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Kerry B. Harvey, Secretary  
Public Protection Cabinet

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Authority Boards  
Real Estate Commission  
Real Estate Appraisers Board  
Board of Auctioneers  
Board of Home Inspectors

John L. Hardesty  
General Counsel

November 20, 2020

### **MEMORANDUM**

TO: Kentucky Real Estate Authority Licensees  
FROM: John L. Hardesty, General Counsel, KREA  
RE: COVID-19 and Executive Order 2020-968

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We previously advised you regarding the requirements and implications of Governor Beshear's Executive Order 2020-257, issued on March 25, 2020, and the transition from "Health at Home" to "Healthy at Work" under that Order. Those prior memorandums (dated March 26, 2020 and May 26, 2020, respectively) are available on each Board's website.

The Commonwealth of Kentucky is now experiencing a potentially catastrophic surge in COVID-19 cases, which threatens to overwhelm our healthcare system and cause thousands of preventable deaths. The Centers for Disease Control and Prevention (CDC) has concluded that COVID-19 most commonly spreads during close contact between people, and can sometimes be spread through airborne transmission, particularly among individuals in enclosed spaces. *See* EO 2020-968. November 19 was Kentucky's single highest day in terms of number of new COVID-19 cases.

To slow the spread of COVID-19, Governor Beshear issued Executive Order ("EO") 2020-968 on November 18, 2020. The purpose of this memorandum is to provide answers to frequently asked questions regarding the new requirements embodied in EO 2020-968 for those licensees holding licenses from the Kentucky Real Estate Authority (Real Estate Agents/Brokers, Auctioneers, Home Inspectors, and Appraisers). As a threshold matter, all businesses are required, pursuant to EO 2020-323, to comply with the minimum requirements for all entities (effective July 10, 2020), which are attached hereto and incorporated by reference. As it specifically relates to auctions, anyone conducting or hosting an auction also must comply with the Requirements for Auctions (effective July 22, 2020), which are attached hereto and incorporated by reference. Pursuant to EO 2020-586, all members of the public must comply with the face covering requirements as laid out in that EO.

Moreover, EO 2020-968 requires that all professional services and other office-based businesses – which includes any KREA licensee's business conducted in an office – must mandate that all employees who are able to work from home do so, and close their businesses to the public when possible. Any office that remains open must ensure that no more than 33% of employees are physically present in the office any given day. *See* EO 2020-968(8).

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**TEAM**  
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### **Am I allowed to keep working?**

**Yes.** But in doing so, licensees will need to comply with relevant Orders of the Governor and the Cabinet for Health and Family Services, including, but not limited to, Executive Order 2020-323 and the May 11, 2020 Orders of the Cabinet for Health and Family Services. These Orders are available on the Healthy at Work Website, [healthyatwork.ky.gov](http://healthyatwork.ky.gov). Further, all real estate professionals must comply with the minimum requirements for all entities and the specific requirements for office-based businesses, which are attached hereto and incorporated by reference. Auctioneers also must comply with the Requirements for Auctions, also attached hereto and incorporated by reference. Moreover, all professional services and other office-based businesses – which includes any KREA licensee’s business conducted in an office – must mandate that all employees who are able to work from home do so, and close their businesses to the public when possible. Any office that remains open must ensure that no more than 33% of employees are physically present in the office any given day. *See* EO 2020-968(8).

Please understand that COVID-19 infection rates are escalating rapidly statewide. While the above information reflects mandates, it is **strongly advised** that everyone work remotely when at all possible, and avoid social contact with anyone not residing in your household.

### **So are we back to business as usual?**

**No.** Attached to this Memorandum, as noted above, are the minimum standards for all businesses. Office operations will be subject to the Requirements for “Office Based Business” available on the Healthy at Work website. There are also additional Orders that will be applicable to certain activities, as detailed herein.

### **Is EO 2020-968 permanent?**

**No.** It goes into effect at 5:00 p.m. on Friday, November 20, 2020 and expires at 11:59 p.m. on Sunday, December 13, 2020. However, be advised that the Order may be extended, renewed, or modified.

### **Are there any restrictions on the number of occupants or employees that can be in my office at any given time?**

**Yes.** EO 2020-968 requires that all professional services and other office-based businesses – which includes any KREA licensee’s business conducted in an office – **must mandate that all employees who are able to work from home do so, and close their businesses to the public when possible. Any office that remains open must ensure that no more than 33% of employees are physically present in the office any given day.** *See* EO 2020-968(8). The total number of individuals in an office at any given time, including employees, clients, and members of the public, must not be more than can safely and effectively practice the required social distancing. Moreover, all real estate professionals must comply with the minimum requirements for all entities and the specific requirements for office-based businesses, which are attached hereto and incorporated by reference.

### **Are there exceptions to the Executive Orders, or can the KREA Boards override the Executive Orders?**

**No.** There are not exceptions to the Executive Orders or Cabinet for Health and Family Services Orders. Boards may provide guidance regarding compliance with the Executive Orders, but may not alter any of their terms.

### **I'm a Real Estate licensee. Can I still have Open Houses?**

**Yes, however we strongly discourage you from holding an Open House.** The social gathering restriction in EO 2020-968 does not prohibit Open Houses. However, in light of Kentucky's positivity rate and the rapidly increasing volume of COVID-19 cases and deaths, KREA and KREC strongly discourage real estate licensees from conducting Open Houses at this time and advise them to postpone any Open Houses that currently are scheduled. Any licensee who chooses to conduct Open Houses at this time is endangering the lives and well-being of the licensee's clients, other agents, and members of the public who participate in the Open House. As an alternative to traditional Open Houses, licensee should consider conducting a virtual Open House or an Open House by appointment only. To the extent real estate licensees choose to proceed with in-person Open Houses, they are required to comply with all relevant Orders of the Governor and the Cabinet for Health and Family Services, including, but not limited to, Executive Order 2020-323 and the May 11, 2020 Orders of the Cabinet for Health and Family Services. These Orders are available on the Healthy at Work Website, [healthyatwork.ky.gov](http://healthyatwork.ky.gov). Further, all real estate professionals must comply with the minimum requirements for all entities. We are unable to provide you with private legal advice, and advise you to contact a private attorney for any concerns related to legal liability for individuals that contract COVID-19 from an Open House.

### **I'm an Auctioneer. Can I still have auctions?**

**Yes.** In doing so, auctioneers and auction house operators must comply with the minimum requirements for all entities and the specific requirements for office-based businesses, which are attached hereto and incorporated by reference. Auctioneers also must comply with the Requirements for Auctions, also attached hereto and incorporated by reference. Indoor auctions are **strongly discouraged** at this time, as indoor mass gatherings often result in the spread of COVID-19. **To the extent an auction is held at an indoor venue, event space, or theater, the total number of individuals in the space shall not exceed 25, including attendees, staff, auctioneers, auction house operators, and members of the public.** See EO 2020-968(7).

### **I'm a Home Inspector. Can I still conduct inspections?**

**Yes.** However, social distancing, hygiene measures, and face coverings must be implemented. Anyone feeling ill, with a recent known exposure to COVID-19, or who has tested positive for COVID-19 within the past 14 days must absolutely not be conducting inspections. These businesses must also comply with the minimum requirements for all entities attached to this Memorandum.

**I'm an Appraiser. May I conduct appraisals?**

**Yes.** Appraisals may continue under the terms of the Executive Orders and Cabinet for Health and Family Services Orders. However, as above, social distancing, hygiene measures, and facial coverings must be implemented and anyone feeling ill, with a recent known exposure to COVID-19, or who has tested positive for COVID-19 within the past 14 days must absolutely not be conducting appraisals. These businesses must also comply with the minimum requirements for all entities attached to this Memorandum.

**Will transactions still be closing?**

**Generally, yes.** Real estate closings are not prohibited by any Executive Order and are free to continue, assuming the office-based business conducting the closing complies with the minimum requirements for all entities, specific requirements for office-based businesses, and the 33% employee limit mandated in EO 2020-968. All closing tasks that can be done remotely should be done remotely, and any in-person requirements must implement social distancing. Only the parties that absolutely must be at a closing should attend.

**Could there be changes to these directives?**

**Yes.** All Orders and guidance are subject to change. We will provide updates as we receive additional information. Compliance with the Orders and requirements will be vital to being able to continue to operate.

**I have a question not answered here. Can I still ask it?**

**Yes.** However, please be advised that the KREA's staff is largely working remotely. Our response to you may be delayed. We will respond as soon as possible. Be advised, however, that KREA staff is not permitted to provide exceptions to any Executive Order or any other Order, and will only be able to provide clarification regarding the orders, minimum requirements, or this memo.