.610.]