



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 79-314

The Honorable John F. Vermillion
State Senator, 15th District
1424 North 8th Street
Independence, Kansas 67301

Re: Personal and Real Property--Real Estate Brokers
and Salesmen--Courses of Instruction Required

Synopsis: The "continuing education" requirements imposed upon licensed real estate brokers and licensed real estate salesmen by subsections (d) and (f) of K.S.A. 1979 Supp. 58-3006 are proper subjects of state regulation under the police power, and are valid and enforceable.

* * *

Dear Senator Vermillion:

You request our opinion as to whether the continuing education requirements enumerated in K.S.A. 1979 Supp. 58-3006 are enforceable as to real estate brokers and real estate salesmen licensed in this state prior to July 1, 1980. Subsections (d) and (f) of that statute prescribe such requirements and provide as follows:

"(d) Each person licensed in this state as a real estate salesman prior to July 1, 1980, shall submit to the commission evidence, satisfactory to the commission, of attendance of courses of instruction in real estate as follows:

"(1) At or prior to the time such person makes application for license renewal for the year 1982, evidence of attendance of not less than thirty (30) hours of instruction; and

"(2) at or prior to the time such person makes application for license renewal for the year 1983, evidence of attendance of not less than thirty (30) additional hours of instruction.

. . . .

"(f) Each person licensed in this state as a real estate broker prior to July 1, 1980, shall submit to the commission evidence, satisfactory to the commission, of attendance of courses of instruction in real estate as follows:

"(1) At or prior to the time such person makes application for license renewal for the year 1982, evidence of attendance of not less than thirty (30) hours of instruction;

"(2) at or prior to the time such person makes application for license renewal for the year 1983, evidence of attendance of not less than thirty (30) additional hours of instruction; and

"(3) at or prior to the time such person makes application for license renewal for the year 1984, evidence of attendance of not less than thirty (30) additional hours of instruction."

Supervision of the practice of the learned professions and other callings demanding special skill have long been held a proper subject of state regulation under the police power. State v. Creditor, 44 Kan. 565 (1890); State v. Wilcox, 64 Kan. 789 (1902); Dent v. West Virginia, 129 U.S. 114 (1889); Meffert v. State Board of Medical Registration & Examination, 66 Kan. 710 (1903). The validity of a statute regulating the practice of a profession depends upon whether the requirement or restriction imposed bears a reasonable relationship to the ills sought to be remedied. Shenfield v. Prather, 387 F.Supp. 676, 686 (1974); Purity Extract & Tonic Co. v. Lynch, 226 U.S. 192, 201 (1912). If the regulations and conditions imposed are adopted in good faith and operate equally upon all who may desire to practice, the fact that the conditions imposed by the legislature may be rigorous will not invalidate the legislation. State v. Wilcox, Id. at 791. Additionally, in considering statutes enacted in the exercise of the police power, there is a presumption that the legislature acted on sufficient grounds. Rast v. Van Deman & L. Co., 240 U.S. 342, 357 (1915).

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Applying these principles to the continuing education requirements imposed upon real estate salesmen and real estate brokers, by subsections (d) and (f) of K.S.A. 1979 Supp. 58-3006, we do not perceive any basis upon which such requirements could be held invalid. There is a public interest in ensuring that real estate brokers and real estate salesmen are cognizant of changes in statutory and case law relating to real estate transactions, and of other contemporary developments in the real estate field, and it would, therefore, appear that the continuing education requirements bear a reasonable relationship to the public welfare. Further, it is for the legislature to determine what is the best policy for the people, and courts will not assume that they have a wisdom superior to that of the legislature. McAllister v. Fair, 72 Kan. 533, 536 (1906). In short, it is our opinion that the continuing education provisions of subsections (d) and (f) of K.S.A. 1979 Supp. 58-3006 are valid and enforceable.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



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RTS:BJS:TRH:gk