



Real Estate Commission

Records Retention Schedule

Prepared by the State Records Branch
Archives and Records Management Division
Approved by the State Archives and Records Commission



This records retention schedule governs retention and disposal of records created, used and maintained by the Real Estate Commission. **Government records in Kentucky can only be disposed of with the approval of the State Archives and Records Commission (the Commission). If records do not appear on a Commission-approved records retention schedule, agencies should not destroy those records.** This agency-specific schedule was drafted by Real Estate Commission personnel and Archives and Records Management Division staff, and reviewed and approved by the Commission. This schedule provides the legal authority for Real Estate Commission to destroy the records listed, after the appropriate retention periods have passed.

Real Estate Commission personnel should use this agency-specific schedule in combination with the *General Schedule for State Agencies (General Schedule)*, also approved by the Commission. The *General Schedule* applies to records that are created, used and maintained by staff at all or most state agencies. Agency-specific retention schedules are used only by specific agencies and apply to records that are created only by a particular state agency, or to records that a state agency is required to retain longer than the approved time period on the *General Schedule*. The *General Schedule* and agency-specific retention schedule should cover all records for Real Estate Commission.

This retention schedule applies to state agency records and information regardless of how it is created or stored. For example, information created and sent using e-mail is as much a public record as materials created or maintained in paper. Kentucky law defines public records, in part, as "documentary materials, *regardless of physical form or characteristics*, which are prepared, owned, used, in the possession of or retained by a public agency" (KRS 171.410[1]). This means that records management standards and principles apply to all forms of recorded information, from creation to final disposition, regardless of the medium. Records retention scheduling is important in developing, using, and managing computer systems and other electronic devices. Records management practices encourage cost-effective use of electronic media through accurate retention scheduling and legal destruction of records.

All state government employees are responsible for maintaining records according to the retention schedule, whether those records are stored electronically or in paper. Information must be accessible to the appropriate parties until all legal, fiscal, and administrative retention periods are met, regardless of the records storage medium.

This retention schedule covers the content of records created by Real Estate Commission, including records created or stored using computers and computer systems. The *General Schedule for Electronic and Related Records* applies to records related to computers or a computer system. Examples of these include system documentation and use records, backup files, or website format and control records.

Audits and Legal Action

Agency records may be subject to fiscal, compliance or procedural audit. If an agency should maintain records longer than the approved retention period, as may be the case with some federal audits, then all affected records should be retained until the audit has been completed and the retention period met. In no case should records that are subject to audit be destroyed until the audit has been completed and retention periods met, or the records have been officially exempt from any audit requirements.

Records may also be involved in legal or investigative actions, such as lawsuits, administrative hearings or open records matters. These records must be retained at least until all legal or

investigative matters have concluded, regardless of retention period. This includes all appeals of lawsuits.

Vital Records

Vital records are essential to the continued functioning of an agency during and after an emergency. Vital records are also essential to the protection of the rights and interests of an agency and of the individuals for whose rights and interests it has a responsibility. Vital records are identified in the retention schedule with a (V).

Confidential Records

While all records created, used and maintained by government agency personnel are public records, not all of those records are open to public inspection. Whether a record is open to public inspection is determined by the state's Open Records laws and other relevant state or federal statutes and regulations. Restriction of public inspection of confidential records may apply to the whole record or only to certain information contained in the record.

Kentucky's public records are considered open for public inspection unless there is some specific law or regulation that exempts them. Agency personnel who believe certain records are confidential should submit a citation from Kentucky Revised Statutes, Administrative Regulations, Code of Federal Regulations, or similar authority. **State agency heads have the responsibility to know all the appropriate confidentiality laws, statutes and regulations that apply to the records maintained by their agency and to see that those laws are enforced.** Even though a record series may or may not be marked confidential on a retention schedule, contradictory laws or regulations that are passed after the schedule has been approved must be honored.

Copies of Records

Agency personnel often make copies of records for internal use or reference purposes. Agencies should designate one copy as the official copy and make sure it is retained according to the records retention schedule. Agencies can destroy all other copies when no longer useful.

Updating the Retention Schedule

Per 725 KAR 1:010, the head of each state government agency is required to designate a member of his or her staff to serve as a records officer. The agency records officer represents that agency in its records-related work with the Archives and Records Management Division. The agency records officer is responsible for assisting the Archives and Records Management Division in drafting a records retention schedule, and in finding any schedule updates to bring before the Commission. The retention schedule should be reviewed on a regular basis to suggest appropriate changes to the Commission.

Real Estate Commission

Created in 1942, the Real Estate Commission is charged with the responsibility of protecting the public interest through regulation, examination and licensing of Kentucky real estate brokers and sales associates pursuant to Kentucky Revised Statutes Chapter 324. The Commission is self-supporting and receives no general fund tax appropriation. It is funded through fees assessed for licensing its professionals.

RECORDS RETENTION SCHEDULE

Signature Page

Real Estate Commission
Agency

June 13, 2013
Schedule Date

Unit

December 8, 2016
Change Date

December 8, 2016
Date Approved By Commission

APPROVALS

The undersigned approve of the following Records Retention Schedule or Change:


Agency Head

11-16-16
Date of Approval


Agency Records Officer

11-14-16
Date of Approval

State Archivist and Records Administrator
Director, Public Records Division

Date of Approval


Chairman, State Archives and Records Commission

12/8/16
Date of Approval

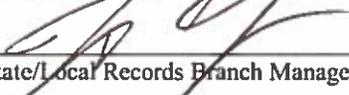
The undersigned Public Records Division staff have examined the record items and recommend the disposition as shown:


Records Analyst/Regional Administrator

11-17-16
Date of Approval

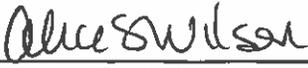

Appraisal Archivist

12-08-16
Date of Approval


State/Local Records Branch Manager

12/8/2016
Date of Approval

The determination as set forth meets with my approval.

 (for MH)
Auditor of Public Accounts

12-8-16
Date of Approval

STATE ARCHIVES AND RECORDS COMMISSION
Archives and Records Management Division
Kentucky Department for Libraries and Archives

STATE AGENCY RECORDS
RETENTION SCHEDULE

General Government
Real Estate Commission

Record Group
Number
2520

Series	Records Title and Description	Function and Use
02154	License File	This series documents the application for and issuance of a license to act as a real estate broker or sales associate, as required in KRS 324.046. Real estate, in addition to its ordinary meaning, includes timeshares, options, leaseholds and other interests less than leaseholds (KRS 324.010 (5)). The series provides a complete history of the licensee from initial licensure to termination of the license. Termination may be by cancellation, suspension, revocation, or death of the licensee. All actively licensed agents, unless exempt, must successfully complete six (6) classroom hours of continuing education, three (3) of which must be in real estate law. Licenses expire on the 31st of March of each year. Any license not renewed at the end of the renewal year automatically reverts to expired status. An expired license may be reactivated before a lapse of one (1) year, if delinquent fees are paid by the licensee.
	Access Restrictions	KRS 61.878 (1)(a) re personal information
	Contents	Series may contain: License application and license; education documents; transcripts; FBI criminal background check; address changes; transfer documents from one real estate firm to another; certification forms (if applicable); complaints; disciplinary actions (if applicable); affidavits; changes in firm name or address; renewal forms; record of payment of fees; and related correspondence; Social Security Number; Date of birth; home address (if applicable)
	Retention and Disposition	Retain in agency for three (3) years after license expires, transfer to the State Records Center for an additional thirteen (13) years. Total retention is sixteen (16) years after license expires.
02155	Suspended/Revoked Licensee Master File (V)	This series documents the records when a license has been revoked or suspended. A license may also be revoked or cancelled for failure to notify the Real Estate Commission of any agent changes, i.e., name change, change of address. KRS 324.010 (16) defines a "suspended license" as the "status of a license when disciplinary action has been ordered against a license that prohibits the brokerage of real estate for a specific period of time or a licensee may voluntarily surrender the license as a result of a disciplinary action which is also considered a license to be revoked. KRS 324.010 (17) defines a "revoked license" as the "status of a license when disciplinary action has been ordered that removes the licensee's legal authority to broker real estate for a minimum of five (5) years". Anyone who has had a broker's or sales associate's license revoked may only have a license issued at the discretion of the Commission and the applicant shall retake the appropriate examination and meet all of the contemporary licensing requirements pursuant to KRS 324.220. An aggrieved party may appeal to the Circuit Court where the licensee has his/her principal place of business or where the applicant resides. Furthermore, per KRS 324.400 - 324.420, the Real Estate Commission has established a Real Estate Education, Research and Recovery Fund/Fees with the State Treasury - this additional fee is included in the licensee fee and is used to pay an aggrieved party if a licensee has been found guilty of fraud or if the fund amount exceeds the statutory requirement, the Commission, at its discretion, may use funding to advance real estate education and research in the field of real estate in the Commonwealth of Kentucky or work with Kentucky Association of Realtors and other real estate groups for the enlightenment and advancement of the real estate licensees of Kentucky.
	Access Restrictions	KRS 61.878 (1)(a) re personal information
	Contents	Series may contain: Name, address, date of birth, Social Security number of licensee; grievance; date of alleged grievance; Final Order of Real Estate Commission; appeals, if applicable; Funds expended from the Real Estate Education, Research and Recovery Fund, including amount paid to aggrieved party; funds used for education
	Retention and Disposition	Retain permanently in agency.

STATE ARCHIVES AND RECORDS COMMISSION
Archives and Records Management Division
Kentucky Department for Libraries and Archives

STATE AGENCY RECORDS
RETENTION SCHEDULE

General Government
Real Estate Commission

Record Group
Number
2520

Series	Records Title and Description	Function and Use
02156	Hearing Transcripts (Post-June 1983)	This series documents the transcripts of hearings for the following reasons: 1. Appeal of a denial of an applicant's license; 2. Suspension or revocation of license; 3. Disciplinary action taken by Real Estate Commission; and/or 4. Grievance against Real Estate Commission or agent filed by consumer. Hearings are only transcribed if a decision of the Real Estate Commission is appealed to a higher court.
	Access Restrictions	KRS 61.878 (1)(a) re personal information
	Contents	Series may contain: Name(s) of parties involved; Legal documentation and correspondence; Date and time of Real Estate Commission hearing; Real Estate Commission Decision
	Retention and Disposition	Retain in Agency and transfer to License File, series 02154, after case closure, all appeals have been exhausted and no disciplinary action is required. If an Order is issued requiring disciplinary action, the transcript will transferred to Complaints File - Disciplinary Action, series 06446.
02158	List of Examinees	This series documents a list of applicants who have met the requirements of KRS 324 and applied to take the examination for a real estate license pursuant to KRS 324.045 (2), (3), and (4). The list is compiled by a company contracted by the Real Estate Commission to provide testing.
	Access Restrictions	KRS 61.878 (1)(a) re personal information
	Contents	Series may contain: Name, address, Social Security Number, date of birth, testing date and time; location of test center
	Retention and Disposition	Retain in Agency two (2) years from examination, then destroy.
02159	Examination Pass/Fail List	This series documents a list of applicants who completed the real estate agent examination per KRS 324.045 (2), (3), and (4) and whether the applicant passed or failed. The list is compiled by the company who provides testing and contracted by the Real Estate Commission.
	Access Restrictions	(C) KRS 61.878 (1) (a) re personal information
	Contents	Series may contain: Name, Address, Social Security Number, Date of birth of applicant; date and time of testing, Pass or Fail notation
	Retention and Disposition	Retain in Agency two (2) years from date of examination, then destroy.
03050	Hearing Transcripts - Pre-1983	CLOSED SERIES: This series documents the transcripts of hearings regarding a denial for an application for license or grievance filed against a real estate agent, broker or the Real Estate Commission. These records serve as a research tool for future actions.
	Access Restrictions	KRS 61.878 (1)(a) re personal information
	Contents	Series may contain: Names of parties involved; grievance or complaint; date of action; Final Order of the Commission.
	Retention and Disposition	Retain permanently in agency.
03051	Recording of Hearing	This series documents the recordings of administrative hearings regarding the Real Estate Commission and pursuant to the provisions established in KRS Chapter 324 . Transcripts (Series 02156) may be required for some hearings and a copy of the transcript will be placed in the License File (02154) and/or the Complaints File (Disciplinary Action), series 06446.
	Access Restrictions	KRS 61.878 (1)(a) re personal information
	Contents	Series may contain: Name and address of complainant/defendant; allegation; testimony; Final Order of Real Estate Commission; correspondence
	Retention and Disposition	Destroy recording one (1) year from date of hearing if no further action is taken. In event legal action is pursued, the recording/transcript is transferred to series 06446, Complaints File -Disciplinary Action and/or License File (02154).

STATE ARCHIVES AND RECORDS COMMISSION
Archives and Records Management Division
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STATE AGENCY RECORDS
RETENTION SCHEDULE

General Government
 Real Estate Commission

Record Group
Number
2520

Series	Records Title and Description	Function and Use
03282	Errors and Omissions Insurance List	This series documents proof of coverage and the effective date of coverage of errors and omissions group insurance provided through the Commission's insurance program and a list is produced monthly. As required in KRS 324.395, all real estate licensees, except those whose licenses are in escrow, must carry errors and omissions insurance. Errors and omissions insurance does not relate to gross negligence or intentional misrepresentation, but where a misunderstanding, error or oversight has occurred. The Commission makes the insurance available to all licensees by contracting with an insurance provider for a group policy. Licensees have the option of obtaining the insurance independently, providing the coverage contained in the policy and the financial condition of the company complies with the minimum requirements established by the Commission. The series is used to verify coverage both by the Commission and the insurance agency, in the event a claim is filed.
	Access Restrictions	None
	Contents	Series may contain: Licensee file number, name, address; effective date of coverage; license type; taxing authority; premium; tax; total payment
	Retention and Disposition	Retain in Agency five (5) years and audit, then destroy.
04713	Continuing Education Provider Files	This record was created to provide documentation of the process for approval of continuing education courses and providers of these services pursuant to KRS 324 and 201 KAR 11:175. Courses and providers must be approved on a yearly calendar basis. Material and applications must be updated and recertified before being offered to licensees.
	Access Restrictions	None
	Contents	Series may contain: Application for approval; outline or handout of material to be covered; educational background of instructor who will present the class; notice of approval; schedule of when classes are to be offered; other documentation as required. (Proprietary school class certificate, in house information, non-profit status)
	Retention and Disposition	Retain in Agency five (5) years, then destroy
04714	Post-License and Continuing Education Record File	This series documents proof of attendance in approved post-license and continuing education classes for those licensees who are required under law to attend pursuant to 201 KAR 11:235 and 201 KAR 11:230. Licensees who are issued an initial sales associate license after January 1, 2016 shall complete forty-eight (48) hours of commission-approved post-license education within two (2) years of receiving or activating their license. Licensees are required to attend six (6) hours of continuing education (unless exempted under the law) each calendar year. Providers are required to submit rosters of students attending approved post-license and continuing education courses within ten (10) days of the class. Credit is then posted to the licensee's computer record.
	Access Restrictions	KRS 61.878 (1)(a) re personal information
	Contents	Series may contain: course name, number and date held, number of hours completed, course provider's name, licensee's name, home address, social security number, Course Evaluation (Form 108), Course Evaluation Transmittal (Form E109), and Out-of-State Continuing Education Compliance Form (Form E111).
	Retention and Disposition	Retain in Agency five (5) years, then destroy.
04715	Time-Share Property Registration File	This series documents the registration of real estate developments (time-share property) which will be promoted in Kentucky but are located outside of the State as required per KRS 324.142. Before the property is marketed to consumers in Kentucky, the property must have been registered and approved by the Commission. A time-share is an arrangement under which an individual may acquire, for a period of time, the right to use and occupy property for a recurring block of time. A registration fee is required per specific development.
	Access Restrictions	None
	Contents	Series may contain: Registration form; articles of incorporation or partnership; consent to service form; copies of all sales contracts; agreements; lease forms; option forms; prospectors; consent to inspect forms
	Retention and Disposition	Retain in Agency five (5) years and audit, then destroy.

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STATE AGENCY RECORDS
RETENTION SCHEDULE

General Government
Real Estate Commission

Record Group
Number
2520

Series	Records Title and Description	Function and Use
05001	Applicant Records (Felony) - Approved	This series is created to gather documentation on past or pending felony convictions that may preclude an individual from obtaining a real estate license. Pursuant to KRS 324.045 (4), the Commission requires all licensure applicants to submit to a criminal record check. If, after a hearing, the applicant is approved, the individual must complete the necessary education requirements and pass the licensing examination. KRS 324:160 (4) (j) and (k) and 201 KAR 11:430 (2) specifically states applicants who have been convicted of a felony or misdemeanor involving sexual crimes shall submit the criminal background check.
	Access Restrictions	KRS 61.878 (1) (a)
	Contents	Series may contain: Privacy Act waiver form; investigation report; police and court documents; and Final Order
	Retention and Disposition	Retain in Agency and after the Real Estate Commission reviews the record and approves the issuance of license, the records are transferred to License File (Series 02154) and retained for sixteen (16) years after expiration of license.
05002	Applicant Records (Felony) - Denied	This series is created to gather documentation on past or pending felony convictions that preclude an individual from obtaining a real estate license. As provided for in KRS 324.045 (4), the Commission requires all applicants to submit to a criminal record check. Occasionally, the denial is based on the fact that the individual is on probation. In such a case, the Commission may grant the individual the opportunity to reapply for a license at a later date.
	Access Restrictions	KRS 61.878 (1) (a)
	Contents	Series may contain: Privacy Act waiver form; investigation report; police and court documents; letters of reference; correspondence; final order
	Retention and Disposition	Retain in Agency two (2) years, then destroy
05925	Cease and Desist Orders	CLOSED: Agency personnel state this series is no longer created as agency has not issued Orders for Cease and Desist since 2010. This series documents Orders to Cease and Desist issued by the Executive Director if there is reason to believe that a violation of KRS 324 or the regulations promulgated thereto has occurred and after a Order to Show Cause as to has been issued. The defendant has ten (10) days to respond to the Order to Show Cause as to why a Cease and Desist Order should not be entered. An Order to Cease and Desist is effective when signed by the Executive Director and shall be delivered by certified mail to the last known address of the person or licensee. An Order to Cease and Desist remains effective and enforceable pending an administrative proceeding.
	Access Restrictions	KRS 61.878 (1)(a)
	Contents	Series may contain: Order to Show Cause, Correspondence; Certified Mail Certificate; Name and address of defendant; allegation/complaint violation
	Retention and Disposition	Retain in Agency ten (10) years from date of issuance, then destroy.
06445	Complaints File - Unsubstantiated	This series documents unsubstantiated complaints or investigations of Real Estate licensees and/or brokerage companies alleging violations of KRS Chapter 324 and the regulations promulgated thereto that do not result in any disciplinary action or the investigation reveals that the alleged violation did not occur.
	Access Restrictions	
	Contents	Series may contain: Written documentation of complaint; name and address of complainant; if applicable, investigation findings and recommendations; correspondence and Administrative Orders.
	Retention and Disposition	Retain in Agency five (5) years after date of dismissal, then destroy.

STATE ARCHIVES AND RECORDS COMMISSION
Archives and Records Management Division
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STATE AGENCY RECORDS
RETENTION SCHEDULE

General Government
 Real Estate Commission

Record Group
Number
2520

Series	Records Title and Description	Function and Use
06446	Complaints File - Disciplinary Action	This series documents investigations and findings of real estate licensees and brokerage companies as a result of a written complaint by persons or organization, including the Real Estate Commission upon its own volition, regarding alleged violation(s) of KRS Chapter 324 and the regulations promulgated thereto. In the event the investigation reveals the alleged violation did occur, any disciplinary action(s), including but not limited to fines, reprimands, suspension, revocation, refusal to renew, or any combination, or legal proceedings, are incorporated in Series 02154, License File.
	Access Restrictions	KRS 61.878(1)(a) re personal information; KRS 61.878 (1)(h) during ongoing investigation period.
	Contents	Series may contain: Written documentation of complaint; date alleged violation occurred; complainant name, address, phone number; name of real estate licensee and/or brokerage company and address; name of investigator; date of investigation; findings; correspondence; Administrative Orders; and if applicable, legal documentation.
	Retention and Disposition	Retain in Agency fifty (50) years after date of final resolution, then destroy.
06447	Unlicensed Brokerage Files	This series documents actions taken by the Real Estate Commission on persons engaging in real estate brokerage without a license, including failure to renew a previously valid Kentucky license and did not avail himself of the remedial provisions of KRS 324.090(3). Persons engaging in real estate brokerage without a license shall be guilty of a Class A misdemeanor for a first offense and a Class D felony for any subsequent offenses and each transaction is regarded as a separate offense per KRS 324.990.
	Access Restrictions	KRS 61.878 (1)(a) re personal information; KRS 61.878 (1)(h) during investigation
	Contents	Series may contain: Name of person, address, phone number and Social Security Number; investigative documentation; Court of jurisdiction; and correspondence.
	Retention and Disposition	Retain in Agency fifteen (15) years, then destroy.
06448	Property Promotional Activities Outside Kentucky File	This series documents Kentucky real estate licensees engaging in promotional activities for property located outside of the Commonwealth and approved by the Real Estate Commission pursuant to KRS 324.142.
	Access Restrictions	
	Contents	Series may contain: Name and licensee number of licensee; application and documentation re the promotional activities and location of property; Board approval; and correspondence.
	Retention and Disposition	Retain in Agency two (2) years, then destroy.

Electronic System With Included Records Series

General Government Cabinet

Real Estate Commission

System Description: The Kentucky Real Estate Commission is charged with the regulation, examination and licensing of Kentucky real estate sales associates and brokers. This includes approving and monitoring pre-licensing instruction and testing, as well as approving and monitoring continuing education for real estate licensees. The Commission also investigates complaints against real estate licensees, as well as unlicensed brokerage activities.

This system contains information about licensees, continuing education, complaint files, and applicant records used by staff to regulate real estate associates and brokers. An online interface allows the public to search for licensees by name. Search results include license number and type; license issuance and expiration date; status; company name and address.

System Contents: License Files: name, contact information, date of birth, social security number, license number and type, education information, certification information, record of payment fees, errors and omissions insurance information,

Continuing Education: licensee name, licensee date of birth, company name, course title, number of hours, course date, elective or required course, transfers.

Complaint files: licensee information (name, address, license number, date of birth social security number, complaint, dates of alleged complaint, investigation information, recommendations, and appeals.

Felony applicant records: applicant name, contact information, Privacy Act waiver, investigation report, final order.

General Schedule Items:

System Title: Real Estate Commission System

Alternate Title: AS/400

Series #: Series Title:

Disposition Instructions:

02154 License File

Retain in agency for three (3) years after license expires, transfer to the State Records Center for an additional thirteen (13) years. Total retention is sixteen (16) years after license expires.

02155 Suspended/Revoked Licensee Master File

Retain permanently in agency.

Series #:	Series Title:	Disposition Instructions:
02158	List of Examinees	Retain in Agency two (2) years from examination, then destroy.
02159	Examination Pass/Fail List	Retain in Agency two (2) years from date of examination, then destroy.
03282	Errors and Omissions Insurance List	Retain in Agency five (5) years and audit, then destroy.
04714	Continuing Education Record File	Retain in Agency five (5) years, then destroy.
05001	Applicant Records (Felony) - Approved	Retain in Agency and after the Real Estate Commission reviews the record and approves the issuance of license, the records are transferred to License File (Series 02154) and retained for sixteen (16) years after expiration of license.
05002	Applicant Records (Felony) - Denied	Retain in Agency two (2) years, then destroy
06445	Complaints File - Non-Disciplinary Action	Retain in Agency five (5) years after date of dismissal, then destroy.
06446	Complaints File - Disciplinary Action	Retain in Agency fifty (50) years after date of final resolution, then destroy.
06447	Unlicensed Brokerage Files	Retain in Agency fifteen (15) years, then destroy.