

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1616

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES RUZICKA (Sponsor), VIEBROCK, WILSON (119), THOMSON, SMITH (150), SCHNEIDER, NOLTE, WOOD, SHIVELY AND TILLEY (Co-sponsors).

Read 1st time January 10, 2008 and copies ordered printed.

Read 2nd time January 14, 2008 and referred to the Special Committee on Professional Registration and Licensing January 17, 2008.

Reported from the Special Committee on Professional Registration and Licensing February 28, 2008 with recommendation that the bill Do Pass by Consent. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules March 5, 2008 with recommendation that the bill Do Pass by Consent with no time limit for debate.

Perfected by Consent March 13, 2008.

D. ADAM CRUMBLISS, Chief Clerk

4056L.01P

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## AN ACT

To repeal section 339.010, RSMo, and to enact in lieu thereof one new section relating to real estate brokers.

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

Section A. Section 339.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 339.010, to read as follows:

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

- (1) Sells, exchanges, purchases, rents, or leases real estate;
- (2) Offers to sell, exchange, purchase, rent or lease real estate;
- (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
- (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 the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is 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. The  
26 provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed  
27 to deny a real estate salesperson who is compensated solely by commission the right to be  
28 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 the real estate is situated in this  
34 state.

35           5. "Advertising" shall mean any communication, whether oral or written, between a  
36 licensee or other entity acting on behalf of one or more licensees and the public[; it] , **and** shall  
37 include, but not be limited to, business cards, signs, insignias, letterheads, radio, television,  
38 newspaper and magazine ads, Internet advertising, web sites, display or group ads in telephone  
39 directories, and billboards.

40           6. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall  
41 not apply to:

42           (1) Any person, partnership, association, or corporation who as owner, lessor, or lessee  
43 shall perform any of the acts described in subsection 1 of this section with reference to property

44 owned or leased by them, or to the regular employees thereof[, provided such owner, lessor, or  
45 lessee is not engaged in the real estate business];

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

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

48 (4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or  
49 guardian or while acting under a court order or under the authority of a will, trust instrument or  
50 deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state  
51 or any governmental subdivision or agency;

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

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

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

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

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

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

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

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

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

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

79           (9) Any newspaper, magazine, periodical, Internet site, Internet communications, or any  
80 form of communications regulated or licensed by the Federal Communications Commission or  
81 any successor agency or commission whereby the advertising of real estate is incidental to its  
82 operation;

83           (10) Any developer selling Missouri land owned by the developer;

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

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

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

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

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

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