

# COMMITTEE STATEMENT

## LB 627

HEARING DATE: 1/29/99

COMMITTEE ON: Judiciary

TITLE: (Brashear ) Prohibit certain acts relating to real estate referral fees

### ROLL CALL VOTE – FINAL COMMITTEE ACTION

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Advanced to General File

Advanced to General File with Amendments

X Indefinitely Postponed

#### Vote Results:

8 Yes Senators Baker, Bourne, Brashear, Chambers, Connealy,  
Hilgert, Pedersen, Robak

No

Present, not voting

Absent

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#### PROPOSERS

Senator Kermit Brashear

Walt Radcliffe

Robert Moline

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#### REPRESENTING

Introducer

Nebraska Realtors Association

Nebraska Realtors Association

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#### OPPOSERS

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#### REPRESENTING

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#### NEUTRAL

Les Tyrrell

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#### REPRESENTING

Nebraska Real Estate Commission

#### SUMMARY OF PURPOSE AND/OR CHANGES:

Legislative Bill 627 **places restrictions on activities related to real estate referral fees.**

Section 1 provides definitions of the terms “agency contract,” “agency relationship,” “contractual cooperative brokerage relationship,” “core real estate services,” “real estate business,” “referral fee,” and “subagency relationship.”

Section 2(1)(a) makes it unlawful to solicit or request a referral fee from a real estate licensee without reasonable cause. Reasonable cause exists when the party seeking

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the referral fee actually introduced the business to the licensed person *and* the parties have a subagency relationship, contractual referral fee relationship or contractual cooperative brokerage relationship (each as defined in Section 1). Reasonable cause allows the solicitation or request, but does not create a legal right to the referral fee.

Section 2(1)(b) makes it unlawful to threaten to reduce or withhold benefits or take other action adverse to the interests of a client of a licensed person because of an agency relationship.

Section 2(1)(c) makes it unlawful to provide or receive any consideration for the referral of real estate business, except for core real estate services (as defined in Section 1) actually provided *and* unless the parties have a subagency relationship, contractual referral fee relationship or contractual cooperative brokerage relationship (each as defined in Section 1).

Section 2(2) makes it unlawful for a real estate licensee to counsel a client or any other licensed person on how to terminate or amend an existing agency contract.

Section 2(3) provides that any agreement by which a real estate licensee agrees to pay a referral fee must be in writing and signed by both parties.

Section 2(4) provides that the intent to pay or accept referral fees shall be adverse material facts that shall be disclosed to clients or prospective clients by the licensed person.

Section 2(5) provides that violation of the act is an unfair trade practice and may result in disciplinary action by the Nebraska Real Estate Commission.

Section 2(6) provides that violation of the act is a Class IV misdemeanor.

EXPLANATION OF AMENDMENTS, IF ANY:

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Senator