

AN ACT relating to the sale of horses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.357 is amended to read as follows:

(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~~[used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any interest therein,]~~ 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)~~(2) In circumstances where a transaction described in subsection ~~(2)~~(1) is accomplished through a public auction the bill of sale requirement described in subsection ~~(2)~~(1) 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)~~(3) 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~~[used for racing or showing, including prospective racehorses, breeding prospects, stallions, stallion~~

1 seasons, broodmares, or weanlings, or any interest therein,] without:

2 (a) The prior knowledge of both the purchaser and the seller; and

3 (b) Written consent of both the purchaser and the seller.

4 ~~(5)~~~~(4)~~ It shall be unlawful for a person acting as an agent for either a purchaser or a
5 seller or acting as a dual agent in a transaction involving the sale, purchase, or
6 transfer of an equine~~[used for racing or showing, including prospective racehorses,~~
7 ~~breeding prospects, stallions, stallion seasons, broodmares, or weanlings, or any~~
8 ~~interest therein,]~~ to receive compensation, fees, a gratuity, or any other item of
9 value in excess of five hundred dollars (\$500) and related directly or indirectly to
10 such transaction from an individual or entity, including any consigner involved in
11 the transaction, other than an agent's principal, unless:

12 (a) The agent receiving and the person or entity making the payment disclose in
13 writing the payment to both the purchaser and seller; and

14 (b) Each principal for whom the agent is acting consents in writing to the
15 payment.

16 ~~(6)~~~~(5)~~ Any person acting as an agent for a purchaser or seller or acting as a dual
17 agent in a transaction involving the sale, purchase, or transfer of an equine~~[used for~~
18 ~~racing or showing, including prospective racehorses, breeding prospects, stallions,~~
19 ~~stallion seasons, broodmares, or weanlings, or any interest therein,]~~ shall, upon
20 request by the~~[his or her]~~ principal or principals, furnish copies of all financial
21 records and financial documents in the possession or control of the agent pertaining
22 to the transaction to the principal or principals. However, disclosure of
23 compensation arrangements described in subsection ~~(8)~~~~(7)~~ of this section shall not
24 be required. For purposes of this subsection, financial records shall not include the
25 agent's or owner's work product used to internally evaluate the equine.

26 ~~(7)~~~~(6)~~ Any person injured by a violation of this section shall recover treble damages
27 from persons or entities violating this section, and the prevailing party in any

1 litigation under this section shall be entitled to an award of costs of the suit,
2 reasonable litigation expenses, and attorney's fees. As used in this section, treble
3 damages shall equal three (3) times the sum of:

4 (a) The difference, if any, between the price paid for the equine and the actual
5 value of the equine at the time of sale; and

6 (b) Any payment made in violation of subsection ~~(5)~~~~(4)~~ of this section.

7 ~~(8)~~~~(7)~~ Nothing in this section shall require disclosure of compensation arrangements
8 between a principal and an agent where no dual agency exists, where the agent is
9 acting solely for the benefit of his or her principal, and where the agent is being
10 compensated solely by his or her principal.

11 ~~(9)~~~~(8)~~ Notwithstanding any provision of the Kentucky Revised Statutes to the
12 contrary, for transactions contemplated by this section that are accomplished
13 through a public auction, this section shall not require disclosure of the reserves, the
14 identity of the principals, or the auctioneer's commissions. Auction companies shall
15 not be deemed to be dual agents for all purposes under this section.

16 ~~(10)~~~~(9)~~ The provisions of this section shall not apply to the sale, purchase, or transfer
17 of an equine used for showing if the sale, purchase, or transfer does not exceed ten
18 thousand dollars (\$10,000).

19 ~~(11)~~~~(10)~~ **No contract or agreement for payment of a commission, fee, gratuity, or any**
20 **other form of compensation in connection with any sale, purchase, or transfer of**
21 **an equine shall be enforceable by way of an action or defense unless:**

22 **(a) The contract or agreement is in writing and is signed by the party against**
23 **whom enforcement is sought; and**

24 **(b) The recipient of the compensation provides a written bill of sale for the**
25 **transaction in accordance with subsections (2)(a) and (3) of this section.**

26 **(12)** No person shall be held liable under this section unless that person has actual
27 knowledge of the conduct constituting a violation of this section.