

State of Kansas
Kansas Real Estate Commission
Notice of Public Hearing on Proposed Administrative Regulations

September 4, 2024

A public hearing will be conducted on Monday, November 18, 2024, at 9:00 a.m. at the Kansas Real Estate Commission, 700 SW Jackson, Suite 404, Topeka, KS, to review and consider the adoption of proposed permanent regulations of the Kansas Real Estate Commission. The public hearing will be conducted in-person and virtually. Members of the public who wish to attend the public hearing virtually can access the meeting at <https://www.zoomgov.com/j/16108455048> using the Meeting ID: 161 0845 5048.

This 60-day notice of the public hearing shall constitute a public comment period for receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to the hearing to the Kansas Real Estate Commission, 700 SW Jackson, Suite 404, Topeka, KS 66603 or by email to erik.wisner@ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulation during the public hearing. It may be necessary to request each participant limit any oral presentation to five minutes to provide all parties an opportunity to present.

Any individual with a disability may request an accommodation to participate in the public hearing and may request the regulations and economic impact statement in an accessible format. Requests for accommodation to participate in the public hearing should be made at least 10 business days in advance of the hearing by contacting Erik Wisner at (785) 296-3411 or erik.wisner@ks.gov.

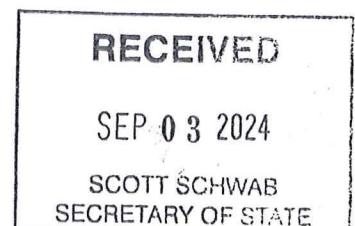
Copies of the proposed regulations and the economic impact statement for the proposed regulation can be viewed at <https://www.krec.ks.gov/compliance/commission-statutes-rules-and-regulations>.

Summaries of the proposed regulations and their economic impact follow.

K.A.R. 86-1-5. Fees. The proposed amendments increase fees for an applicant submitting fingerprints to the KBI for a mandatory background check and implement the requirements in K.S.A. 48-3406 that exempt military spouses of active military service members who reside or plan to reside in the state from any licensure or fingerprint fees. The Commission estimates the economic impact of the Kansas Bureau of Investigation (KBI) increasing the background check fee by \$10 will be about \$20,000 annually that will be passed through to the KBI. The Commission is unable to estimate the economic impact of the fee exemption for military spouses because the Commission has no information on how many military spouses currently hold a Kansas real estate license or will obtain one in the future.

K.A.R. 86-1-10. Approved courses of instructions; procedure. The proposed amendments add a definition for "synchronous distance education" and modify standards for these types of courses. These amendments are based on distance education standards developed by the Association of Real Estate License Law Officials and used by many other states. The proposed amendments were requested by real estate education providers to provide more flexibility in offering distance education courses. The Commission estimates the economic impact of the amendments to be about \$1,875 in 2025 and \$350 each year after.

Erik Wisner
Executive Director
for the Kansas Real Estate Commission



86-1-5. Fees. (a) Each applicant shall pay a fee in an amount equal to the actual cost of the examination and the administration of the examination to the testing service designated by the commission.

(b) Each applicant shall submit the following fees for licensure to the commission:

(1) For submission of an application for an original salesperson's license, a fee of \$15;

(2) for submission of an application for an original broker's license, a fee of \$50;

(3) for an original salesperson's license, a prorated fee based on a two-year amount of \$125;

(4) for an original broker's license, a prorated fee based on a two-year amount of \$175;

(5) for renewal of a salesperson's license, a two-year fee of \$125;

(6) for renewal of a broker's license, a two-year fee of \$175;

(7) for each branch office, a fee of \$100; and

(8) for each primary office of a company created or established by a supervising broker, a fee of \$100.

(c)(1) Each applicant shall pay a fee of ~~\$60~~ \$70 to the commission for the cost of submitting the applicant's fingerprints to the Kansas bureau of investigation (KBI) for the purpose of obtaining a criminal history check conducted by the KBI and the federal bureau of investigation and for the commission's reasonable costs of administering the criminal history check program.

(2) Each licensee who is submitting fingerprints in connection with an investigation of that licensee shall pay a fee of ~~\$60~~ \$70 for the cost of submitting the licensee's fingerprints to the KBI for the purpose of obtaining a criminal history check conducted by the KBI and the federal

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bureau of investigation and for the commission's reasonable costs of administering the criminal history check program in connection with any investigation.

(d) Each military spouse of an active military service member who resides or plans to reside in this state due to the assigned military station of the individual or the individual's spouse shall pay a fee of \$0 to the commission for any licensure fees or fingerprinting fees related to licensure.

(e) Each course provider seeking course approval pursuant to K.S.A. 58-3046a, and amendments thereto, shall pay a fee of \$75 to the commission.

(e) (f) Each licensee seeking approval of a course of instruction pursuant to K.S.A. 58-3046a~~(k)~~(j), and amendments thereto, shall pay a fee of \$20 to the commission. (Authorized by K.S.A. ~~2021~~ 2023 Supp. 58-3063; implementing K.S.A. ~~2021~~ 2023 Supp. 58-3039, as amended by L. 2024, ch. 15, sec. 39, and K.S.A. 2023 Supp. 58-3063 and K.S.A. 2023 Supp. 48-3406, as amended by L. 2024, ch. 9, sec. 1; effective Jan. 1, 1966; amended, E-73-30, Sept. 28, 1973; amended Jan. 1, 1974; amended, E-74-50, Sept. 13, 1974; amended May 1, 1975; amended, E-81-18, July 16, 1980; amended May 1, 1981; amended May 1, 1982; amended May 1, 1983; amended, T-86-10, May 1, 1985; amended May 1, 1986; amended, T-87-32, Nov. 19, 1986; amended May 1, 1987; amended Sept. 26, 1988; amended July 31, 1991; amended Dec. 20, 1993; amended July 31, 1996; amended, T-86-10-1-97, Oct. 1, 1997; amended Oct. 24, 1997; amended March 13, 1998; amended, T-86-7-2-07, July 2, 2007; amended Nov. 16, 2007; amended Dec. 1, 2015; amended March 17, 2017; amended Dec. 21, 2018; amended Sept. 16, 2022; amended P- _____.)

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86-1-10. Approved courses of instructions; procedure. (a) Definitions. Each of the following terms, as defined in this subsection, shall apply to K.A.R. 86-1-10 through K.A.R. 86-1-12 and K.A.R. 86-1-17:

(1) "Commission" means Kansas real estate commission.

(2) "Coordinator" means an individual who serves as the primary contact for a school and is responsible for complying with the requirements in this regulation.

(3) "Course" means instruction designed to fulfill the education requirements of K.S.A. 58-3046a, and amendments thereto.

(4) "~~Distance~~ Asynchronous distance education course" means a course for which the school provides ~~instructional materials~~ self-paced instruction by mail or electronic transmission to students who are physically separated from the instructor for all or a portion of the course.

(5) "In-person education course" means a course provided to students who are not physically separated from the instructor.

(6) "Monitoring" means review of approved courses by commission staff to ensure that the attendance, presentation platform, instruction time, outline, and materials provided by schools meet the requirements of the commission.

(7) "School" means an entity eligible under K.S.A. 58-3046a(g), and amendments thereto, to offer courses approved by the commission.

(8) "Synchronous distance education course" means a course for which the school provides live instruction in real time by electronic transmission to students who are physically separated from the instructor for all of the course.

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(b) Request for course approval. Each school seeking commission approval of a course shall submit the following information to the commission at least 45 days before the first scheduled class session:

- (1) A completed course approval application obtained from the commission;
- (2) a copy of all course materials, including textbooks, student workbooks, and examinations with answers;
- (3) the total number of sessions, sections, or modules;
- (4) the duration of each session, section, or module;
- (5) the total number of requested hours for the course;
- (6) the course objectives and a detailed course outline; and
- (7) the course approval fee prescribed by K.A.R. 86-1-5.

(c) Additional course approval requirements for asynchronous distance education courses.

(1) In addition to meeting the requirements of subsection (b), each school requesting approval of a an asynchronous distance education course shall submit the following information:

(A) The means to access the asynchronous distance education course as it will be offered to students;

(B) evidence of sufficient information technology support to enable students to complete the asynchronous distance education course;

(C) documentation on how the asynchronous distance education course will require active participation by each student and substantial interaction between the students and the instructor, other students, or a computer program; and

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(D) evidence that the system used for testing students will scramble questions and items for any quizzes or examinations to ensure a random presentation.

(2) Each asynchronous distance education course certified by the association of real estate license law officials shall be presumed to meet the requirements in paragraph (c)(1).

(3) Each school offering a an asynchronous distance education course approved by the commission under K.S.A. 58-3046a(e) or K.S.A. 58-3046a(f), and amendments thereto, shall require each student to answer at least 10 quiz or examination questions per credit hour.

(4) Each school offering a an asynchronous distance education course approved by the commission under K.S.A. 58-3046a(a), K.S.A. 58-3046a(b), K.S.A. 58-3046a(c) or K.S.A. 58-3046a(d); and amendments thereto, shall require each student to answer at least 50 quiz or examination questions.

(5) Each school shall issue a certificate of completion of each asynchronous distance education course approved by the commission to meet any requirement of K.S.A. 58-3046a, and amendments thereto, to each student who has answered at least 90 percent of the quiz or examination questions correctly during the distance education course.

(d) Additional course approval requirements for synchronous distance education courses.

(1) In addition to meeting the requirements of subsection (b), each school requesting approval of a synchronous distance education course shall submit the following information:

(A) The means to access the synchronous distance education course as it will be offered to students;

(B) evidence of sufficient information technology support to enable students to complete the synchronous distance education course;

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(C) documentation on how the synchronous distance education course will require active participation by each student and substantial interaction between the students and the instructor, other students, or a computer program;

(D) documentation on how the school will require students to have a functional video camera and be present on camera at all times;

(E) documentation on how the school will require students to be actively engaged in the course at all times without distractions; and

(F) evidence of no more than 30 students in a course unless an additional moderator is assisting with the monitoring of students.

(2) Each synchronous distance education course certified by the association of real estate license law officials shall be presumed to meet the requirements in paragraph (d)(1).

~~(d)~~ (e) Instructors. Each school coordinator shall be responsible for ensuring that the school's instructors have the specialized preparation, training, and experience in the subject matter to be taught to ensure competent instruction.

~~(e)~~ (f) Changes to an approved course.

(1) Except as provided in paragraph ~~(e)~~(f)(2), each school shall submit a new application for course approval under subsection (b) if there is any significant change to the course content, outline, objectives, or presentation platform for an approved course.

(2) A school shall not be required to submit a new application for course approval under subsection (b) if any of the following changes:

(A) The coordinator;

(B) the location of the school; or

(C) the course title; or

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(D) the course schedule.

(3) Each school shall submit notification to the commission of each change described in paragraph ~~(e)~~(f)(2) at least ~~15~~ five days before the change is scheduled to occur.

(4) Each school shall submit notification to the commission at least 15 days before the discontinuation of any course or the intent to close the school.

~~(f)~~ (g) Registration of approved courses; application for renewal.

(1) The registration of courses approved by the commission shall expire on January 31 of each year. Each application to renew the approval of a course shall be submitted on a form provided by the commission.

(2) Each application to renew approval of a course received after the expiration date shall require the submission of a new application for approval pursuant to subsection (b).

~~This regulation shall be effective on and after July 1, 2020.~~ (Authorized by K.S.A. 2019 2023 Supp. 58-3046a and K.S.A. 2019 2023 Supp. 74-4202; implementing K.S.A. 2019 2023 Supp. 58-3046a; effective, T-83-32, Oct. 25, 1982; effective May 1, 1983; amended May 1, 1984; amended, T-86-31, Sept. 24, 1985; amended May 1, 1986; amended, T-87-32, Nov. 19, 1986; amended May 1, 1987; amended Jan. 29, 1990; amended July 16, 1990; amended Nov. 17, 1995; amended Dec. 14, 2001; amended, T-86-7-2-07, July 2, 2007; amended Nov. 16, 2007; amended July 1, 2020; amended P-_____.)

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Kansas Administrative Regulations Economic Impact Statement (EIS)

Kansas Real Estate Commission
Agency

Erik Wisner
Agency Contact

785.296.6951
Contact Phone Number

86-1-5 and 86-1-10
K.A.R. Number(s)

Permanent Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

~~No~~ If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed \$1.0 million or more in implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation over the initial five-year period following adoption of such rule(s) and regulation(s) (as calculated in Section III, F)?

Yes If "Yes," then the agency shall not adopt the rule(s) and regulation(s) until the rule(s) and regulation(s) has been ratified by the Legislature with a bill, unless the proposed rule(s) and regulation(s) are: 1) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program, as described in K.S.A. 77-416(b)(1)(B), and amendments thereto; 2) temporary rule(s) and regulation(s) adopted pursuant to K.S.A. 77-722, and amendments thereto; or 3) rules and regulations adopted pursuant to K.S.A. 2-3710 (Kansas Agricultural Remediation Board). Continue to fill out the remaining EIS form to be included with the regulation packet in the review process to the Department of Administration and the Attorney General. The submitted EIS will be independently analyzed by the Division of the Budget for approval.

No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. The submitted EIS will be analyzed by the Division of the Budget for approval.

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Section I

Analysis, brief description, and cost and benefit quantification of the proposed rule(s) and regulation(s). If the approach chosen by the Kansas agency to address the policy issue is different from that utilized by agencies of contiguous states or of the federal government, the economic impact statement shall include an explanation of why the Kansas agency's rule and regulation differs.

The proposed amendments to K.A.R 86-1-5 include:

- Increasing the fee for submitting a licensee's fingerprints to the Kansas Bureau of Investigation (KBI) for a mandatory background check from \$60 to \$70. This is necessary because the KBI informed the agency they will be increasing their charge by \$10. The collected fee is a passthrough and will go directly to the KBI.
- Implement the requirements in K.S.A. 48-3406 that exempt military spouses of active military service members who reside or plan to reside in the state from any licensure or fingerprint fees.

The proposed amendments to K.A.R. 86-1-10 include:

- Adding a definition for "synchronous distance education." An exam is not required for this type of course, but the following requirements must be met:
 - Students must have functioning video/audio and be present and always engaged on camera.
 - Documentation on how the synchronous DE course will require active participation by each student and substantial interaction between the students and the instructor, other students, or a computer program.
 - Evidence of no more than 30 students in a course unless an additional moderator is assisting with the monitoring of students.
- Change the requirement for schools to notify the commission of changes in course content from within 15 days to 5 days.

These amendments are based on distance education standards developed by the Association of Real Estate License Law Officials and are used by many states.

Section II

Explain whether the proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and whether the proposed rules and regulations exceed the requirements of applicable federal law.

Not mandated by federal law and doesn't exceed any requirements in federal law.

Section III

Agency analysis specifically addressing the following:

- A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The proposed amendments will not restrict business activity or growth.

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- B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that will be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

The Kansas Real Estate Commission (KREC) estimates the \$10 increase in the fingerprinting fee that the KBI is implementing will affect 2,000 applicants each year that will generate additional fee revenues of \$20,000 annually. This will also increase KREC expenditures by \$20,000 for the additional expenditures to the KBI. KREC can't estimate the loss of fee revenue for the military spouse exemption because prior to July 1, 2024, KREC was not collecting this information. No reliable source exists to know how many military spouse exemptions will be issued each year.

KREC estimates that the revised standards for synchronous distance education will lead to 25 new course application in the first year of implementation and 5 new course each year after. The first-year revenue would be \$1,875.

- C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

Entities providing approved courses of instruction required for an applicant or licensee to obtain and maintain a Kansas real estate license.

- D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

For K.A.R. 86-1-5, KREC has no information on costs vs. benefits. All changes in the proposed regulation were required by the Legislature and the KBI.

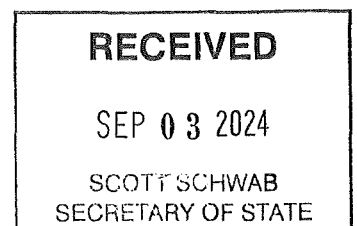
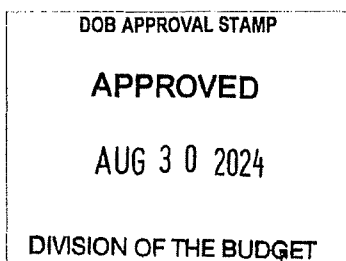
The proposed amendments to K.A.R. 86-1-10 were requested by real estate education providers to provide more flexibility in offering distance education courses.

- E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

For K.A.R. 86-1-5, KREC has no information to provide on minimizing costs. All changes in the proposed regulation were required by the Legislature and the KBI.

The proposed amendments to K.A.R. 86-1-10 were requested by real estate education providers to provide more flexibility in offering distance education courses. Any potential new fees for course approval would be offset by more relevant course content that meet national standards.

- F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or individuals. *Note: Do not account for any actual or estimated cost savings that may be realized. Implementation and compliance costs*



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determined shall be those additional costs reasonably expected to be incurred and shall be separately identified for the affected businesses, local governmental units, and individuals.

Costs to Affected Businesses – \$1,875
Costs to Local Governmental Units – \$0
Costs to Individuals – \$20,000
Total Annual Costs – \$21,875
(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

These numbers are based on agency budget estimates for FY2025. Note that KREC can't estimate the loss of fee revenue for the military spouse exemption because prior to July 1, 2024, KREC was not collecting this information. Each original applicant who is exempt will result in \$140-\$225 in decreased revenue to KREC and each renewal applicant who is exempt will result in \$125-\$175 in decreased revenue to KREC. No reliable source exists to know how many military spouse exemptions will be issued each year.

- Yes If the total implementation and compliance costs exceed \$1.0 million or more in implementation and compliance costs over the initial five-year period following adoption of such rule(s) and regulation(s) that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation, did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.
- No
- Not Applicable

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

KREC estimates the proposed amendments to the rules and regulations will increase aggregate state revenues and expenditures by \$21,875 in FY 2025 and by \$20,375 in FY 2026. Note that KREC can't estimate the loss of fee revenue for the military spouse exemption because prior to July 1, 2024, KREC was not collecting this information. Each original applicant who is exempt will result in \$140-\$225 in decreased revenue to KREC and each renewal applicant who is exempt will result in \$125-\$175 in decreased revenue to KREC. No reliable source exists to know how many military spouse exemptions will be issued each year.

Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

KREC estimates a long-term annual revenue increase of \$20,375. Note that KREC can't estimate the loss of fee revenue for the military spouse exemption because prior to July 1, 2024, KREC was not collecting this information. Each original applicant who is exempt will result in \$140-\$225 in decreased revenue to KREC and each renewal applicant who is exempt will result in \$125-\$175 in

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decreased revenue to KREC. No reliable source exists to know how many military spouse exemptions will be issued each year.

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

These regulations do not apply to the League of Kansas Municipalities, Kansas Association of Counties, and the Kansas Association of School Boards so we did not consult them.

H. Describe how the agency consulted and solicited information from businesses, business associations, local governmental units, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s) or may provide relevant information.

For K.A.R. 86-1-5, KREC consulted with the Attorney's General Office and the KBI to implement the mandated fingerprinting fee increase and implement the military spouse exemption required by the Legislature. These fee changes were discussed with the Kansas Association of Realtors and real estate industry members, and were approved by KREC at its April 8 and June 17, 2024, Commission meetings.

The proposed amendments to K.A.R. 86-1-10 were requested by schools to provide more flexibility in offering distance education courses. KREC discussed the changes with real estate industry members and had an open public comment during the January 24, 2024, Commission meeting to solicit feedback from any interested parties.

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

- Yes If yes, complete the remainder of Section IV.
 No If no, skip the remainder of Section IV.

- A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the individuals or entities who would bear the costs.
- B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other individuals who will bear the costs.
- C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, the individuals or entities who will bear the costs and who will be affected by the failure to adopt the rule(s) and regulation(s).
- D. Provide a detailed statement of the data and methodology used in estimating the costs used.

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