

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 26

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; to
2 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 License
4 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, whether
7 corporeal, incorporeal, freehold, or nonfreehold, and whether the real
8 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 of
11 receiving the same from another, negotiates or attempts to negotiate
12 the listing, sale, purchase, exchange, rent, lease, or option for any
13 real estate or improvements thereon, or assists in procuring prospects
14 or holds himself or herself out as a referral agent for the purpose of
15 securing prospects for the listing, sale, purchase, exchange, renting,
16 leasing, or optioning of any real estate or collects rents or attempts
17 to collect rents, gives a broker's price opinion or comparative market
18 analysis, or holds himself or herself out as engaged in any of the
19 foregoing. Broker also includes any person: (a) Employed, by or on
20 behalf of the owner or owners of lots or other parcels of real estate,
21 for any form of compensation or consideration to sell such real estate
22 or any part thereof in lots or parcels or make other disposition
23 thereof; ~~(b) who engages in the business of charging an advance fee~~
24 ~~in connection with any contract whereby he or she undertakes primarily~~
25 ~~to promote the sale of real estate either through its listing in a~~
26 ~~publication issued primarily for such purpose or for referral of~~
27 ~~information concerning such real estate to brokers or both; (c) (b)~~

1 who auctions, offers, attempts, or agrees to auction real estate;
2 or ~~(d)~~ (c) who buys or offers to buy or sell or otherwise deals
3 in options to buy real estate;

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

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

23 (5) Inactive broker means an associate broker whose license
24 has been returned to the commission by the licensee's broker, a broker
25 who has requested the commission to place the license on inactive
26 status, a new licensee who has failed to designate an employing broker
27 or have the license issued as an individual broker, or a broker whose

1 license has been placed on inactive status under statute, rule, or
2 regulation;

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

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

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

15 (9) Subdivision or subdivided land means any real estate
16 offered for sale and which has been registered under the Interstate
17 Land Sales Full Disclosure Act, 82 Stat. 590 and following, 15 U.S.C.
18 1701 and following, as such act existed on January 1, 1973, or real
19 estate located out of this state which is divided or proposed to be
20 divided into twenty-five or more lots, parcels, or units;

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

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

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

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

7 (14) Comparative market analysis means an analysis, opinion,
8 or conclusion prepared by a person licensed under the act in the
9 ordinary course of his or her business relating to the price of
10 specified interests in or aspects of identified real estate or
11 identified real property by comparison to other real property
12 currently or recently in the marketplace for the purpose of listing,
13 purchase, or sale;

14 (15) Distance education means courses in which instruction
15 does not take place in a traditional classroom setting, but rather
16 through other media by which instructor and student are separated by
17 distance and sometimes by time; and

18 (16) Regulatory jurisdiction means a state, district, or
19 territory of the United States, a province of Canada or a foreign
20 country, or a political subdivision of a foreign country, which has
21 implemented and administers laws regulating the activities of a
22 broker.

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