

230.357 Written bill of sale or acknowledgment of purchase -- Requirements -- Auction requirements -- Dual agents -- Disclosures required -- Violations -- Auction disclosures not required -- Limitation on application of section -- Enforceability of contracts for payment of commission.

- (1) For purposes of this section, "equine" means a horse of any breed used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, yearlings, or weanlings, or any interest therein.
- (2) Any sale, purchase, or transfer of an equine shall be:
 - (a) Accompanied by a written bill of sale or acknowledgment of purchase and security agreement setting forth the purchase price; and
 - (b) Signed by both the purchaser and the seller or their duly authorized agent or, in a transaction solely relating to a season or fractional interest in the stallion, signed by the syndicate manager or stallion manager.
- (3) In circumstances where a transaction described in subsection (2) of this section is accomplished through a public auction the bill of sale requirement described in subsection (2) of this section may be satisfied by the issuance of an auction receipt, generated by the auction house, and signed by the purchaser or the purchaser's duly authorized agent. An agent who signs an auction receipt on behalf of his or her principal shall do so only if authorized in writing. When presented with such authorization, all other parties to the transaction may presume that an agent signing on behalf of his or her principal is duly authorized to act for the principal.
- (4) It shall be unlawful for any person to act as an agent for both the purchaser and the seller, which is hereby defined as a dual agent, in a transaction involving the sale, purchase, or transfer of an interest in an equine without:
 - (a) The prior knowledge of both the purchaser and the seller; and
 - (b) Written consent of both the purchaser and the seller.
- (5) It shall be unlawful for a person acting as an agent for either a purchaser or a seller or acting as a dual agent in a transaction involving the sale, purchase, or transfer of an equine to receive compensation, fees, a gratuity, or any other item of value in excess of five hundred dollars (\$500) and related directly or indirectly to such transaction from an individual or entity, including any consigner involved in the transaction, other than an agent's principal, unless:
 - (a) The agent receiving and the person or entity making the payment disclose in writing the payment to both the purchaser and seller; and
 - (b) Each principal for whom the agent is acting consents in writing to the payment.
- (6) Any person acting as an agent for a purchaser or seller or acting as a dual agent in a transaction involving the sale, purchase, or transfer of an equine shall, upon request by his or her principal or principals, furnish copies of all financial records and financial documents in the possession or control of the agent pertaining to the transaction to the principal or principals. For purposes of this subsection, financial records shall not include the agent's or owner's work product used to internally evaluate the equine.

- (7) Any person injured by a violation of this section shall recover treble damages from persons or entities violating this section, and the prevailing party in any litigation under this section shall be entitled to an award of costs of the suit, reasonable litigation expenses, and attorney's fees. As used in this section, treble damages shall equal three (3) times the sum of:
 - (a) The difference, if any, between the price paid for the equine and the actual value of the equine at the time of sale; and
 - (b) Any payment made in violation of subsection (5) of this section.
- (8) Nothing in this section shall require disclosure of compensation arrangements between a principal and an agent where no dual agency exists, where the agent is acting solely for the benefit of his or her principal, and where the agent is being compensated solely by his or her principal.
- (9) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, for transactions contemplated by this section that are accomplished through a public auction, this section shall not require disclosure of the reserves, the identity of the principals, or the auctioneer's commissions. Auction companies shall not be deemed to be dual agents for all purposes under this section.
- (10) The provisions of this section shall not apply to the sale, purchase, or transfer of an equine used for showing if the sale, purchase, or transfer does not exceed ten thousand dollars (\$10,000).
- (11) No contract or agreement for payment of a commission, fee, gratuity, or any other form of compensation in connection with any sale, purchase, or transfer of an equine shall be enforceable by way of an action or defense unless:
 - (a) The contract or agreement is in writing and is signed by the party against whom enforcement is sought; and
 - (b) The recipient of the compensation provides a written bill of sale for the transaction in accordance with subsections (2)(a) and (3) of this section.
- (12) No person shall be held liable under this section unless that person has actual knowledge of the conduct constituting a violation of this section.

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History: Amended 2007 Ky. Acts ch. 103, sec. 1, effective June 26, 2007. --
Created 2006 Ky. Acts ch. 70, sec. 1, effective July 12, 2006.