

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 315**

Introduced by Pahls, 31.

Read first time January 12, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to the Nebraska Real Estate License Act; to amend  
2 section 81-885.11, Reissue Revised Statutes of Nebraska,  
3 and section 81-885.01, Revised Statutes Cumulative  
4 Supplement, 2010; to permit licensure of real estate  
5 salespersons as individuals, corporations, partnerships,  
6 and limited liability companies; and to repeal the  
7 original sections.  
8 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 81-885.01, Revised Statutes Cumulative  
2 Supplement, 2010, 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, whether  
7 corporeal, incorporeal, freehold, or nonfreehold, and whether the  
8 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 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  
14 prospects or holds himself or herself out as a referral agent for the  
15 purpose of securing prospects for the listing, sale, purchase,  
16 exchange, renting, leasing, or optioning of any real estate or  
17 collects rents or attempts to collect rents, gives a broker's price  
18 opinion or comparative market analysis, or holds himself or herself  
19 out as engaged in any of the foregoing. Broker also includes any  
20 person: (a) Employed, by or on behalf of the owner or owners of lots  
21 or other parcels of real estate, for any form of compensation or  
22 consideration to sell such real estate or any part thereof in lots or  
23 parcels or make other disposition thereof; (b) who auctions, offers,  
24 attempts, or agrees to auction real estate; or (c) who buys or offers  
25 to buy or sell or otherwise deals in options to buy real estate;

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

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

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

1 statute, rule, or regulation;

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

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

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

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

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

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

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

2                   (13) Broker's price opinion means an analysis, opinion,  
3 or conclusion prepared by a person licensed under the Nebraska Real  
4 Estate License Act in the ordinary course of his or her business  
5 relating to the price of specified interests in or aspects of  
6 identified real estate or identified real property for the purpose of  
7 (a) listing, purchase, or sale or (b) originating, extending,  
8 renewing, or modifying a loan in a transaction other than a federally  
9 related transaction;

10                  (14) Comparative market analysis means an analysis,  
11 opinion, or conclusion prepared by a person licensed under the act in  
12 the ordinary course of his or her business relating to the price of  
13 specified interests in or aspects of identified real estate or  
14 identified real property by comparison to other real property  
15 currently or recently in the marketplace for the purpose of (a)  
16 listing, purchase, or sale or (b) originating, extending, renewing,  
17 or modifying a loan in a transaction other than a federally related  
18 transaction;

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

23                  (16) Regulatory jurisdiction means a state, district, or  
24 territory of the United States, a province of Canada or a foreign  
25 country, or a political subdivision of a foreign country, which has

1 implemented and administers laws regulating the activities of a  
2 broker;

3 (17) Federal financial institution regulatory agency  
4 means (a) the Board of Governors of the Federal Reserve System, (b)  
5 the Federal Deposit Insurance Corporation, (c) the Office of the  
6 Comptroller of the Currency, (d) the Office of Thrift Supervision,  
7 (e) the National Credit Union Administration, or (f) the successors  
8 of any of those agencies; and

9 (18) Federally related transaction means a real-estate-  
10 related transaction that (a) requires the services of an appraiser  
11 and (b) is engaged in, contracted for, or regulated by a federal  
12 financial institution regulatory agency.

13 Sec. 2. Section 81-885.11, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 81-885.11 Any ~~person~~individual desiring to act as a real  
16 estate broker or real estate salesperson shall file an application  
17 for a license with the commission. The applicant for a broker's  
18 license or salesperson's license shall designate whether he or she  
19 intends to conduct business as an individual, a corporation, a  
20 partnership, or a limited liability company on the application. The  
21 application shall be in such form and detail as the commission  
22 prescribes, setting forth the following:

23 (1) The name and address of the applicant and, when  
24 applicable, the name under which he or she intends to conduct  
25 business; if the applicant will be conducting business through a

1 partnership, the name and residence address of each member thereof,  
2 the name of the partnership's designated broker if the application is  
3 for a broker's license, and the name under which the partnership  
4 business is to be conducted; if the applicant will be conducting  
5 business through a limited liability company, the name and address of  
6 each of its members, the name of the company's designated broker if  
7 the application is for a broker's license, and the name under which  
8 the business will be conducted; if the applicant will be conducting  
9 business through a corporation, the name and address of each of its  
10 principal officers, the name of the corporation's designated broker  
11 if the application is for a broker's license, and the name under  
12 which the business will be conducted; and ~~if the applicant is an~~  
13 ~~individual,~~ the applicant's social security number;

14 (2) The place or places, including the city or village  
15 with the street and street number, if any, where the business is to  
16 be conducted; and

17 (3) Such other information as the commission requires.

18 Sec. 3. Original section 81-885.11, Reissue Revised  
19 Statutes of Nebraska, and section 81-885.01, Revised Statutes  
20 Cumulative Supplement, 2010, are repealed.