

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 26 CORRECTED

FINAL READING

Introduced by Langemeier, 23

Read first time January 4, 2007

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Nebraska Real Estate License Act;
2 to amend section 81-885.01, Reissue Revised Statutes of
3 Nebraska; to redefine a term; and to repeal the original
4 section.

5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-885.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 81-885.01 For purposes of the Nebraska Real Estate
4 License Act, unless the context otherwise requires:

5 (1) Real estate means and includes condominiums and
6 leaseholds, as well as any other interest or estate in land,
7 whether corporeal, incorporeal, freehold, or nonfreehold, and
8 whether the real estate is situated in this state or elsewhere;

9 (2) Broker means any person who, for any form of
10 compensation or consideration or with the intent or expectation
11 of receiving the same from another, negotiates or attempts to
12 negotiate the listing, sale, purchase, exchange, rent, lease, or
13 option for any real estate or improvements thereon, or assists in
14 procuring prospects or holds himself or herself out as a referral
15 agent for the purpose of securing prospects for the listing, sale,
16 purchase, exchange, renting, leasing, or optioning of any real
17 estate or collects rents or attempts to collect rents, gives a
18 broker's price opinion or comparative market analysis, or holds
19 himself or herself out as engaged in any of the foregoing. Broker
20 also includes any person: (a) Employed, by or on behalf of the
21 owner or owners of lots or other parcels of real estate, for any
22 form of compensation or consideration to sell such real estate
23 or any part thereof in lots or parcels or make other disposition
24 thereof; ~~(b) who engages in the business of charging an advance~~
25 ~~fee in connection with any contract whereby he or she undertakes~~

1 primarily to promote the sale of real estate either through its
2 listing in a publication issued primarily for such purpose or for
3 referral of information concerning such real estate to brokers or
4 ~~both~~, ~~(e)~~ (b) who auctions, offers, attempts, or agrees to auction
5 real estate; or ~~(d)~~ (c) who buys or offers to buy or sell or
6 otherwise deals in options to buy real estate;

7 (3) Associate broker means a person who has a broker's
8 license and who is employed by another broker to participate in any
9 activity described in subdivision (2) of this section;

10 (4) Designated broker means an individual holding a
11 broker's license who has full authority to conduct the real estate
12 activities of a real estate business. In a sole proprietorship, the
13 owner, or broker identified by the owner, shall be the designated
14 broker. In the event the owner identifies the designated broker,
15 the owner shall file a statement with the commission subordinating
16 to the designated broker full authority to conduct the real
17 estate activities of the sole proprietorship. In a partnership,
18 limited liability company, or corporation, the partners, limited
19 liability company members, or board of directors shall identify
20 the designated broker for its real estate business by filing
21 a statement with the commission subordinating to the designated
22 broker full authority to conduct the real estate activities of
23 the partnership, limited liability company, or corporation. The
24 designated broker shall also be responsible for supervising the
25 real estate activities of any associate brokers or salespersons;

1 (5) Inactive broker means an associate broker whose
2 license has been returned to the commission by the licensee's
3 broker, a broker who has requested the commission to place the
4 license on inactive status, a new licensee who has failed to
5 designate an employing broker or have the license issued as an
6 individual broker, or a broker whose license has been placed on
7 inactive status under statute, rule, or regulation;

8 (6) Salesperson means any person, other than an associate
9 broker, who is employed by a broker to participate in any activity
10 described in subdivision (2) of this section;

11 (7) Inactive salesperson means a salesperson whose
12 license has been returned to the commission by the licensee's
13 broker, a salesperson who has requested the commission to place
14 the license on inactive status, a new licensee who has failed to
15 designate an employing broker, or a salesperson whose license has
16 been placed on inactive status under statute, rule, or regulation;

17 (8) Person means and includes individuals, corporations,
18 partnerships, and limited liability companies, except that when
19 referring to a person licensed under the act, it means an
20 individual;

21 (9) Subdivision or subdivided land means any real estate
22 offered for sale and which has been registered under the Interstate
23 Land Sales Full Disclosure Act, 82 Stat. 590 and following, 15
24 U.S.C. 1701 and following, as such act existed on January 1, 1973,
25 or real estate located out of this state which is divided or

1 proposed to be divided into twenty-five or more lots, parcels, or
2 units;

3 (10) Subdivider means any person who causes land to be
4 subdivided into a subdivision for himself, herself, or others or
5 who undertakes to develop a subdivision but does not include a
6 public agency or officer authorized by law to create subdivisions;

7 (11) Purchaser means a person who acquires or attempts to
8 acquire or succeeds to an interest in land;

9 (12) Commission means the State Real Estate Commission;

10 (13) Broker's price opinion means an analysis, opinion,
11 or conclusion prepared by a person licensed under the Nebraska Real
12 Estate License Act in the ordinary course of his or her business
13 relating to the price of specified interests in or aspects of
14 identified real estate or identified real property for the purpose
15 of listing, purchase, or sale;

16 (14) Comparative market analysis means an analysis,
17 opinion, or conclusion prepared by a person licensed under the
18 act in the ordinary course of his or her business relating to
19 the price of specified interests in or aspects of identified real
20 estate or identified real property by comparison to other real
21 property currently or recently in the marketplace for the purpose
22 of listing, purchase, or sale;

23 (15) Distance education means courses in which
24 instruction does not take place in a traditional classroom setting,
25 but rather through other media by which instructor and student are

1 separated by distance and sometimes by time; and

2 (16) Regulatory jurisdiction means a state, district, or
3 territory of the United States, a province of Canada or a foreign
4 country, or a political subdivision of a foreign country, which
5 has implemented and administers laws regulating the activities of a
6 broker.

7 Sec. 2. Original section 81-885.01, Reissue Revised
8 Statutes of Nebraska, is repealed.