



Ninety-Seventh Legislature - First Session - 2001
Committee Statement
LB 551

Hearing Date: January 29, 2001
Committee On: Banking, Commerce and Insurance

Introducers: (Bruning)
Title: Change provisions for agents and real estate licensees

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - Advanced to General File with Amendments
 - X Indefinitely Postponed
-

Vote Results:

- | | | |
|---|---------------------|--|
| 6 | Yes | Senators Landis, Aguilar, Bruning, Jensen, Kremer, Smith |
| | No | |
| | Present, not voting | |
| 2 | Absent | Senators Tyson, Bourne |
-

Proponents:

Senator Jon Bruning
Walter Radcliffe
Mike Elgert
Ward F. Hoppe
Bill Mueller

Representing:

Introducer
NE Realtors Association
NE Realtors Association
NE Realtors Association
NE State Bar Association

Opponents:

Les Tyrrell

Representing:

NE Real Estate Commission

Neutral:

Representing:

Summary of purpose and/or changes:

LB 551 (Bruning) would amend various sections of statute regarding real estate licensees.

The bill would provide, section by section, as follows:

Section 1 would amend section 76-2416 of the agency relationship sections to provide that “A licensee shall have a duty only to his or her own client unless specifically provided otherwise in sections 76-2401 to 76-2430” (the agency relationship sections).

Section 2 would amend section 76-2417 of the agency relationship sections to provide that (1) a licensee acting as a seller's or landlord's agent owes no duty or obligation to a "buyer or tenant or prospective buyer or tenant" (rather than to a "customer"), except that a licensee shall disclose in writing to "the buyer or tenant or prospective buyer or tenant" (rather than to "any customer") all adverse material facts actually known by the licensee, and (2) a seller's or landlord's agent owes no duty to conduct an independent inspection of the property for the benefit of the "buyer or tenant or prospective buyer or tenant" (rather than for the benefit of the "customer") and owes no duty to independently verify the accuracy or completeness of any statement, "including the seller's disclosure statement under section 76-2,120," made by the client, "the customer, or any third party, including" any independent inspector.

Section 3 would amend section 76-2418 of the agency relationship statutes to provide that (1) a buyer's or tenant's agent owes no duty to independently verify the accuracy or completeness of statements made by "any third party", and (2) "Unless required by a written brokerage agreement, a buyer's agent owes no duty to his or her client or any third party with regard to a seller's disclosure statement under section 76-2,120, except when such a statement is required, a buyer's agent shall assure that a copy of such statement is delivered to the buyer on or before the effective date of any purchase agreement which binds the purchaser to purchase such property."

Section 4 would amend section 76-2421 of the agency relationship statutes to provide that before engaging in broker activities, a licensee who is working as an agent or subagent of the seller or landlord with a buyer or tenant not represented by a licensee or who is working as an agent or subagent of the buyer or tenant with a seller or landlord not represented by a licensee shall provide a written disclosure to the customer which includes a list of tasks that the agent acting as an agent or subagent "may" perform (rather than "intends to" perform) with the customer.

Section 5 would amend section 76-2422 of the agency relationship statutes to provide that before engaging in any broker activities, a designated broker who intends to establish an agency relationship with any party or parties to a transaction in which the designated broker's duties and responsibilities "vary from" (rather than "exceed") those contained in sections 76-2417 and 76-2418 shall enter into a written agency agreement with a party or parties to the transaction to perform services on their behalf.

Section 6 would amend section 76-2426 of the agency relationship statutes to repeal language which makes a client or licensee liable for a misrepresentation of another if the client or licensee "should have known" of the misrepresentation. This section applies to the following situations: liability of a client for a misrepresentation of his or her limited agent; liability of a limited agent or subagent for a misrepresentation of his or her client; liability of a limited agent for a misrepresentation of a subagent; and liability of a subagent for a misrepresentation of the primary limited agent.

Section 7 would amend section 81-885.20 of the Nebraska Real Estate License Act to provide that "the total transfer fee for all transfers occurring at one time shall not exceed five hundred dollars per designated broker." (This would be an exception to language which currently provides that when a salesperson or associate broker transfers from one employing

broker to another, when an associate broker changes his or her status from associate broker to that of broker, or when a broker changes his or her status to that of associate broker, a transfer fee of not more than fifty dollars shall be paid to the State Real Estate Commission.)

Section 8 would amend section 81-885.24 of the Nebraska Real Estate License Act which enumerates unfair trade practices which describe grounds for sanctions by the Nebraska Real Estate Commission. The bill would amend subdivision (29) of this section to provide that demonstrating “negligence” to act as a broker, associate broker, or salesperson would no longer be an unfair trade practice.

Section 9 would amend section 81-885.52 of the Real Estate License Act to (1) repeal the requirement that when the Nebraska Real Estate Commission certifies the number of hours to be awarded for participation in an approved continuing education activity, it shall do so “based upon contact or classroom hours” and (2) repeal the requirement that the Nebraska Real Estate Commission “shall certify the number of hours to be awarded for successful completion of a correspondence course or program of independent study, based upon the number of hours which would be awarded in an equivalent classroom course or program.”

Section 10 would provide repealers.

NOTE: Some of the provisions of LB 551 were adopted by the Banking, Commerce and Insurance Committee as committee amendments to LB 215.

Explanation of amendments, if any:

Senator David M. Landis, Chairperson