

SENATE SUBSTITUTE  
FOR  
HOUSE BILL NO. 596  
AN ACT

To repeal sections 339.150 and 339.780, RSMo, and to enact in lieu thereof two new sections relating to brokerage services.

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

Section A. Sections 339.150 and 339.780, RSMo, are  
2 repealed and two new sections enacted in lieu thereof, to be  
3 known as sections 339.150 and 339.780, to read as follows:

339.150. 1. No real estate broker shall knowingly  
2 employ or engage any person to perform any service to the  
3 broker for which licensure as a real estate broker or a real  
4 estate salesperson is required pursuant to sections 339.010  
5 to 339.180 and sections 339.710 to 339.860, unless such a  
6 person is:

7 (1) A licensed real estate salesperson or a licensed  
8 real estate broker as required by section 339.020; or

9 (2) For a transaction involving commercial real estate  
10 as defined in section 339.710, a person regularly engaged in  
11 the real estate brokerage business outside the state of  
12 Missouri who has, in such forms as the commission may adopt  
13 by rule:

14 (a) Executed a brokerage agreement with the Missouri  
15 real estate broker;

16 (b) Consented to the jurisdiction of Missouri and the  
17 commission;

18 (c) Consented to disciplinary procedures under section  
19 339.100; and

(d) Appointed the commission as his or her agent for service of process regarding any administrative or legal actions relating to the conduct in Missouri; or

(3) For any other transaction, a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

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

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

reasonable value of his services rendered to a broker notwithstanding the provisions of section 339.160.

4. Notwithstanding provisions of this chapter to the contrary, a broker may pay compensation directly to a business entity owned by a licensee that has been formed for the purpose of receiving compensation earned by such licensee. A business entity that receives compensation from a broker as provided for in this subsection shall not be required to be licensed under this chapter and shall be owned:

- (1) Solely by the licensee;
- (2) By the licensee together with the licensee's spouse, but only if the spouse and licensee are both licensed and associated with the same broker, or the spouse is not also licensed; or
- (3) By the licensee and one or more other licensees, but only if all such owners are licensees which are associated with the same broker.

5. For purposes of subsection 4 of this section, the following terms shall mean:

- (1) "Business entity", any corporation, partnership, limited partnership, limited liability company, professional corporation, or association;
- (2) "Licensee", any real estate broker, real estate broker-salesperson, or real estate salesperson, as such terms are defined under section 339.010.

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

8           2. Before engaging in any of the activities enumerated  
9 in section 339.010, a designated broker intending to  
10 establish a limited agency relationship with a seller or  
11 landlord shall enter into a written agency agreement with  
12 the party to be represented. The agreement shall include a  
13 licensee's duties and responsibilities specified in section  
14 339.730 and the terms of compensation and shall specify  
15 whether an offer of subagency may be made to any other  
16 designated broker.

17           3. Before [or while] engaging in any acts enumerated  
18 in section 339.010, except ministerial acts defined in  
19 section 339.710, a designated broker acting as a single  
20 agent for a buyer or tenant shall enter into a written  
21 agency agreement with the buyer or tenant. The agreement  
22 shall include a licensee's duties and responsibilities  
23 specified in section 339.740 and the terms of compensation.

24           4. Before engaging in any of the activities enumerated  
25 in section 339.010, a designated broker intending to act as  
26 a dual agent shall enter into a written agreement with the  
27 seller and buyer or landlord and tenant permitting the  
28 designated broker to serve as a dual agent. The agreement  
29 shall include a licensee's duties and responsibilities  
30 specified in section 339.750 and the terms of compensation.

31           5. Before engaging in any of the activities enumerated  
32 in section 339.010, a designated broker intending to act as  
33 a subagent shall enter into a written agreement with the  
34 designated broker for the client. If a designated broker  
35 has made a unilateral offer of subagency, another designated  
36 broker can enter into the subagency relationship by the act  
37 of disclosing to the customer that he or she is a subagent  
38 of the client. If a designated broker has made an  
39 appointment pursuant to section 339.820, an affiliated  
40 licensee that has been excluded by such appointment may

41 enter into the subagency relationship by the act of  
42 disclosing to the customer that he or she is a subagent of  
43 the client.

44         6. A designated broker who intends to act as a  
45 transaction broker and who expects to receive compensation  
46 from the party he or she assists shall enter into a written  
47 transaction brokerage agreement with such party or parties  
48 contracting for the broker's service. The transaction  
49 brokerage agreement shall include a licensee's duties and  
50 responsibilities specified in section 339.755 and the terms  
51 of compensation.

52         7. All exclusive brokerage agreements shall specify  
53 that the broker, through the broker or through one or more  
54 affiliated licensees, shall provide, at a minimum, the  
55 following services:

56             (1) Accepting delivery of and presenting to the client  
57 or customer offers and counteroffers to buy, sell, or lease  
58 the client's or customer's property or the property the  
59 client or customer seeks to purchase or lease;

60             (2) Assisting the client or customer in developing,  
61 communicating, negotiating, and presenting offers,  
62 counteroffers, and notices that relate to the offers and the  
63 counteroffers until a lease or purchase agreement is signed  
64 and all contingencies are satisfied or waived; and

65             (3) Answering the client's or customer's questions  
66 relating to the offers, counteroffers, notices, and  
67 contingencies.

68         8. Nothing contained in this section shall prohibit  
69 the public from entering into written contracts with any  
70 broker which contain duties, obligations, or  
71 responsibilities which are in addition to those specified in  
72 this section.