

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 678

Introduced by Craighead, 6.

Read first time January 06, 2016

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to
- 2 amend sections 81-885 and 81-885.07, Reissue Revised Statutes of
- 3 Nebraska, and section 81-885.01, Revised Statutes Supplement, 2015;
- 4 to define terms; to provide duties for a team leader as prescribed;
- 5 to require the adoption and promulgation of rules and regulations;
- 6 to harmonize provisions; to provide an operative date; and to repeal
- 7 the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-885, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-885 Sections 81-885 to 81-885.55 and section 3 of this act shall
4 be known and may be cited as the Nebraska Real Estate License Act.

5 Sec. 2. Section 81-885.01, Revised Statutes Supplement, 2015, is
6 amended to read:

7 81-885.01 For purposes of the Nebraska Real Estate License Act,
8 unless the context otherwise requires:

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

13 (2) Broker means any person who, for any form of compensation or
14 consideration or with the intent or expectation of receiving the same
15 from another, negotiates or attempts to negotiate the listing, sale,
16 purchase, exchange, rent, lease, or option for any real estate or
17 improvements thereon, or assists in procuring prospects or holds himself
18 or herself out as a referral agent for the purpose of securing prospects
19 for the listing, sale, purchase, exchange, renting, leasing, or optioning
20 of any real estate or collects rents or attempts to collect rents, gives
21 a broker's price opinion or comparative market analysis, or holds himself
22 or herself out as engaged in any of the foregoing. Broker also includes
23 any person: (a) Employed, by or on behalf of the owner or owners of lots
24 or other parcels of real estate, for any form of compensation or
25 consideration to sell such real estate or any part thereof in lots or
26 parcels or make other disposition thereof; (b) who auctions, offers,
27 attempts, or agrees to auction real estate; or (c) who buys or offers to
28 buy or sell or otherwise deals in options to buy real estate;

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

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

16 (5) Inactive broker means an associate broker whose license has been
17 returned to the commission by the licensee's broker, a broker who has
18 requested the commission to place the license on inactive status, a new
19 licensee who has failed to designate an employing broker or have the
20 license issued as an individual broker, or a broker whose license has
21 been placed on inactive status under statute, rule, or regulation;

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

25 (7) Inactive salesperson means a salesperson whose license has been
26 returned to the commission by the licensee's broker, a salesperson who
27 has requested the commission to place the license on inactive status, a
28 new licensee who has failed to designate an employing broker, or a
29 salesperson whose license has been placed on inactive status under
30 statute, rule, or regulation;

31 (8) Person means and includes individuals, corporations,

1 partnerships, and limited liability companies, except that when referring
2 to a person licensed under the act, it means an individual;

3 (9) Team means two or more persons licensed by the commission who
4 (a) work under the supervision of a designated broker, (b) work together
5 on real estate transactions to provide real estate brokerage services,
6 (c) represent themselves to the public as being part of a team, and (d)
7 are designated by a team name;

8 (10) Team leader means any person licensed by the commission and
9 appointed or recognized by his or her designated broker as the leader for
10 his or her team;

11 (11 9) Subdivision or subdivided land means any real estate offered
12 for sale and which has been registered under the Interstate Land Sales
13 Full Disclosure Act, ~~82 Stat. 590 and following,~~ 15 U.S.C. 1701 et seq.
14 and following, as such act existed on January 1, 1973, or real estate
15 located out of this state which is divided or proposed to be divided into
16 twenty-five or more lots, parcels, or units;

17 (12 10) Subdivider means any person who causes land to be subdivided
18 into a subdivision for himself, herself, or others or who undertakes to
19 develop a subdivision but does not include a public agency or officer
20 authorized by law to create subdivisions;

21 (13 11) Purchaser means a person who acquires or attempts to acquire
22 or succeeds to an interest in land;

23 (14 12) Commission means the State Real Estate Commission;

24 (15 13) Broker's price opinion means an analysis, opinion, or
25 conclusion prepared by a person licensed under the Nebraska Real Estate
26 License Act in the ordinary course of his or her business relating to the
27 price of specified interests in or aspects of identified real estate or
28 identified real property for the purpose of (a) listing, purchase, or
29 sale, (b) originating, extending, renewing, or modifying a loan in a
30 transaction other than a federally related transaction, or (c) real
31 property tax appeals;

1 (~~16~~ 14) Comparative market analysis means an analysis, opinion, or
2 conclusion prepared by a person licensed under the act in the ordinary
3 course of his or her business relating to the price of specified
4 interests in or aspects of identified real estate or identified real
5 property by comparison to other real property currently or recently in
6 the marketplace for the purpose of (a) listing, purchase, or sale, (b)
7 originating, extending, renewing, or modifying a loan in a transaction
8 other than a federally related transaction, or (c) real property tax
9 appeals;

10 (~~17~~ 15) Distance education means courses in which instruction does
11 not take place in a traditional classroom setting, but rather through
12 other media by which instructor and student are separated by distance and
13 sometimes by time;

14 (~~18~~ 16) Regulatory jurisdiction means a state, district, or
15 territory of the United States, a province of Canada or a foreign
16 country, or a political subdivision of a foreign country, which has
17 implemented and administers laws regulating the activities of a broker;

18 (~~19~~ 17) Federal financial institution regulatory agency means (a)
19 the Board of Governors of the Federal Reserve System, (b) the Federal
20 Deposit Insurance Corporation, (c) the Office of the Comptroller of the
21 Currency, (d) the Office of Thrift Supervision, (e) the National Credit
22 Union Administration, or (f) the successors of any of those agencies; and

23 (~~20~~ 18) Federally related transaction means a real-estate-related
24 transaction that (a) requires the services of an appraiser and (b) is
25 engaged in, contracted for, or regulated by a federal financial
26 institution regulatory agency.

27 Sec. 3. The team leader, under the supervision of his or her
28 designated broker, shall be responsible for supervising the real estate
29 activities of his or her team.

30 Sec. 4. Section 81-885.07, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 81-885.07 (1) There is hereby created the State Real Estate
2 Commission which shall consist of the Secretary of State, who shall be
3 chairperson of the commission, and six members appointed by the Governor.
4 Three of the members of the commission appointed by the Governor shall be
5 active and licensed real estate brokers who have engaged in the real
6 estate business as brokers or associate brokers for not less than five
7 years, which members shall be appointed by the Governor, one from each of
8 the three congressional districts as the districts were constituted on
9 January 1, 2006. The remaining members shall be appointed at large, one
10 of whom shall be representative of the public, one of whom shall be a
11 licensed real estate salesperson who has engaged in the real estate
12 business as a salesperson for not less than three years, and one of whom
13 shall be an active and licensed real estate broker who has engaged in the
14 real estate business as a broker or associate broker for not less than
15 five years. The member representing the former congressional district 1
16 on July 14, 2006, shall represent congressional district 1 for the
17 balance of his or her term. The member representing the former
18 congressional district 2 on July 14, 2006, shall represent congressional
19 district 2 for the balance of his or her term. The member representing
20 the former congressional district 3 on July 14, 2006, shall become an at-
21 large member for the balance of his or her term. The member representing
22 the former congressional district 4 on July 14, 2006, shall represent
23 congressional district 3 for the balance of his or her term.

24 (2) At the expiration of the term of any member of the commission,
25 the Governor shall appoint a successor for a term of six years. Any
26 appointed member shall be limited to one six-year term, in addition to
27 any partial term served. In the event of a vacancy on the commission, the
28 Governor shall fill such vacancy by appointing a member to serve during
29 the unexpired term of the member whose office has become vacant. In the
30 absence of the chairperson, the senior member of the commission in point
31 of service present shall serve as presiding officer. Not less than four

1 members of the commission must be present at any official meeting of the
2 commission. The action of the majority of the members of the commission
3 shall be deemed the action of the commission. No appointed person may act
4 as a member of the commission while holding any other elective or
5 appointive state or federal office.

6 (3) Each member of the commission shall receive as compensation for
7 each day actually spent on official duties at scheduled meetings the sum
8 of one hundred dollars and actual and necessary expenses incurred in the
9 performance of his or her official duties.

10 (4) The commission shall employ a director who shall keep a record
11 of all the proceedings, transactions, communications, and official acts
12 of the commission, be custodian of all the records of the commission, and
13 perform such other duties as the commission may require. The director
14 shall call a meeting of the commission at his or her discretion or upon
15 the direction of the chairperson or upon a written request of two or more
16 members of the commission. The commission may employ such other employees
17 as may be necessary to properly carry out the Nebraska Real Estate
18 License Act, fix the salaries of such employees, and make such other
19 expenditures as are necessary to properly carry out the act. The office
20 of the commission shall be maintained in Lincoln and all files, records,
21 and property of the commission shall remain in such office. Neither the
22 director nor any employee of the commission may be an officer or paid
23 employee of any real estate association or group of real estate dealers
24 or brokers.

25 (5) The commission shall ~~may~~ adopt and promulgate rules and
26 regulations to carry out the Nebraska Real Estate License Act ~~relating to~~
27 ~~the administration of but not inconsistent with the act.~~

28 (6) The commission may conduct or assist in conducting real estate
29 institutes and seminars and incur and pay the necessary expenses in
30 connection therewith, which institutes or seminars shall be open to all
31 licensees.

1 (7) The commission may charge reasonable fees for services it
2 renders, not to exceed the actual costs thereof, except as otherwise
3 provided in the act. The fees established by the commission pursuant to
4 the act shall be established at the level necessary to meet expenditures
5 of the commission as approved by the Legislature and to provide a
6 sufficient cash fund balance.

7 Sec. 5. This act becomes operative on October 1, 2016.

8 Sec. 6. Original sections 81-885 and 81-885.07, Reissue Revised
9 Statutes of Nebraska, and section 81-885.01, Revised Statutes Supplement,
10 2015, are repealed.