

AMENDMENTS TO LB808

Introduced by Lindstrom, 18.

1           1. Strike the original sections and all amendments thereto and  
2 insert the following new sections:

3           Section 1. Section 1-116, Revised Statutes Cumulative Supplement,  
4 2018, is amended to read:

5           1-116 ~~Prior to January 1, 1998, a person shall be eligible to take~~  
6 ~~the examination described in section 1-114 if he or she meets the~~  
7 ~~requirements of subdivision (1)(a) of section 1-114.~~

8           Any person making initial application ~~on or after January 1, 1998,~~  
9 to take the examination described in section 1-114 shall be eligible to  
10 take the examination if he or she has completed at least one hundred  
11 fifty semester hours or two hundred twenty-five quarter hours of  
12 postsecondary academic credit and has earned a baccalaureate or higher  
13 degree from a college or university accredited by a regional accrediting  
14 agency recognized by the United States Department of Education or a  
15 similar agency as determined to be acceptable by the board. The person  
16 shall demonstrate that accounting, auditing, business, and other subjects  
17 at the appropriate academic level as required by the board are included  
18 within the required hours of postsecondary academic credit. A person who  
19 expects to complete the postsecondary academic credit and earn the degree  
20 as required by this section may take test sections of the examination  
21 within one hundred twenty days prior to completing the postsecondary  
22 academic credit and earning the degree within sixty days following when  
23 ~~the examination is held shall be eligible to take such examination, but~~  
24 such person shall not receive any credit for such test sections  
25 ~~examination~~ unless evidence satisfactory to the board showing that such  
26 person has completed the postsecondary academic credit and earned the  
27 degree as required by this section is received by the board within one

1 hundred fifty ninety days following when the first test section of the  
2 examination is taken held. The board shall not prescribe the specific  
3 curricula of colleges or universities. If the applicant is an individual,  
4 the application shall include the applicant's social security number.

5 Sec. 2. Section 21-201, Revised Statutes Cumulative Supplement,  
6 2018, is amended to read:

7 21-201 (MBCA 1.01) Sections 21-201 to 21-2,232 and sections 3 to 10  
8 of this act shall be known and may be cited as the Nebraska Model  
9 Business Corporation Act.

10 Sec. 3. (MBCA 1.45) In sections 3 to 10 of this act:

11 (1) Corporate action means any action taken by or on behalf of the  
12 corporation, including any action taken by the incorporator, the board of  
13 directors, a committee of the board of directors, an officer or agent of  
14 the corporation, or the shareholders.

15 (2) Date of the defective corporate action means the date, or the  
16 approximate date, if the exact date is unknown, the defective corporate  
17 action was purported to have been taken.

18 (3) Defective corporate action means (i) any corporate action  
19 purportedly taken that is, and at the time such corporate action was  
20 purportedly taken would have been, within the power of the corporation,  
21 but is void or voidable due to a failure of authorization, and (ii) an  
22 overissue.

23 (4) Failure of authorization means the failure to authorize,  
24 approve, or otherwise effect a corporate action in compliance with the  
25 provisions of the Nebraska Model Business Corporation Act, the articles  
26 of incorporation or bylaws, a corporate resolution or any plan or  
27 agreement to which the corporation is a party, if and to the extent such  
28 failure would render such corporate action void or voidable.

29 (5) Overissue means the purported issuance of:

30 (i) Shares of a class or series in excess of the number of shares of  
31 a class or series the corporation has the power to issue under section

1 21-237 at the time of such issuance; or  
2 (ii) Shares of any class or series that is not then authorized for  
3 issuance by the articles of incorporation.

4 (6) Putative shares means the shares of any class or series,  
5 including shares issued upon exercise of rights, options, warrants, or  
6 other securities convertible into shares of the corporation, or interests  
7 with respect to such shares, that were created or issued as a result of a  
8 defective corporate action, that (i) but for any failure of authorization  
9 would constitute valid shares, or (ii) cannot be determined by the board  
10 of directors to be valid shares.

11 (7) Valid shares means the shares of any class or series that have  
12 been duly authorized and validly issued in accordance with the act,  
13 including as a result of ratification or validation under sections 3 to  
14 10 of this act.

15 (8) Validation effective time with respect to any defective  
16 corporate action ratified under sections 3 to 10 of this act means the  
17 later of:

18 (i) The time at which the ratification of the defective corporate  
19 action is approved by the shareholders, or if approval of shareholders is  
20 not required, the time at which the notice required by section 7 of this  
21 act becomes effective in accordance with section 21-215; and

22 (ii) The time at which any articles of validation filed in  
23 accordance with section 9 of this act become effective.

24 The validation effective time shall not be affected by the filing or  
25 pendency of a judicial proceeding under section 10 of this act or  
26 otherwise, unless otherwise ordered by the court.

27 Sec. 4. (MBCA 1.46) (a) A defective corporate action shall not be  
28 void or voidable if ratified in accordance with section 5 of this act or  
29 validated in accordance with section 10 of this act.

30 (b) Ratification under section 5 of this act or validation under  
31 section 10 of this act shall not be deemed to be the exclusive means of

1 ratifying or validating any defective corporate action, and the absence  
2 or failure of ratification in accordance with sections 3 to 10 of this  
3 act shall not, of itself, affect the validity or effectiveness of any  
4 corporate action properly ratified under common law or otherwise, nor  
5 shall it create a presumption that any such corporate action is or was a  
6 defective corporate action or void or voidable.

7 (c) In the case of an overissue, putative shares shall be valid  
8 shares effective as of the date originally issued or purportedly issued  
9 upon:

10 (1) The effectiveness under sections 3 to 10 of this act and under  
11 sections 21-2,150 to 21-2,160 of an amendment to the articles of  
12 incorporation authorizing, designating, or creating such shares; or

13 (2) The effectiveness of any other corporate action under sections 3  
14 to 10 of this act ratifying the authorization, designation, or creation  
15 of such shares.

16 Sec. 5. (MBCA 1.47) (a) To ratify a defective corporate action  
17 under this section, other than the ratification of an election of the  
18 initial board of directors under subsection (b) of this section, the  
19 board of directors shall take action ratifying the action in accordance  
20 with section 6 of this act, stating:

21 (1) The defective corporate action to be ratified and, if the  
22 defective corporate action involved the issuance of putative shares, the  
23 number and type of putative shares purportedly issued;

24 (2) The date of the defective corporate action;

25 (3) The nature of the failure of authorization with respect to the  
26 defective corporate action to be ratified; and

27 (4) That the board of directors approves the ratification of the  
28 defective corporate action.

29 (b) In the event that a defective corporate action to be ratified  
30 relates to the election of the initial board of directors of the  
31 corporation under subdivision (a)(2) of section 21-223, a majority of the

1 persons who, at the time of the ratification, are exercising the powers  
2 of directors may take an action stating:

3 (1) The name of the person or persons who first took action in the  
4 name of the corporation as the initial board of directors of the  
5 corporation;

6 (2) The earlier of the date on which such persons first took such  
7 action or were purported to have been elected as the initial board of  
8 directors; and

9 (3) That the ratification of the election of such person or persons  
10 as the initial board of directors is approved.

11 (c) If any provision of the Nebraska Model Business Corporation Act,  
12 the articles of incorporation or bylaws, any corporate resolution, or any  
13 plan or agreement to which the corporation is a party in effect at the  
14 time action under subsection (a) of this section is taken requires  
15 shareholder approval or would have required shareholder approval at the  
16 date of the occurrence of the defective corporate action, the  
17 ratification of the defective corporate action approved in the action  
18 taken by the directors under subsection (a) of this section shall be  
19 submitted to the shareholders for approval in accordance with section 6  
20 of this act.

21 (d) Unless otherwise provided in the action taken by the board of  
22 directors under subsection (a) of this section, after the action by the  
23 board of directors has been taken and, if required, approved by the  
24 shareholders, the board of directors may abandon the ratification at any  
25 time before the validation effective time without further action of the  
26 shareholders.

27 Sec. 6. (MBCA 1.48) (a) The quorum and voting requirements  
28 applicable to a ratifying action by the board of directors under  
29 subsection (a) of section 5 of this act shall be the quorum and voting  
30 requirements applicable to the corporate action proposed to be ratified  
31 at the time such ratifying action is taken.

1           (b) If the ratification of the defective corporate action requires  
2 approval by the shareholders under subsection (c) of section 5 of this  
3 act, and if the approval is to be given at a meeting, the corporation  
4 shall notify each holder of valid and putative shares, regardless of  
5 whether entitled to vote, as of the record date for notice of the meeting  
6 and as of the date of the occurrence of defective corporate action,  
7 provided that notice shall not be required to be given to holders of  
8 valid or putative shares whose identities or addresses for notice cannot  
9 be determined from the records of the corporation. The notice must state  
10 that the purpose, or one of the purposes, of the meeting, is to consider  
11 ratification of a defective corporate action and must be accompanied by  
12 (i) either a copy of the action taken by the board of directors in  
13 accordance with subsection (c) of section 5 of this act or the  
14 information required by subdivisions (a)(1) through (4) of section 5 of  
15 this act, and (ii) a statement that any claim that the ratification of  
16 such defective corporate action and any putative shares issued as a  
17 result of such defective corporate action should not be effective, or  
18 should be effective only on certain conditions, must be brought within  
19 one hundred twenty days from the applicable validation effective time.

20           (c) Except as provided in subsection (d) of this section with  
21 respect to the voting requirements to ratify the election of a director,  
22 the quorum and voting requirements applicable to the approval by the  
23 shareholders required by subsection (c) of section 5 of this act shall be  
24 the quorum and voting requirements applicable to the corporate action  
25 proposed to be ratified at the time of such shareholder approval.

26           (d) The approval by shareholders to ratify the election of a  
27 director requires that the votes cast within the voting group favoring  
28 such ratification exceed the votes cast opposing such ratification of the  
29 election at a meeting at which a quorum is present.

30           (e) Putative shares on the record date for determining the  
31 shareholders entitled to vote on any matter submitted to shareholders

1 under subsection (c) of section 5 of this act, and without giving effect  
2 to any ratification of putative shares that becomes effective as a result  
3 of such vote, shall neither be entitled to vote nor counted for quorum  
4 purposes in any vote to approve the ratification of any defective  
5 corporate action.

6 (f) If the approval under this section of putative shares would  
7 result in an overissue, in addition to the approval required by section 5  
8 of this act, approval of an amendment to the articles of incorporation  
9 under sections 21-2,150 to 21-2,160 to increase the number of shares of  
10 an authorized class or series or to authorize the creation of a class or  
11 series of shares so there would be no overissue shall also be required.

12 Sec. 7. (MBCA 1.49) (a) Unless shareholder approval is required  
13 under subsection (c) of section 5 of this act, prompt notice of an action  
14 taken under section 5 of this act shall be given to each holder of valid  
15 and putative shares, regardless of whether entitled to vote, as of (i)  
16 the date of such action by the board of directors and (ii) the date of  
17 the defective corporate action ratified, provided that notice shall not  
18 be required to be given to holders of valid and putative shares whose  
19 identities or addresses for notice cannot be determined from the records  
20 of the corporation.

21 (b) The notice must contain (i) either a copy of the action taken by  
22 the board of directors in accordance with subsection (a) or (b) of  
23 section 5 of this act or the information required by subdivisions (a)(1)  
24 through (4) or (b)(1) through (3) of section 5 of this act, as  
25 applicable, and (ii) a statement that any claim that the ratification of  
26 the defective corporate action and any putative shares issued as a result  
27 of such defective corporate action should not be effective, or should be  
28 effective only on certain conditions, must be brought within one hundred  
29 twenty days from the applicable validation effective time.

30 (c) No notice under this section is required with respect to any  
31 action required to be submitted to shareholders for approval under

1 subsection (c) of section 5 of this act if notice is given in accordance  
2 with subsection (b) of section 6 of this act.

3 (d) A notice required by this section may be given in any manner  
4 permitted by section 21-215 and, for any corporation subject to the  
5 reporting requirements of section 13 or 15(d) of the Securities Exchange  
6 Act of 1934, may be given by means of a filing or furnishing of such  
7 notice with the United States Securities and Exchange Commission.

8 Sec. 8. (MBCA 1.50) From and after the validation effective time,  
9 and without regard to the one-hundred-twenty-day period during which a  
10 claim may be brought under section 10 of this act:

11 (a) Each defective corporate action ratified in accordance with  
12 section 5 of this act shall not be void or voidable as a result of the  
13 failure of authorization identified in the action taken under subsection  
14 (a) or (b) of section 5 of this act and shall be deemed a valid corporate  
15 action effective as of the date of the defective corporate action;

16 (b) The issuance of each putative share or fraction of a putative  
17 share purportedly issued pursuant to a defective corporate action  
18 identified in the action taken under section 5 of this act shall not be  
19 void or voidable, and each such putative share or fraction of a putative  
20 share shall be deemed to be an identical share or fraction of a valid  
21 share as of the time it was purportedly issued; and

22 (c) Any corporate action taken subsequent to the defective corporate  
23 action ratified in accordance with sections 3 to 10 of this act in  
24 reliance on such defective corporate action having been validly effected  
25 and any subsequent defective corporate action resulting directly or  
26 indirectly from such original defective corporate action shall be valid  
27 as of the time taken.

28 Sec. 9. (MBCA 1.51) (a) If the defective corporate action ratified  
29 under sections 3 to 10 of this act would have required under any other  
30 section of the Nebraska Model Business Corporation Act a filing in  
31 accordance with the act, then, regardless of whether a filing was

1 previously made in respect of such defective corporate action and in lieu  
2 of a filing otherwise required by the act, the corporation shall file  
3 articles of validation in accordance with this section, and such articles  
4 of validation shall serve to amend or substitute for any other filing  
5 with respect to such defective corporate action required by the act.

6 (b) The articles of validation must set forth:

7 (1) The defective corporate action that is the subject of the  
8 articles of validation, including, in the case of any defective corporate  
9 action involving the issuance of putative shares, the number and type of  
10 putative shares issued and the date or dates upon which such putative  
11 shares were purported to have been issued;

12 (2) The date of the defective corporate action;

13 (3) The nature of the failure of authorization in respect of the  
14 defective corporate action;

15 (4) A statement that the defective corporate action was ratified in  
16 accordance with section 5 of this act, including the date on which the  
17 board of directors ratified such defective corporate action and the date,  
18 if any, on which the shareholders approved the ratification of such  
19 defective corporate action; and

20 (5) The information required by subsection (c) of this section.

21 (c) The articles of validation must also contain the following  
22 information:

23 (1) If a filing was previously made in respect of the defective  
24 corporate action and no changes to such filing are required to give  
25 effect to the ratification of such defective corporate action in  
26 accordance with section 5 of this act, the articles of validation must  
27 set forth (i) the name, title, and filing date of the filing previously  
28 made and any articles of correction to that filing and (ii) a statement  
29 that a copy of the filing previously made, together with any articles of  
30 correction to that filing, is attached as an exhibit to the articles of  
31 validation;

1           (2) If a filing was previously made in respect of the defective  
2 corporate action and such filing requires any change to give effect to  
3 the ratification of such defective corporate action in accordance with  
4 section 5 of this act, the articles of validation must set forth (i) the  
5 name, title, and filing date of the filing previously made and any  
6 articles of correction to that filing and (ii) a statement that a filing  
7 containing all of the information required to be included under the  
8 applicable section or sections of the act to give effect to such  
9 defective corporate action is attached as an exhibit to the articles of  
10 validation, and (iii) the date and time that such filing is deemed to  
11 have become effective; or

12           (3) If a filing was not previously made in respect of the defective  
13 corporate action and the defective corporate action ratified under  
14 section 5 of this act would have required a filing under any other  
15 section of the act, the articles of validation must set forth (i) a  
16 statement that a filing containing all of the information required to be  
17 included under the applicable section or sections of the act to give  
18 effect to such defective corporate action is attached as an exhibit to  
19 the articles of validation, and (ii) the date and time that such filing  
20 is deemed to have become effective.

21           Sec. 10. (MBCA 1.52) (a) Upon application by the corporation, any  
22 successor entity to the corporation, a director of the corporation, any  
23 shareholder, beneficial shareholder, or unrestricted voting trust  
24 beneficial owner of the corporation, including any such shareholder,  
25 beneficial shareholder, or unrestricted voting trust beneficial owner as  
26 of the date of the defective corporate action ratified under section 5 of  
27 this act, or any other person claiming to be substantially and adversely  
28 affected by a ratification under section 5 of this act, the court may:

29           (1) Determine the validity and effectiveness of any corporate action  
30 or defective corporate action;

31           (2) Determine the validity and effectiveness of any ratification

1 under section 5 of this act;

2 (3) Determine the validity of any putative shares; and

3 (4) Modify or waive any of the procedures specified in section 5 or  
4 6 of this act to ratify a defective corporate action.

5 (b) In connection with an action under this section, the court may  
6 make such findings or orders, and take into account any factors or  
7 considerations, regarding such matters as it deems proper under the  
8 circumstances.

9 (c) Service of process of the application under subsection (a) of  
10 this section on the corporation may be made in any manner provided by  
11 statute of this state or by rule of the applicable court for service on  
12 the corporation, and no other party need be joined in order for the court  
13 to adjudicate the matter. In an action filed by the corporation, the  
14 court may require notice of the action be provided to other persons  
15 specified by the court and permit such other persons to intervene in the  
16 action.

17 (d) Notwithstanding any other provision of this section or otherwise  
18 under applicable law, any action asserting that the ratification of any  
19 defective corporate action and any putative shares issued as a result of  
20 such defective corporate action should not be effective, or should be  
21 effective only on certain conditions, shall be brought within one hundred  
22 twenty days of the validation effective time.

23 Sec. 11. Sections 11 to 39 of this act shall be known and may be  
24 cited as the Uniform Trust Decanting Act.

25 Sec. 12. In the Uniform Trust Decanting Act:

26 (1) Appointive property means the property or property interest  
27 subject to a power of appointment.

28 (2) Ascertainable standard has the same meaning as in section  
29 30-3803.

30 (3) Authorized fiduciary means:

31 (A) a trustee or other fiduciary, other than a settlor, that has

1 discretion to distribute or direct a trustee to distribute part or all of  
2 the principal of the first trust to one or more current beneficiaries;

3 (B) a special fiduciary appointed under section 19 of this act; or

4 (C) a special-needs fiduciary under section 23 of this act.

5 (4) Beneficiary means a person that:

6 (A) has a present or future, vested or contingent, beneficial  
7 interest in a trust;

8 (B) holds a power of appointment over trust property; or

9 (C) is an identified charitable organization that will or may  
10 receive distributions under the terms of the trust.

11 (5) Charitable interest means an interest in a trust which:

12 (A) is held by an identified charitable organization and makes the  
13 organization a qualified beneficiary;

14 (B) benefits only charitable organizations and, if the interest were  
15 held by an identified charitable organization, would make the  
16 organization a qualified beneficiary; or

17 (C) is held solely for charitable purposes and, if the interest were  
18 held by an identified charitable organization, would make the  
19 organization a qualified beneficiary.

20 (6) Charitable organization means:

21 (A) a person, other than an individual, organized and operated  
22 exclusively for charitable purposes; or

23 (B) a government or governmental subdivision, agency, or  
24 instrumentality, to the extent it holds funds exclusively for a  
25 charitable purpose.

26 (7) Charitable purpose has the same meaning as the description of a  
27 charitable trust in section 30-3831.

28 (8) Court means the court in this state having jurisdiction in  
29 matters relating to trusts.

30 (9) Current beneficiary means a beneficiary that on the date the  
31 beneficiary's qualification is determined is a distributee or permissible

1 distributee of trust income or principal. The term includes the holder of  
2 a presently exercisable general power of appointment but does not include  
3 a person that is a beneficiary only because the person holds any other  
4 power of appointment.

5 (10) Decanting power or the decanting power means the power of an  
6 authorized fiduciary under the act to distribute property of a first  
7 trust to one or more second trusts or to modify the terms of the first  
8 trust.

9 (11) Expanded distributive discretion means a discretionary power of  
10 distribution that is not limited to an ascertainable standard or a  
11 reasonably definite standard.

12 (12) First trust means a trust over which an authorized fiduciary  
13 may exercise the decanting power.

14 (13) First-trust instrument means the trust instrument for a first  
15 trust.

16 (14) General power of appointment means a power of appointment  
17 exercisable in favor of a powerholder, the powerholder's estate, a  
18 creditor of the powerholder, or a creditor of the powerholder's estate.

19 (15) Jurisdiction has the same meaning as in section 30-3803.

20 (16) Person means an individual, estate, business or nonprofit  
21 entity, public corporation, government or governmental subdivision,  
22 agency, or instrumentality, or other legal entity.

23 (17) Power of appointment means a power that enables a powerholder  
24 acting in a nonfiduciary capacity to designate a recipient of an  
25 ownership interest in or another power of appointment over the appointive  
26 property. The term does not include a power of attorney.

27 (18) Powerholder means a person in which a donor creates a power of  
28 appointment.

29 (19) Presently exercisable power of appointment means a power of  
30 appointment exercisable by the powerholder at the relevant time. The  
31 term:

1       (A) includes a power of appointment exercisable only after the  
2 occurrence of a specified event, the satisfaction of an ascertainable  
3 standard, or the passage of a specified time only after:

4       (i) the occurrence of the specified event;

5       (ii) the satisfaction of the ascertainable standard; or

6       (iii) the passage of the specified time; and

7       (B) does not include a power exercisable only at the powerholder's  
8 death.

9       (20) Qualified beneficiary has the same meaning as in section  
10 30-3803.

11       (21) Reasonably definite standard means a clearly measurable  
12 standard under which a holder of a power of distribution is legally  
13 accountable within the meaning of 26 U.S.C. 674(b)(5)(A), as such section  
14 existed on the operative date of this section, and any applicable  
15 regulations.

16       (22) Record means information that is inscribed on a tangible medium  
17 or that is stored in an electronic or other medium and is retrievable in  
18 perceivable form.

19       (23) Second trust means:

20       (A) a first trust after modification under the Uniform Trust  
21 Decanting Act; or

22       (B) a trust to which a distribution of property from a first trust  
23 is or may be made under the act.

24       (24) Second-trust instrument means the trust instrument for a second  
25 trust.

26       (25) Settlor, except as otherwise provided in section 35 of this  
27 act, has the same meaning as in section 30-3803.

28       (26) Sign means, with present intent to authenticate or adopt a  
29 record:

30       (A) to execute or adopt a tangible symbol; or

31       (B) to attach to or logically associate with the record an

1 electronic symbol, sound, or process.

2 (27) State has the same meaning as in section 30-3803.

3 (28) Terms of the trust means:

4 (A) Except as otherwise provided in subdivision (B) of this  
5 subdivision, the manifestation of the settlor's intent regarding a  
6 trust's provisions as:

7 (i) expressed in the trust instrument; or

8 (ii) established by other evidence that would be admissible in a  
9 judicial proceeding; or

10 (B) the trust's provisions as established, determined, or amended  
11 by:

12 (i) a trustee or other person in accordance with applicable law;

13 (ii) a court order; or

14 (iii) a nonjudicial settlement agreement under section 30-3811.

15 (29) Trust instrument means a record executed by the settlor to  
16 create a trust or by any person to create a second trust which contains  
17 some or all of the terms of the trust, including any amendments.

18 Sec. 13. (a) Except as otherwise provided in subsections (b) and  
19 (c) of this section, the Uniform Trust Decanting Act applies to an  
20 express trust that is irrevocable or revocable by the settlor only with  
21 the consent of the trustee or a person holding an adverse interest.

22 (b) The act does not apply to a trust held solely for charitable  
23 purposes.

24 (c) Subject to section 25 of this act, a trust instrument may  
25 restrict or prohibit exercise of the decanting power.

26 (d) The act does not limit the power of a trustee, powerholder, or  
27 other person to distribute or appoint property in further trust or to  
28 modify a trust under the trust instrument, law of this state other than  
29 the act, common law, a court order, or a nonjudicial settlement  
30 agreement.

31 (e) The act does not affect the ability of a settlor to provide in a

1 trust instrument for the distribution of the trust property or  
2 appointment in further trust of the trust property or for modification of  
3 the trust instrument.

4       Sec. 14. (a) In exercising the decanting power, an authorized  
5 fiduciary shall act in accordance with its fiduciary duties, including  
6 the duty to act in accordance with the purposes of the first trust.

7       (b) The Uniform Trust Decanting Act does not create or imply a duty  
8 to exercise the decanting power or to inform beneficiaries about the  
9 applicability of the act.

10       (c) Except as otherwise provided in a first-trust instrument, for  
11 purposes of the act and section 30-3866 and subsection (a) of section  
12 38-3867, the terms of the first trust are deemed to include the decanting  
13 power.

14       Sec. 15. The Uniform Trust Decanting Act applies to a trust created  
15 before, on, or after the operative date of this section which:

16       (1) has its principal place of administration in this state,  
17 including a trust whose principal place of administration has been  
18 changed to this state; or

19       (2) provides by its trust instrument that it is governed by the law  
20 of this state or is governed by the law of this state for the purpose of:

21       (A) administration, including administration of a trust whose  
22 governing law for purposes of administration has been changed to the law  
23 of this state;

24       (B) construction of terms of the trust; or

25       (C) determining the meaning or effect of terms of the trust.

26       Sec. 16. A trustee or other person that reasonably relies on the  
27 validity of a distribution of part or all of the property of a trust to  
28 another trust, or a modification of a trust, under the Uniform Trust  
29 Decanting Act, law of this state other than the act, or the law of  
30 another jurisdiction is not liable to any person for any action or  
31 failure to act as a result of the reliance.

1           Sec. 17. (a) In this section, a notice period begins on the day  
2 notice is given under subsection (c) of this section and ends fifty-nine  
3 days after the day notice is given.

4           (b) Except as otherwise provided in the Uniform Trust Decanting Act,  
5 an authorized fiduciary may exercise the decanting power without the  
6 consent of any person and without court approval.

7           (c) Except as otherwise provided in subsection (f) of this section,  
8 an authorized fiduciary shall give notice in a record of the intended  
9 exercise of the decanting power not later than sixty days before the  
10 exercise to:

11           (1) each settlor of the first trust, if living or then in existence;

12           (2) each qualified beneficiary of the first trust;

13           (3) each holder of a presently exercisable power of appointment over  
14 any part or all of the first trust;

15           (4) each person that currently has the right to remove or replace  
16 the authorized fiduciary;

17           (5) each other fiduciary of the first trust;

18           (6) each fiduciary of the second trust;

19           (7) each person acting as an advisor or protector of the first  
20 trust;

21           (8) each person holding an adverse interest who has the power to  
22 consent to the revocation of the first trust; and

23           (9) the Attorney General, if subsection (b) of section 24 of this  
24 act applies.

25           (d) An authorized fiduciary is not required to give notice under  
26 subsection (c) of this section to a person that is not known to the  
27 fiduciary or is known to the fiduciary but cannot be located by the  
28 fiduciary after reasonable diligence.

29           (e) A notice under subsection (c) of this section must:

30           (1) specify the manner in which the authorized fiduciary intends to  
31 exercise the decanting power;

1           (2) specify the proposed effective date for exercise of the power;

2           (3) include a copy of the first-trust instrument; and

3           (4) include a copy of all second-trust instruments.

4           (f) The decanting power may be exercised before expiration of the  
5 notice period under subsection (a) of this section if all persons  
6 entitled to receive notice waive the period in a signed record.

7           (g) The receipt of notice, waiver of the notice period, or  
8 expiration of the notice period does not affect the right of a person to  
9 file an application under section 19 of this act asserting that:

10           (1) an attempted exercise of the decanting power is ineffective  
11 because it did not comply with the act or was an abuse of discretion or  
12 breach of fiduciary duty; or

13           (2) section 32 of this act applies to the exercise of the decanting  
14 power.

15           (h) An exercise of the decanting power is not ineffective because of  
16 the failure to give notice to one or more persons under subsection (c) of  
17 this section if the authorized fiduciary acted with reasonable care to  
18 comply with subsection (c) of this section.

19           Sec. 18. (a) Notice to a person with authority to represent and  
20 bind another person under a first-trust instrument or sections 30-3822 to  
21 30-3826 has the same effect as notice given directly to the person  
22 represented.

23           (b) Consent of or waiver by a person with authority to represent and  
24 bind another person under a first-trust instrument or sections 30-3822 to  
25 30-3826 is binding on the person represented unless the person  
26 represented objects to the representation before the consent or waiver  
27 otherwise would become effective.

28           (c) A person with authority to represent and bind another person  
29 under a first-trust instrument or sections 30-3822 to 30-3826 may file an  
30 application under section 19 of this act on behalf of the person  
31 represented.

1        (d) A settlor may not represent or bind a beneficiary for purposes  
2 of the Uniform Trust Decanting Act.

3        Sec. 19. (a) On application of an authorized fiduciary, a person  
4 entitled to notice under subsection (c) of section 17 of this act, a  
5 beneficiary, or with respect to a charitable interest the Attorney  
6 General or other person that has standing to enforce the charitable  
7 interest, the court may:

8        (1) provide instructions to the authorized fiduciary regarding  
9 whether a proposed exercise of the decanting power is permitted under the  
10 Uniform Trust Decanting Act and consistent with the fiduciary duties of  
11 the authorized fiduciary;

12        (2) appoint a special fiduciary and authorize the special fiduciary  
13 to determine whether the decanting power should be exercised under the  
14 act and to exercise the decanting power;

15        (3) approve an exercise of the decanting power;

16        (4) determine that a proposed or attempted exercise of the decanting  
17 power is ineffective because:

18        (A) after applying section 32 of this act, the proposed or attempted  
19 exercise does not or did not comply with the act; or

20        (B) the proposed or attempted exercise would be or was an abuse of  
21 the fiduciary's discretion or a breach of fiduciary duty;

22        (5) determine the extent to which section 32 of this act applies to  
23 a prior exercise of the decanting power;

24        (6) provide instructions to the trustee regarding the application of  
25 section 32 of this act to a prior exercise of the decanting power; or

26        (7) order other relief to carry out the purposes of the act.

27        (b) On application of an authorized fiduciary, the court may  
28 approve:

29        (1) an increase in the fiduciary's compensation under section 26 of  
30 this act; or

31        (2) a modification under section 28 of this act of a provision

1 granting a person the right to remove or replace the fiduciary.

2 Sec. 20. An exercise of the decanting power must be made in a  
3 record signed by an authorized fiduciary. The signed record must,  
4 directly or by reference to the notice required by section 17 of this  
5 act, identify the first trust and the second trust or trusts and state  
6 the property of the first trust being distributed to each second trust  
7 and the property, if any, that remains in the first trust.

8 Sec. 21. (a) In this section:

9 (1) Noncontingent right means a right that is not subject to the  
10 exercise of discretion or the occurrence of a specified event that is not  
11 certain to occur. The term does not include a right held by a beneficiary  
12 if any person has discretion to distribute property subject to the right  
13 to any person other than the beneficiary or the beneficiary's estate.

14 (2) Presumptive remainder beneficiary means a qualified beneficiary  
15 other than a current beneficiary.

16 (3) Successor beneficiary means a beneficiary that is not a  
17 qualified beneficiary on the date the beneficiary's qualification is  
18 determined. The term does not include a person that is a beneficiary only  
19 because the person holds a nongeneral power of appointment.

20 (4) Vested interest means:

21 (A) a right to a mandatory distribution that is a noncontingent  
22 right as of the date of the exercise of the decanting power;

23 (B) a current and noncontingent right, annually or more frequently,  
24 to a mandatory distribution of income, a specified dollar amount, or a  
25 percentage of value of some or all of the trust property;

26 (C) a current and noncontingent right, annually or more frequently,  
27 to withdraw income, a specified dollar amount, or a percentage of value  
28 of some or all of the trust property;

29 (D) a presently exercisable general power of appointment; or

30 (E) a right to receive an ascertainable part of the trust property  
31 on the trust's termination which is not subject to the exercise of

1 discretion or to the occurrence of a specified event that is not certain  
2 to occur.

3 (b) Subject to subsection (c) of this section and section 24 of this  
4 act, an authorized fiduciary that has expanded distributive discretion  
5 over the principal of a first trust for the benefit of one or more  
6 current beneficiaries may exercise the decanting power over the principal  
7 of the first trust.

8 (c) Subject to section 23 of this act, in an exercise of the  
9 decanting power under this section, a second trust may not:

10 (1) include as a current beneficiary a person that is not a current  
11 beneficiary of the first trust, except as otherwise provided in  
12 subsection (d) of this section;

13 (2) include as a presumptive remainder beneficiary or successor  
14 beneficiary a person that is not a current beneficiary, presumptive  
15 remainder beneficiary, or successor beneficiary of the first trust,  
16 except as otherwise provided in subsection (d) of this section; or

17 (3) reduce or eliminate a vested interest.

18 (d) Subject to subdivision (3) of subsection (c) of this section and  
19 section 24 of this act, in an exercise of the decanting power under this  
20 section, a second trust may be a trust created or administered under the  
21 law of any jurisdiction and may:

22 (1) retain a power of appointment granted in the first trust;

23 (2) omit a power of appointment granted in the first trust, other  
24 than a presently exercisable general power of appointment;

25 (3) create or modify a power of appointment if the powerholder is a  
26 current beneficiary of the first trust and the authorized fiduciary has  
27 expanded distributive discretion to distribute principal to the  
28 beneficiary; and

29 (4) create or modify a power of appointment if the powerholder is a  
30 presumptive remainder beneficiary or successor beneficiary of the first  
31 trust, but the exercise of the power may take effect only after the

1 powerholder becomes, or would have become if then living, a current  
2 beneficiary.

3 (e) A power of appointment described in subdivisions (1) through (4)  
4 of subsection (d) of this section may be general or nongeneral. The class  
5 of permissible appointees in favor of which the power may be exercised  
6 may be broader than or different from the beneficiaries of the first  
7 trust.

8 (f) If an authorized fiduciary has expanded distributive discretion  
9 over part but not all of the principal of a first trust, the fiduciary  
10 may exercise the decanting power under this section over that part of the  
11 principal over which the authorized fiduciary has expanded distributive  
12 discretion.

13 Sec. 22. (a) In this section, limited distributive discretion means  
14 a discretionary power of distribution that is limited to an ascertainable  
15 standard or a reasonably definite standard.

16 (b) An authorized fiduciary that has limited distributive discretion  
17 over the principal of the first trust for benefit of one or more current  
18 beneficiaries may exercise the decanting power over the principal of the  
19 first trust.

20 (c) Under this section and subject to section 24 of this act, a  
21 second trust may be created or administered under the law of any  
22 jurisdiction. Under this section, the second trusts, in the aggregate,  
23 must grant each beneficiary of the first trust beneficial interests which  
24 are substantially similar to the beneficial interests of the beneficiary  
25 in the first trust.

26 (d) A power to make a distribution under a second trust for the  
27 benefit of a beneficiary who is an individual is substantially similar to  
28 a power under the first trust to make a distribution directly to the  
29 beneficiary. A distribution is for the benefit of a beneficiary if:

30 (1) the distribution is applied for the benefit of the beneficiary;

31 (2) the beneficiary is under a legal disability or the trustee

1 reasonably believes the beneficiary is incapacitated, and the  
2 distribution is made as permitted under the Nebraska Uniform Trust Code;  
3 or

4 (3) the distribution is made as permitted under the terms of the  
5 first-trust instrument and the second-trust instrument for the benefit of  
6 the beneficiary.

7 (e) If an authorized fiduciary has limited distributive discretion  
8 over part but not all of the principal of a first trust, the fiduciary  
9 may exercise the decanting power under this section over that part of the  
10 principal over which the authorized fiduciary has limited distributive  
11 discretion.

12 Sec. 23. (a) In this section:

13 (1) Beneficiary with a disability means a beneficiary of a first  
14 trust who the special-needs fiduciary believes may qualify for  
15 governmental benefits based on disability, whether or not the beneficiary  
16 currently receives those benefits or is an individual who has been  
17 adjudicated incapacitated.

18 (2) Governmental benefits means financial aid or services from a  
19 state, federal, or other public agency.

20 (3) Special-needs fiduciary means, with respect to a trust that has  
21 a beneficiary with a disability:

22 (A) a trustee or other fiduciary, other than a settlor, that has  
23 discretion to distribute part or all of the principal of a first trust to  
24 one or more current beneficiaries;

25 (B) if no trustee or fiduciary has discretion under subdivision (3)  
26 (A) of this subsection, a trustee or other fiduciary, other than a  
27 settlor, that has discretion to distribute part or all of the income of  
28 the first trust to one or more current beneficiaries; or

29 (C) if no trustee or fiduciary has discretion under subdivisions (3)  
30 (A) and (B) of this subsection, a trustee or other fiduciary, other than  
31 a settlor, that is required to distribute part or all of the income or

1 principal of the first trust to one or more current beneficiaries.

2 (4) Special-needs trust means a trust the trustee believes would not  
3 be considered a resource for purposes of determining whether a  
4 beneficiary with a disability is eligible for governmental benefits.

5 (b) A special-needs fiduciary may exercise the decanting power under  
6 section 21 of this act over the principal of a first trust as if the  
7 fiduciary had authority to distribute principal to a beneficiary with a  
8 disability subject to expanded distributive discretion if:

9 (1) a second trust is a special-needs trust that benefits the  
10 beneficiary with a disability; and

11 (2) the special-needs fiduciary determines that exercise of the  
12 decanting power will further the purposes of the first trust.

13 (c) In an exercise of the decanting power under this section, the  
14 following rules apply:

15 (1) Notwithstanding subdivision (c)(2) of section 21 of this act,  
16 the interest in the second trust of a beneficiary with a disability may:

17 (A) be a pooled trust as defined by medicaid law for the benefit of  
18 the beneficiary with a disability under 42 U.S.C. 1396p(d)(4)(C), as such  
19 section existed on the operative date of this section; or

20 (B) contain payback provisions complying with reimbursement  
21 requirements of medicaid law under 42 U.S.C. 1396p(d)(4)(A), as such  
22 section existed on the operative date of this section.

23 (2) Subdivision (c)(3) of section 21 of this act does not apply to  
24 the interests of the beneficiary with a disability.

25 (3) Except as affected by any change to the interests of the  
26 beneficiary with a disability, the second trust, or if there are two or  
27 more second trusts, the second trusts in the aggregate, must grant each  
28 other beneficiary of the first trust beneficial interests in the second  
29 trusts which are substantially similar to the beneficiary's beneficial  
30 interests in the first trust.

31 Sec. 24. (a) In this section:

1           (1) Determinable charitable interest means a charitable interest  
2 that is a right to a mandatory distribution currently, periodically, on  
3 the occurrence of a specified event, or after the passage of a specified  
4 time and which is unconditional or will be held solely for charitable  
5 purposes.

6           (2) Unconditional means not subject to the occurrence of a specified  
7 event that is not certain to occur, other than a requirement in a trust  
8 instrument that a charitable organization be in existence or qualify  
9 under a particular provision of the Internal Revenue Code of 1986, as  
10 amended, on the date of the distribution, if the charitable organization  
11 meets the requirement on the date of determination.

12           (b) If a first trust contains a determinable charitable interest,  
13 the Attorney General has the rights of a qualified beneficiary and may  
14 represent and bind the charitable interest.

15           (c) If a first trust contains a charitable interest, the second  
16 trust or trusts may not:

17           (1) diminish the charitable interest;

18           (2) diminish the interest of an identified charitable organization  
19 that holds the charitable interest;

20           (3) alter any charitable purpose stated in the first-trust  
21 instrument; or

22           (4) alter any condition or restriction related to the charitable  
23 interest.

24           (d) If there are two or more second trusts, the second trusts shall  
25 be treated as one trust for purposes of determining whether the exercise  
26 of the decanting power diminishes the charitable interest or diminishes  
27 the interest of an identified charitable organization for purposes of  
28 subsection (c) of this section.

29           (e) If a first trust contains a determinable charitable interest,  
30 the second trust or trusts that include a charitable interest pursuant to  
31 subsection (c) of this section must be administered under the law of this

1 state unless:

2 (1) the Attorney General, after receiving notice under section 17 of  
3 this act, fails to object in a signed record delivered to the authorized  
4 fiduciary within the notice period;

5 (2) the Attorney General consents in a signed record to the second  
6 trust or trusts being administered under the law of another jurisdiction;  
7 or

8 (3) the court approves the exercise of the decanting power.

9 (f) The Uniform Trust Decanting Act does not limit the powers and  
10 duties of the Attorney General under law of this state other than the  
11 act.

12 Sec. 25. (a) An authorized fiduciary may not exercise the decanting  
13 power to the extent the first-trust instrument expressly prohibits  
14 exercise of:

15 (1) the decanting power; or

16 (2) a power granted by state law to the fiduciary to distribute part  
17 or all of the principal of the trust to another trust or to modify the  
18 trust.

19 (b) Exercise of the decanting power is subject to any restriction in  
20 the first-trust instrument that expressly applies to exercise of:

21 (1) the decanting power; or

22 (2) a power granted by state law to a fiduciary to distribute part  
23 or all of the principal of the trust to another trust or to modify the  
24 trust.

25 (c)(1) An authorized fiduciary who is a current beneficiary of the  
26 first trust or a beneficiary to which the net income or principal of the  
27 first trust would be distributed if the first trust were terminated may  
28 not exercise the decanting power under the Uniform Trust Decanting Act in  
29 a manner to eliminate or restrict a spendthrift clause or a clause  
30 restraining the voluntary or involuntary transfer of a beneficiary's  
31 interest in the first trust.

1       (2) Subject to subdivision (c)(1) of this section, a general  
2 prohibition of the amendment or revocation of a first trust, a  
3 spendthrift clause, or a clause restraining the voluntary or involuntary  
4 transfer of a beneficiary's interest does not preclude exercise of the  
5 decanting power.

6       (d) Subject to subsections (a) and (b) of this section, an  
7 authorized fiduciary may exercise the decanting power under the Uniform  
8 Trust Decanting Act even if the first-trust instrument permits the  
9 authorized fiduciary or another person to modify the first-trust  
10 instrument or to distribute part or all of the principal of the first  
11 trust to another trust.

12       (e) If a first-trust instrument contains an express prohibition  
13 described in subsection (a) of this section or an express restriction  
14 described in subsection (b) of this section, the provision must be  
15 included in the second-trust instrument.

16       Sec. 26. (a) If a first-trust instrument specifies an authorized  
17 fiduciary's compensation, the fiduciary may not exercise the decanting  
18 power to increase the fiduciary's compensation above the specified  
19 compensation unless:

20       (1) all qualified beneficiaries of the second trust consent to the  
21 increase in a signed record; or

22       (2) the increase is approved by the court.

23       (b) If a first-trust instrument does not specify an authorized  
24 fiduciary's compensation, the fiduciary may not exercise the decanting  
25 power to increase the fiduciary's compensation above the compensation  
26 permitted by the Nebraska Uniform Trust Code unless:

27       (1) all qualified beneficiaries of the second trust consent to the  
28 increase in a signed record; or

29       (2) the increase is approved by the court.

30       (c) A change in an authorized fiduciary's compensation which is  
31 incidental to other changes made by the exercise of the decanting power

1 is not an increase in the fiduciary's compensation for purposes of  
2 subsections (a) and (b) of this section.

3 Sec. 27. (a) Except as otherwise provided in this section, a  
4 second-trust instrument may not relieve an authorized fiduciary from  
5 liability for breach of trust to a greater extent than the first-trust  
6 instrument.

7 (b) A second-trust instrument may provide for indemnification of an  
8 authorized fiduciary of the first trust or another person acting in a  
9 fiduciary capacity under the first trust for any liability or claim that  
10 would have been payable from the first trust if the decanting power had  
11 not been exercised.

12 (c) A second-trust instrument may not reduce fiduciary liability in  
13 the aggregate.

14 (d) Subject to subsection (c) of this section, a second-trust  
15 instrument may divide and reallocate fiduciary powers among fiduciaries,  
16 including one or more trustees, distribution advisors, investment  
17 advisors, trust protectors, or other persons, and relieve a fiduciary  
18 from liability for an act or failure to act of another fiduciary as  
19 permitted by law of this state other than the Uniform Trust Decanting  
20 Act.

21 Sec. 28. An authorized fiduciary may not exercise the decanting  
22 power to modify a provision in a first-trust instrument granting another  
23 person power to remove or replace the fiduciary unless:

24 (1) the person holding the power consents to the modification in a  
25 signed record and the modification applies only to the person;

26 (2) the person holding the power and the qualified beneficiaries of  
27 the second trust consent to the modification in a signed record and the  
28 modification grants a substantially similar power to another person; or

29 (3) the court approves the modification and the modification grants  
30 a substantially similar power to another person.

31 Sec. 29. (a) In this section:

1       (1) Grantor trust means a trust as to which a settlor of a first  
2 trust is considered the owner under 26 U.S.C. 671 to 677 or 26 U.S.C.  
3 679, as such sections existed on the operative date of this section.

4       (2) Internal Revenue Code means the Internal Revenue Code of 1986,  
5 as amended.

6       (3) Nongrantor trust means a trust that is not a grantor trust.

7       (4) Qualified benefits property means property subject to the  
8 minimum distribution requirements of 26 U.S.C. 401(a)(9) and any  
9 applicable regulations, or to any similar requirements that refer to 26  
10 U.S.C. 401(a)(9) or the regulations, as such section and regulations  
11 existed on the operative date of this section.

12       (b) An exercise of the decanting power is subject to the following  
13 limitations:

14       (1) If a first trust contains property that qualified, or would have  
15 qualified but for provisions of the Uniform Trust Decanting Act other  
16 than this section, for a marital deduction for purposes of the gift or  
17 estate tax under the Internal Revenue Code or a state gift, estate, or  
18 inheritance tax, the second-trust instrument must not include or omit any  
19 term that, if included in or omitted from the trust instrument for the  
20 trust to which the property was transferred, would have prevented the  
21 transfer from qualifying for the deduction, or would have reduced the  
22 amount of the deduction, under the same provisions of the Internal  
23 Revenue Code or state law under which the transfer qualified.

24       (2) If the first trust contains property that qualified, or would  
25 have qualified but for provisions of the Uniform Trust Decanting Act  
26 other than this section, for a charitable deduction for purposes of the  
27 income, gift, or estate tax under the Internal Revenue Code or a state  
28 income, gift, estate, or inheritance tax, the second-trust instrument  
29 must not include or omit any term that, if included in or omitted from  
30 the trust instrument for the trust to which the property was transferred,  
31 would have prevented the transfer from qualifying for the deduction, or

1 would have reduced the amount of the deduction, under the same provisions  
2 of the Internal Revenue Code or state law under which the transfer  
3 qualified.

4 (3) If the first trust contains property that qualified, or would  
5 have qualified but for provisions of the Uniform Trust Decanting Act  
6 other than this section, for the exclusion from the gift tax described in  
7 26 U.S.C. 2503(b), as such section existed on the operative date of this  
8 section, the second-trust instrument must not include or omit a term  
9 that, if included in or omitted from the trust instrument for the trust  
10 to which the property was transferred, would have prevented the transfer  
11 from qualifying under 26 U.S.C. 2503(b), as such section existed on the  
12 operative date of this section. If the first trust contains property that  
13 qualified, or would have qualified but for provisions of the Uniform  
14 Trust Decanting Act other than this section, for the exclusion from the  
15 gift tax described in 26 U.S.C. 2503(b), as such section existed on the  
16 operative date of this section, by application of 26 U.S.C. 2503(c), as  
17 such section existed on the operative date of this section, the second-  
18 trust instrument must not include or omit a term that, if included or  
19 omitted from the trust instrument for the trust to which the property was  
20 transferred, would have prevented the transfer from qualifying under 26  
21 U.S.C. 2503(c), as such section existed on the operative date of this  
22 section.

23 (4) If the property of the first trust includes shares of stock in  
24 an S corporation, as defined in 26 U.S.C. 1361, as such section existed  
25 on the operative date of this section, and the first trust is, or but for  
26 provisions of the Uniform Trust Decanting Act other than this section  
27 would be, a permitted shareholder under any provision of 26 U.S.C. 1361,  
28 as such section existed on the operative date of this section, an  
29 authorized fiduciary may exercise the power with respect to part or all  
30 of the S-corporation stock only if any second trust receiving the stock  
31 is a permitted shareholder under 26 U.S.C. 1361(c)(2), as such section

1 existed on the operative date of this section. If the property of the  
2 first trust includes shares of stock in an S corporation and the first  
3 trust is, or but for provisions of the Uniform Trust Decanting Act other  
4 than this section would be, a qualified subchapter-S trust within the  
5 meaning of 26 U.S.C. 1361(d), as such section existed on the operative  
6 date of this section, the second-trust instrument must not include or  
7 omit a term that prevents the second trust from qualifying as a qualified  
8 subchapter-S trust.

9 (5) If the first trust contains property that qualified, or would  
10 have qualified but for provisions of the Uniform Trust Decanting Act  
11 other than this section, for a zero inclusion ratio for purposes of the  
12 generation-skipping transfer tax under 26 U.S.C. 2642(c), as such section  
13 existed on the operative date of this section, the second-trust  
14 instrument must not include or omit a term that, if included in or  
15 omitted from the first-trust instrument, would have prevented the  
16 transfer to the first trust from qualifying for a zero inclusion ratio  
17 under 26 U.S.C. 2642(c), as such section existed on the operative date of  
18 this section.

19 (6) If the first trust is directly or indirectly the beneficiary of  
20 qualified benefits property, the second-trust instrument may not include  
21 or omit any term that, if included in or omitted from the first-trust  
22 instrument, would have increased the minimum distributions required with  
23 respect to the qualified benefits property under 26 U.S.C. 401(a)(9), as  
24 such section existed on the operative date of this section, and any  
25 applicable regulations, or any similar requirements that refer to 26  
26 U.S.C. 401(a)(9), as such section existed on the operative date of this  
27 section, or the regulations. If an attempted exercise of the decanting  
28 power violates the preceding sentence, the trustee is deemed to have held  
29 the qualified benefits property and any reinvested distributions of the  
30 property as a separate share from the date of the exercise of the power  
31 and section 32 of this act applies to the separate share.

1       (7) If the first trust qualifies as a grantor trust because of the  
2 application of 26 U.S.C. 672(f)(2)(A), as such section existed on the  
3 operative date of this section, the second trust may not include or omit  
4 a term that, if included in or omitted from the first-trust instrument,  
5 would have prevented the first trust from qualifying under 26 U.S.C.  
6 672(f)(2)(A), as such section existed on the operative date of this  
7 section.

8       (8) In this subdivision, tax benefit means a federal or state tax  
9 deduction, exemption, exclusion, or other benefit not otherwise listed in  
10 this section, except for a benefit arising from being a grantor trust.  
11 Subject to subdivision (9) of this subsection, a second-trust instrument  
12 may not include or omit a term that, if included in or omitted from the  
13 first-trust instrument, would have prevented qualification for a tax  
14 benefit if:

15       (A) the first-trust instrument expressly indicates an intent to  
16 qualify for the benefit or the first-trust instrument clearly is designed  
17 to enable the first trust to qualify for the benefit; and

18       (B) the transfer of property held by the first trust or the first  
19 trust qualified, or but for provisions of the Uniform Trust Decanting Act  
20 other than this section, would have qualified for the tax benefit.

21       (9) Subject to subdivision (4) of this subsection:

22       (A) except as otherwise provided in subdivision (7) of this  
23 subsection, the second trust may be a nongrantor trust, even if the first  
24 trust is a grantor trust; and

25       (B) except as otherwise provided in subdivision (10) of this  
26 subsection, the second trust may be a grantor trust, even if the first  
27 trust is a nongrantor trust.

28       (10) An authorized fiduciary may not exercise the decanting power if  
29 a settlor objects in a signed record delivered to the fiduciary within  
30 the notice period and:

31       (A) the first trust and a second trust are both grantor trusts, in

1 whole or in part, the first trust grants the settlor or another person  
2 the power to cause the first trust to cease to be a grantor trust, and  
3 the second trust does not grant an equivalent power to the settlor or  
4 other person; or

5 (B) the first trust is a nongrantor trust and a second trust is a  
6 grantor trust, in whole or in part, with respect to the settlor, unless:

7 (i) the settlor has the power at all times to cause the second trust  
8 to cease to be a grantor trust; or

9 (ii) the first-trust instrument contains a provision granting the  
10 settlor or another person a power that would cause the first trust to  
11 cease to be a grantor trust and the second-trust instrument contains the  
12 same provision.

13 Sec. 30. (a) Subject to subsection (b) of this section, a second  
14 trust may have a duration that is the same as or different from the  
15 duration of the first trust.

16 (b) To the extent that property of a second trust is attributable to  
17 property of the first trust, the property of the second trust is subject  
18 to any rules governing maximum perpetuity, accumulation, or suspension of  
19 the power of alienation which apply to property of the first trust.

20 Sec. 31. An authorized fiduciary may exercise the decanting power  
21 whether or not under the first trust's discretionary distribution  
22 standard the fiduciary would have made or could have been compelled to  
23 make a discretionary distribution of principal at the time of the  
24 exercise.

25 Sec. 32. (a) If exercise of the decanting power would be effective  
26 under the Uniform Trust Decanting Act except that the second-trust  
27 instrument in part does not comply with the act, the exercise of the  
28 power is effective and the following rules apply with respect to the  
29 principal of the second trust attributable to the exercise of the power:

30 (1) A provision in the second-trust instrument which is not  
31 permitted under the act is void to the extent necessary to comply with

1 the act.

2 (2) A provision required by the act to be in the second-trust  
3 instrument which is not contained in the instrument is deemed to be  
4 included in the instrument to the extent necessary to comply with the  
5 act.

6 (b) If a trustee or other fiduciary of a second trust determines  
7 that subsection (a) of this section applies to a prior exercise of the  
8 decanting power, the fiduciary shall take corrective action consistent  
9 with the fiduciary's duties.

10 Sec. 33. (a) In this section:

11 (1) Animal trust means a trust or an interest in a trust created to  
12 provide for the care of one or more animals.

13 (2) Protector means a person appointed in an animal trust to enforce  
14 the trust on behalf of the animal or, if no such person is appointed in  
15 the trust, a person appointed by the court for that purpose.

16 (b) The decanting power may be exercised over an animal trust that  
17 has a protector to the extent the trust could be decanted under the  
18 Uniform Trust Decanting Act if each animal that benefits from the trust  
19 were an individual, if the protector consents in a signed record to the  
20 exercise of the power.

21 (c) A protector for an animal has the rights under the act of a  
22 qualified beneficiary.

23 (d) Notwithstanding any other provision of the act, if a first trust  
24 is an animal trust, in an exercise of the decanting power, the second  
25 trust must provide that trust property may be applied only to its  
26 intended purpose for the period the first trust benefited the animal.

27 Sec. 34. A reference in the Nebraska Uniform Trust Code to a trust  
28 instrument or terms of the trust includes a second-trust instrument and  
29 the terms of the second trust.

30 Sec. 35. (a) For purposes of law of this state other than the  
31 Uniform Trust Decanting Act and subject to subsection (b) of this

1 section, a settlor of a first trust is deemed to be the settlor of the  
2 second trust with respect to the portion of the principal of the first  
3 trust subject to the exercise of the decanting power.

4 (b) In determining settlor intent with respect to a second trust,  
5 the intent of a settlor of the first trust, a settlor of the second  
6 trust, and the authorized fiduciary may be considered.

7 Sec. 36. (a) Except as otherwise provided in subsection (c) of this  
8 section, if exercise of the decanting power was intended to distribute  
9 all the principal of the first trust to one or more second trusts, later-  
10 discovered property belonging to the first trust and property paid to or  
11 acquired by the first trust after the exercise of the power is part of  
12 the trust estate of the second trust or trusts.

13 (b) Except as otherwise provided in subsection (c) of this section,  
14 if exercise of the decanting power was intended to distribute less than  
15 all the principal of the first trust to one or more second trusts, later-  
16 discovered property belonging to the first trust or property paid to or  
17 acquired by the first trust after exercise of the power remains part of  
18 the trust estate of the first trust.

19 (c) An authorized fiduciary may provide in an exercise of the  
20 decanting power or by the terms of a second trust for disposition of  
21 later-discovered property belonging to the first trust or property paid  
22 to or acquired by the first trust after exercise of the power.

23 Sec. 37. A debt, liability, or other obligation enforceable against  
24 property of a first trust is enforceable to the same extent against the  
25 property when held by the second trust after exercise of the decanting  
26 power.

27 Sec. 38. In applying and construing the Uniform Trust Decanting  
28 Act, consideration must be given to the need to promote uniformity of the  
29 law with respect to its subject matter among states that enact it.

30 Sec. 39. The Uniform Trust Decanting Act modifies, limits, or  
31 supersedes the federal Electronic Signatures in Global and National

1 Commerce Act, 15 U.S.C. 7001 et seq., but does not modify, limit, or  
2 supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize  
3 electronic delivery of any of the notices described in section 103(b) of  
4 that act, 15 U.S.C. 7003(b), as such sections existed on the operative  
5 date of this section.

6 Sec. 40. Section 25-223, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 25-223 (1) Any action to recover damages based on any alleged  
9 breach of warranty on improvements to real property or based on any  
10 alleged deficiency in the design, planning, supervision, or observation  
11 of construction, or construction of an improvement to real property,  
12 except improvements to real property subject to the Nebraska Condominium  
13 Act, shall be commenced within four years after any alleged act or  
14 omission constituting such breach of warranty or deficiency. If such  
15 cause of action is not discovered and could not be reasonably discovered  
16 within such four-year period, or within one year preceding the expiration  
17 of such four-year period, then the cause of action may be commenced  
18 within two years from the date of such discovery or from the date of  
19 discovery of facts which would reasonably lead to such discovery,  
20 whichever is earlier. In no event may any action be commenced to recover  
21 damages for an alleged breach of warranty on improvements to real  
22 property or deficiency in the design, planning, supervision, or  
23 observation of construction, or construction of an improvement to real  
24 property more than ten years beyond the time of the act giving rise to  
25 the cause of action.

26 (2)(a) Any action to recover damages based on any alleged breach of  
27 warranty on improvements to real property or based on any alleged  
28 deficiency in the design, planning, supervision, or observation of  
29 construction, or construction of an improvement to real property that is  
30 a condominium or part of a condominium project subject to the Nebraska  
31 Condominium Act shall be commenced within two years after any alleged act

1 or omission constituting such breach of warranty or deficiency. If such  
2 cause of action is not discovered and could not be reasonably discovered  
3 within such two-year period, or within one year preceding the expiration  
4 of such two-year period, then the cause of action may be commenced within  
5 one year from the date of such discovery or from the date of discovery of  
6 facts which would reasonably lead to such discovery, whichever is  
7 earlier. In no event may any action be commenced to recover damages for  
8 an alleged breach of warranty on improvements to real property or  
9 deficiency in the design, planning, supervision, or observation of  
10 construction, or construction of an improvement to real property more  
11 than five years beyond the time of the act giving rise to the cause of  
12 action.

13 (b) Any action brought under this section shall also comply with  
14 section 76-890.

15 Sec. 41. Section 76-842, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 76-842 (a) The declaration for a condominium must contain:

18 (1) the name of the condominium, which must include the word  
19 condominium or be followed by the words a condominium, and the name of  
20 the association;

21 (2) the name of every county in which any part of the condominium is  
22 situated;

23 (3) a legally sufficient description of the real estate included in  
24 the condominium;

25 (4) a statement of the anticipated number of units which the  
26 declarant reserves the right to create, subject to an amendment of the  
27 declaration to add more units pursuant to the Nebraska Condominium Act;

28 (5) a description of the boundaries of each unit created by the  
29 declaration, including the unit's identifying number;

30 (6) a description of any limited common elements, other than those  
31 specified in subdivision (b)(8) of section 76-846;

1 (7) a general description of any development rights and other  
2 special declarant rights defined in subdivision subsection (23) of  
3 section 76-827 reserved by the declarant;

4 (8) an allocation to each unit of the allocated interests in the  
5 manner described in section 76-844;

6 (9) any restrictions on use, occupancy, and alienation of the units;  
7 ~~and~~

8 (10) for a condominium project with more than fifteen units,  
9 exclusive of common area, a plan prepared by a licensed engineer or  
10 architect for the preventive maintenance of the condominium and all  
11 common elements therein, including, but not limited to, depreciation  
12 studies and reserve analyses, an annually updated five-year capital plan,  
13 and minimum financial reserves based on the reserve analyses; and

14 (11) (10) all matters required by sections 76-843 to 76-846, 76-852,  
15 and 76-853, and subsection (d) of section 76-861.

16 (b) Except as otherwise provided in section 76-856, the declaration  
17 may contain any other matters the declarant deems appropriate.

18 Sec. 42. Section 76-844, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 76-844 (a) The declaration shall allocate a fraction or percentage  
21 of undivided interests in the common elements and in the common expenses  
22 of the association, and a portion of the votes in the association, to  
23 each unit and state the formulas used to establish those allocations.  
24 ~~Those allocations may not discriminate in favor of units owned by the~~  
25 ~~declarant.~~

26 (b) If units may be added to or withdrawn from the condominium, the  
27 declaration must state the formulas to be used to reallocate the  
28 allocated interests among all units included in the condominium after the  
29 addition or withdrawal.

30 (c) The declaration may provide: (i) that different allocations of  
31 votes shall be made to the units on particular matters specified in the

1 declaration; (ii) for cumulative voting only for the purpose of electing  
2 members of the executive board; and (iii) for class voting on specified  
3 issues affecting the class if necessary to protect valid interests of the  
4 class. A declarant may not utilize cumulative or class voting for the  
5 purpose of evading any limitation imposed on declarants by the Nebraska  
6 Condominium Act ~~sections 76-825 to 76-894~~, nor may units constitute a  
7 class because they are owned by a declarant.

8 (d) Except for minor variations due to rounding, the sum of the  
9 undivided interests in the common elements and common expense liabilities  
10 allocated at any time to all the units must equal one if stated as  
11 fractions or one hundred percent if stated as percentages. In the event  
12 of discrepancy between an allocated interest and the result derived from  
13 application of the pertinent formula, the allocated interest prevails.

14 (e) The common elements are not subject to partition, and any  
15 purported conveyance, encumbrance, judicial sale, or other voluntary or  
16 involuntary transfer of an undivided interest in the common elements made  
17 without the unit to which that interest is allocated, is void.

18 Sec. 43. Section 76-854, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 76-854 (a) Except in cases of amendments that may be executed by (1)  
21 a declarant under subsection (f) of section 76-846 or under section  
22 76-847, (2) the association under section 76-831 or 76-850, subsection  
23 (d) of section 76-843, subsection (c) of section 76-845, or subsection  
24 (a) of section 76-849, or (3) certain unit owners under subsection (b) of  
25 section 76-845, subsection (a) of section 76-849, subsection (b) of  
26 section 76-850, or subsection (b) of section 76-855, and except as  
27 limited by subsection (d) of this section, the declaration, including the  
28 plats and plans, may be amended only by vote or agreement of unit owners  
29 of units to which at least sixty-seven percent of the votes in the  
30 association are allocated or any larger majority the declaration  
31 specifies up to eighty percent of the votes in the association exclusive

1 of the declarant. The declaration may specify a smaller number only if  
2 all of the units are restricted exclusively to nonresidential use.

3 (b) No action to challenge the validity of an amendment adopted by  
4 the association pursuant to this section may be brought more than one  
5 year after the amendment is recorded.

6 (c) Every amendment to the declaration must be recorded in every  
7 county in which any portion of the condominium is located and is  
8 effective only upon recordation.

9 (d) Except to the extent expressly permitted or required by other  
10 provisions of the Nebraska Condominium Act, no amendment may create or  
11 increase special declarant rights, increase the number of units, or  
12 change the boundaries of any unit, the allocated interests of a unit, or  
13 the uses to which any unit is restricted in the absence of the unanimous  
14 consent of the unit owners. In addition, no amendment may change the  
15 boundaries of any unit, increase the allocated interests of any unit, or  
16 change the uses to which any unit is restricted, without the consent of  
17 the owner of the unit.

18 (e) Amendments to the declaration required by the act to be recorded  
19 by the association shall be prepared, executed, recorded, and certified  
20 on behalf of the association by any officer of the association designated  
21 for that purpose or, in the absence of designation, by the president of  
22 the association.

23 Sec. 44. Section 76-857, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 76-857 (a) If the declaration for a condominium provides that any of  
26 the powers described in section 76-860 are to be exercised by or may be  
27 delegated to a profit or nonprofit corporation, or unincorporated  
28 association, which exercises those or other powers on behalf of one or  
29 more condominiums or for the benefit of the unit owners of one or more  
30 condominiums, all provisions of the Nebraska Condominium Act sections  
31 76-825 to 76-894 applicable to unit owners associations apply to any such

1 corporation or unincorporated association, except as modified by this  
2 section. However, in no case shall the declaration provide that the power  
3 to institute or intervene as a plaintiff in litigation or administrative  
4 proceedings, other than litigation or administrative proceedings to  
5 enforce covenants, bylaws, or rules against unit owners or the unit  
6 owners association, be delegated to or exercised by any party other than  
7 the unit owners or the declarant.

8 (b) Unless a master association is acting in the capacity of an  
9 association described in section 76-859, it may exercise the powers set  
10 forth in subdivision (a)(2) of section 76-860 only to the extent  
11 expressly permitted in the declarations of condominiums which are part of  
12 the master association or expressly described in the delegations of power  
13 from those condominiums to the master association.

14 (c) If the declaration of any condominium provides that the  
15 executive board may delegate certain powers to a master association, the  
16 members of the executive board have no liability for the acts or  
17 omissions of the master association with respect to those powers  
18 following delegation.

19 (d) The rights and responsibilities of unit owners with respect to  
20 the unit owners association set forth in sections 76-861, 76-866 to  
21 76-868, and 76-870 apply in the conduct of the affairs of a master  
22 association only to those persons who elect the board of a master  
23 association, whether or not those persons are otherwise unit owners  
24 within the meaning of the act sections 76-825 to 76-894.

25 (e) Notwithstanding the provisions of subsection (f) of section  
26 76-861 with respect to the election of the executive board of an  
27 association, by all unit owners after the period of declarant control  
28 ends, and even if a master association is also an association described  
29 in section 76-859, the articles of incorporation or other instrument  
30 creating the master association and the declaration of each condominium  
31 the powers of which are assigned by the declaration or delegated to the

1 master association may provide that the executive board of the master  
2 association must be elected after the period of declarant control in any  
3 of the following ways:

4 (1) All unit owners of all condominiums subject to the master  
5 association may elect all members of that executive board.

6 (2) All members of the executive boards of all condominiums subject  
7 to the master association may elect all members of that executive board.

8 (3) All unit owners of each condominium subject to the master  
9 association may elect specified members of that executive board.

10 (4) All members of the executive board of each condominium subject  
11 to the master association may elect specified members of that executive  
12 board.

13 Sec. 45. Section 76-859, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 76-859 A unit owners association must be organized no later than the  
16 date the units first-unit in the condominium equal to one-half of the  
17 total number of units plus one are is conveyed. The membership of the  
18 association at all times shall consist exclusively of all the unit owners  
19 or, following termination of the condominium, of all former unit owners  
20 entitled to distributions of proceeds under section 76-855 or their  
21 heirs, successors, or assigns. The association shall be organized as a  
22 profit or nonprofit corporation or as an unincorporated association.

23 Sec. 46. Section 76-860, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 76-860 (a) Except as provided in subsection (b) of this section and  
26 subject to the provisions of the declaration, the association, even if  
27 unincorporated, may:

28 (1) Adopt and amend bylaws and rules and regulations;

29 (2) Adopt and amend budgets for revenue, expenditures, and reserves  
30 and collect assessments for common expenses from unit owners;

31 (3) Hire and discharge managing agents and other employees, agents,

1 and independent contractors;

2 (4) Institute, ~~defend,~~ or intervene as a plaintiff in litigation or  
3 administrative proceedings, other than litigation or administrative  
4 proceedings to enforce covenants, bylaws, or rules against unit owners or  
5 the unit owners association, in its own name on behalf of itself or two  
6 or more unit owners on matters affecting the condominium upon the  
7 affirmative vote of at least eighty percent of the votes in the  
8 association exclusive of the declarant;

9 (5) Make contracts and incur liabilities;

10 (6) Regulate the use, maintenance, repair, replacement, and  
11 modification of common elements;

12 (7) Cause additional improvements to be made as a part of the common  
13 elements;

14 (8) Acquire, hold, encumber, and convey in its own name any right,  
15 title, or interest to real or personal property, but common elements may  
16 be encumbered, conveyed, or subjected to a security interest only  
17 pursuant to section 76-870;

18 (9) Grant easements, leases, licenses, and concessions through or  
19 over the common elements;

20 (10) Impose and receive any payments, fees, or charges for the use,  
21 rental, or operation of the common elements, other than limited common  
22 elements described in subdivisions (2) and (4) of section 76-839, and for  
23 services provided to unit owners;

24 (11) Impose charges for late payment of assessments and, after  
25 notice and opportunity to be heard, levy reasonable fines for violations  
26 of the declaration, bylaws, and rules and regulations for the  
27 association;

28 (12) Impose reasonable charges for the preparation and recordation  
29 of amendments to the declaration, resale statements required by section  
30 76-884, or statements of unpaid assessments;

31 (13) Provide for the indemnification of its officers and executive

1 board and maintain directors' and officers' liability insurance;

2 (14) Assign its right to future income, including the right to  
3 receive common expense assessments, but only to the extent the  
4 declaration expressly so provides;

5 (15) Exercise any other powers conferred by the declaration or  
6 bylaws;

7 (16) Exercise all other powers that may be exercised in this state  
8 by legal entities of the same type as the association; and

9 (17) Exercise any other powers necessary and proper for the  
10 governance and operation of the association.

11 (b) The declaration may not impose limitations on the power of the  
12 association to deal with the declarant which are more restrictive than  
13 the limitations imposed on the power of the association to deal with  
14 other persons.

15 Sec. 47. Section 76-861, Revised Statutes Supplement, 2019, is  
16 amended to read:

17 76-861 (a) Except as provided in the declaration, the bylaws,  
18 subsection (b) of this section, or other provisions of the Nebraska  
19 Condominium Act, the executive board may act in all instances on behalf  
20 of the association. In the performance of their duties, the officers and  
21 members of the executive board are required to exercise ordinary and  
22 reasonable care.

23 (b) The executive board may not act on behalf of the association to  
24 commence litigation on behalf of the unit owners or the unit owners  
25 association, to amend the declaration pursuant to section 76-854, to  
26 terminate the condominium pursuant to section 76-855, or to elect members  
27 of the executive board or determine the qualifications, powers and  
28 duties, or terms of office of executive board members pursuant to  
29 subsection (f) of this section, but the executive board may fill  
30 vacancies in its membership for the unexpired portion of any term.

31 (c) Within thirty days after adoption of any proposed budget for the

1 condominium, the executive board shall provide a summary of the budget to  
2 all the unit owners, and shall set a date for a meeting of the unit  
3 owners to consider ratification of the budget not less than fourteen nor  
4 more than thirty days after mailing of the summary. Unless at that  
5 meeting a majority of all votes in the association or any larger vote  
6 specified in the declaration reject the budget, the budget is ratified,  
7 whether or not a quorum is present. In the event the proposed budget is  
8 rejected, the periodic budget last ratified by the unit owners shall be  
9 continued until such time as the unit owners ratify a subsequent budget  
10 proposed by the executive board.

11 (d) Subject to subsection (e) of this section, the declaration may  
12 provide for a period of declarant control of the association, during  
13 which period a declarant, or persons designated by him or her, may  
14 appoint and remove the officers and members of the executive board.  
15 Regardless of the period provided in the declaration, a period of  
16 declarant control terminates no later than the earlier of: (i) Sixty days  
17 after conveyance of ninety percent of the units which may be created to  
18 unit owners other than a declarant; or (ii) two years after all  
19 declarants have ceased to offer units for sale in the ordinary course of  
20 business. A declarant may voluntarily surrender the right to appoint and  
21 remove officers and members of the executive board before termination of  
22 that period, but in that event he or she may require, for the duration of  
23 the period of declarant control, that specified actions of the  
24 association or executive board, as described in a recorded instrument  
25 executed by the declarant, be approved by the declarant before they  
26 become effective. Successor boards following declarant control may not  
27 discriminate nor act arbitrarily with respect to units still owned by a  
28 declarant or a successor declarant.

29 (e) Not later than sixty days after conveyance of fifty ~~twenty-five~~  
30 percent of the units which may be created to unit owners other than a  
31 declarant, at least one member and not less than twenty-five percent of

1 the members of the executive board shall be elected exclusively by unit  
2 owners other than the declarant. ~~Not later than sixty days after~~  
3 ~~conveyance of fifty percent of the units which may be created to unit~~  
4 ~~owners other than a declarant, not less than thirty-three and one-third~~  
5 ~~percent of the members of the executive board shall be elected~~  
6 ~~exclusively by unit owners other than the declarant.~~

7 (f) Not later than the termination of any period of declarant  
8 control, the unit owners shall elect an executive board of at least three  
9 members, at least a majority of whom must be unit owners. The executive  
10 board shall elect the officers. The executive board members and officers  
11 shall take office upon election.

12 (g) Notwithstanding any provision of the declaration or bylaws to  
13 the contrary, the unit owners, by a two-thirds vote of all persons  
14 present and entitled to vote at any meeting of the unit owners at which a  
15 quorum is present, may remove any member of the executive board with or  
16 without cause, other than a member appointed by the declarant.

17 (h) The association shall file with the register of deeds of the  
18 county in which the condominium is located a condominium statement  
19 listing the name of the association and the names and addresses of the  
20 current officers of the association. Such filing shall be made every year  
21 on or before December 31. The receipt of any legal notice by or service  
22 of process on such officer personally or at such officer's filed address  
23 shall constitute notice to the association. If the association fails to  
24 make the filing required by this subsection, the posting of the legal  
25 notice or process at the entrance, main office, or other prominent  
26 location in the common area of the condominium shall constitute notice to  
27 the association until such filing is made.

28 Sec. 48. Section 76-867, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 76-867 (a) Unless the bylaws provide otherwise, a quorum is present  
31 throughout any meeting of the association if persons entitled to cast

1 ~~thirty-five~~ ~~twenty~~ percent of the votes which may be cast for election of  
2 the executive board are present in person or by proxy at the beginning of  
3 the meeting.

4 (b) Unless the bylaws specify a larger percentage, a quorum is  
5 deemed present throughout any meeting of the executive board if persons  
6 entitled to cast fifty percent of the votes on that board are present at  
7 the beginning of the meeting.

8 Sec. 49. Section 76-869, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 76-869 (a) Neither the association nor any unit owner except the  
11 declarant is liable for that declarant's torts in connection with any  
12 part of the condominium which that declarant has the responsibility to  
13 maintain. Otherwise, an action alleging a wrong done by the association  
14 must be brought against the association and not against any unit owner.  
15 If the wrong occurred during any period of declarant control and the  
16 association gives the declarant reasonable notice of and an opportunity  
17 to defend against the action, the declarant who then controlled the  
18 association is liable to the association or to any unit owner only ~~:(i)~~  
19 ~~For all tort losses not covered by insurance suffered by the association~~  
20 ~~or that unit owner, and (ii) for all costs which the association would~~  
21 ~~not have incurred but for a breach of contract or other negligent~~  
22 ~~wrongful act or omission by the declarant. Whenever the declarant is~~  
23 ~~liable to the association under this section, the declarant is also~~  
24 ~~liable for all litigation expenses, including reasonable attorney's fees,~~  
25 ~~incurred by the association. Any statute of limitation affecting the~~  
26 ~~association's right of action under this section is tolled until the~~  
27 ~~period of declarant control terminates.~~ A unit owner is not precluded  
28 from bringing an action contemplated by this section because he or she is  
29 a unit owner or a member or officer of the association. Liens resulting  
30 from judgments against the association are governed by section 76-875.

31 (b) The declarant shall not be liable for any action, loss, or cost

1 pursuant to this section if at the time the loss occurred, insurance  
2 required by section 76-871 was in place.

3 Sec. 50. Section 76-870, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 76-870 (a) Portions of the common elements may be encumbered or  
6 conveyed or otherwise subjected to a security interest by the association  
7 if persons entitled to cast at least sixty-seven ~~eighty~~ percent of the  
8 votes in the association, including sixty-seven ~~eighty~~ percent of the  
9 votes allocated to units not owned by a declarant, or any larger  
10 percentage the declaration specifies, agree to that action; but all the  
11 owners of units to which any limited common element is allocated must  
12 agree ~~in order~~ to encumber or convey that limited common element or  
13 subject it to a security interest. The declaration may specify a smaller  
14 percentage only if all of the units are restricted exclusively to  
15 nonresidential uses. Proceeds of the sale are an asset of the  
16 association.

17 (b) An agreement to encumber or convey common elements or subject  
18 them to a security interest must be evidenced by the execution of an  
19 agreement, or ratifications thereof, in the same manner as a deed, by the  
20 requisite number of unit owners. The agreement must specify a date after  
21 which the agreement will be void unless recorded before that date. The  
22 agreement and all ratifications thereof must be recorded in every county  
23 in which a portion of the condominium is situated and is effective only  
24 upon recordation.

25 (c) The association, on behalf of the unit owners, may contract to  
26 encumber or convey common elements or subject them to a security  
27 interest, but the contract is not enforceable against the association  
28 until approved pursuant to subsections (a) and (b) of this section.  
29 Thereafter, the association has all powers necessary and appropriate to  
30 effect the conveyance or encumbrance, including the power to execute  
31 deeds or other instruments.

1 (d) Any purported conveyance, encumbrance, judicial sale, or other  
2 voluntary transfer of common elements, unless made pursuant to this  
3 section, is void.

4 (e) A conveyance or an encumbrance of common elements pursuant to  
5 this section does not deprive any unit of its rights of access and  
6 support.

7 (f) Unless the declaration otherwise provides, a conveyance or an  
8 encumbrance of common elements pursuant to this section does not affect  
9 the priority or validity of preexisting encumbrances.

10 Sec. 51. Section 76-884, Reissue Revised Statutes of Nebraska, is  
11 amended to read:

12 76-884 (a) Except in the case of a sale where delivery of a public-  
13 offering statement is required or unless exempt under subsection (b) of  
14 section 76-878, the unit owner and any other person in the business of  
15 selling real estate who offers a unit to a purchaser shall furnish to a  
16 purchaser before conveyance a copy of the declaration other than the  
17 plats and plans, the bylaws, the rules or regulations of the association,  
18 and the following information:

19 (1) a statement setting forth the amount of the monthly common  
20 expense assessment and any unpaid common expense or special assessment  
21 currently due and payable from the selling unit owner;

22 (2) any other fees payable by unit owners;

23 (3) the most recent regularly prepared balance sheet and income and  
24 expense statement, if any, of the association;

25 (4) the current operating budget of the association, if any;

26 (5) a statement that a copy of any insurance policy provided for the  
27 benefit of unit owners is available from the association upon request;

28 ~~and~~

29 (6) a statement of the remaining term of any leasehold estate  
30 affecting the condominium and the provisions governing any extension or  
31 renewal thereof; and -

1           (7) a disclosure of any threatened or pending litigation involving  
2           the unit or the association.

3           (b) The association, within ten days after a request by a unit  
4 owner, shall furnish in writing the information necessary to enable the  
5 unit owner to comply with this section. A unit owner providing  
6 information pursuant to subsection (a) of this section is not liable to  
7 the purchaser for any erroneous information provided by the association  
8 and included in the certificate.

9           (c) A purchaser is not liable for any unpaid assessment or fee  
10 greater than the amount set forth in the information prepared by the  
11 association. The unit owner or any other person in the business of  
12 selling real estate who offers a unit to a purchaser is not liable to a  
13 purchaser for the failure or delay of the association to provide such  
14 information in a timely manner.

15           Sec. 52. Section 76-890, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17           76-890 (a) A judicial proceeding for breach of any obligation  
18 arising under section 76-887 or 76-888 must be commenced within two ~~four~~  
19 years after the cause of action accrues, but the parties may agree to  
20 reduce the period of limitation to not less than one year ~~two years~~. With  
21 respect to a unit that may be occupied for residential use, an agreement  
22 to reduce the period of limitation must be evidenced by an instrument  
23 executed by the purchaser. Prior to commencing any judicial proceeding  
24 under this section, the person seeking to commence the judicial  
25 proceeding must (1) provide written notice of the proposed proceeding and  
26 the specific alleged defect or defects to the prospective defendant or  
27 defendants and (2) give the prospective defendant or defendants at least  
28 three months to cure the alleged defect or defects. If the defect or  
29 defects are such that they cannot reasonably be cured within three  
30 months, the cure period shall extend as long as the prospective defendant  
31 has commenced and is diligently proceeding with repairs. Providing the

1 notice in this section in a manner reasonably understood to inform the  
2 prospective defendant of the specific alleged defect or defects shall  
3 toll any applicable statute of limitations until the alleged defect or  
4 defects are cured. Any proceeding commenced without strict compliance  
5 with this section is subject to dismissal for such noncompliance.

6 (b) Subject to subsection (c) of this section, a cause of action for  
7 breach of warranty, regardless of the purchaser's lack of knowledge of  
8 the breach, accrues:

9 (1) as to a unit, at the time the purchaser to whom the warranty is  
10 first made enters into possession if a possessory interest was conveyed  
11 or at the time of acceptance of the instrument of conveyance if a  
12 nonpossessory interest was conveyed; and

13 (2) as to each common element, at the time the common element is  
14 completed or, if later, (i) as to a common element that may be added to  
15 the condominium or portion thereof, at the time the first unit therein is  
16 conveyed to a bona fide purchaser, or (ii) as to a common element within  
17 any other portion of the condominium, at the time the first unit in the  
18 condominium is conveyed to a bona fide purchaser.

19 (c) If a warranty explicitly extends to future performance or  
20 duration of any improvement or component of the condominium, the cause of  
21 action accrues at the time the breach is discovered or at the end of the  
22 period for which the warranty explicitly extends, whichever is earlier.

23 Sec. 53. Section 76-2202, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 76-2202 The Legislature finds that as a result of the enactment of  
26 the Dodd-Frank Wall Street Reform and Consumer Protection Act and the  
27 Financial Institutions Reform, Recovery, and Enforcement Act of 1989,  
28 Nebraska's laws providing for regulation of real property appraisers  
29 require restructuring and updating in order to comply with such acts.  
30 Compliance with the acts is necessary to ensure an adequate number of  
31 real property appraisers in Nebraska to conduct appraisals of real estate

1 involved in federally related transactions as defined in such acts.

2 Sec. 54. Section 76-2204, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 76-2204 Appraisal means (1) as a noun, an opinion of value or the  
5 act or process of developing an opinion of value or (2) as an adjective,  
6 pertaining to appraising and related functions such as real property  
7 appraisal practice ~~or real property appraisal activity~~. An appraisal is  
8 ~~must be~~ numerically expressed as a specific amount, as a range of  
9 numbers, or as a relationship to a previous value opinion or numerical  
10 benchmark.

11 Sec. 55. Section 76-2205.02, Reissue Revised Statutes of Nebraska,  
12 is amended to read:

13 76-2205.02 Appraisal review means (1) as a noun, the act or process  
14 of developing an opinion about the quality of a real property appraiser's  
15 work that was performed as part of real property appraisal practice a  
16 ~~valuation assignment, evaluation assignment, or appraisal review~~  
17 ~~assignment~~ or (2) as an adjective, of or pertaining to an opinion about  
18 the quality of another real property appraiser's work that was performed  
19 as part of real property appraisal practice a ~~valuation assignment,~~  
20 ~~evaluation assignment, or appraisal review assignment.~~

21 Sec. 56. Section 76-2207.01, Reissue Revised Statutes of Nebraska,  
22 is amended to read:

23 76-2207.01 Assignment means a valuation service that is performed by  
24 a real property an appraiser as a consequence of an agreement with a  
25 client.

26 Sec. 57. Section 76-2207.17, Reissue Revised Statutes of Nebraska,  
27 is amended to read:

28 76-2207.17 Assignment results means the opinions or conclusions, not  
29 limited to value, developed by a real property appraiser when performing  
30 valuation services specific to real property appraisal practice an  
31 ~~assignment not limited to value for an appraisal assignment, and not~~

1 ~~limited to an opinion about the quality of another appraiser's work for~~  
2 ~~an appraisal review assignment.~~

3 Sec. 58. Section 76-2207.22, Reissue Revised Statutes of Nebraska,  
4 is amended to read:

5 76-2207.22 Client means the person or persons who engage a real  
6 property appraiser , by employment or contract, ~~a real property appraiser~~  
7 in a specific assignment whether . ~~The client may engage and communicate~~  
8 ~~with the appraiser~~ directly or through an agent.

9 Sec. 59. Section 76-2207.26, Reissue Revised Statutes of Nebraska,  
10 is amended to read:

11 76-2207.26 Credential holder means (1) any person who holds a valid  
12 credential as a trainee real property appraiser, licensed real property  
13 appraiser, certified residential real property appraiser, or certified  
14 general real property appraiser and (2) any person who holds a temporary  
15 credential permit to engage in real property appraisal practice activity  
16 within this state.

17 Sec. 60. Section 76-2207.27, Revised Statutes Supplement, 2019, is  
18 amended to read:

19 76-2207.27 Education provider means: Any real property appraisal or  
20 real-estate-related organization; proprietary school; accredited degree-  
21 awarding community college, college, or university; state or federal  
22 agency; or such other provider that may be approved by the board that  
23 provides real property appraiser training or education.

24 Sec. 61. Section 76-2207.30, Revised Statutes Supplement, 2019, is  
25 amended to read:

26 76-2207.30 Financial Institutions Reform, Recovery, and Enforcement  
27 Act of 1989 means the act as it existed on January 1, 2020 ~~2019~~.

28 Sec. 62. Section 76-2212.03, Reissue Revised Statutes of Nebraska,  
29 is amended to read:

30 76-2212.03 Jurisdiction of practice means any jurisdiction in which  
31 an appraiser devotes his or her time engaged in real property appraisal

1 practice activity.

2 Sec. 63. Section 76-2215, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4 76-2215 Real property appraisal practice activity means any act or  
5 process performed by a real property appraiser involved in developing and  
6 reporting an analysis, opinion, or conclusion relating to the specified  
7 interests in or aspects of identified real estate or identified real  
8 property or an appraisal review. Real property appraisal practice  
9 activity includes, but is not limited to, evaluation assignments,  
10 valuation assignments, and appraisal review assignments.

11 Sec. 64. Section 76-2216, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 76-2216 Real property appraiser means a person who is a credential  
14 holder. ÷

15 ~~(1) Engages in real property appraisal activity;~~

16 ~~(2) Advertises or holds himself or herself out to the general public~~  
17 ~~as a real property appraiser; or~~

18 ~~(3) Offers, attempts, or agrees to perform or performs real property~~  
19 ~~appraisal activity.~~

20 Sec. 65. Section 76-2216.02, Reissue Revised Statutes of Nebraska,  
21 is amended to read:

22 76-2216.02 Report means any communication, written, oral, or by  
23 electronic means, of assignment results ~~an appraisal or appraisal review~~  
24 ~~that is~~ transmitted to the client or a party authorized by the client  
25 upon completion of an assignment. Testimony related to assignment results  
26 ~~an appraisal or appraisal review~~ is deemed to be an oral report.

27 Sec. 66. Section 76-2218.02, Reissue Revised Statutes of Nebraska,  
28 is amended to read:

29 76-2218.02 Uniform Standards of Professional Appraisal Practice  
30 means the standards adopted and promulgated by The Appraisal Foundation  
31 as the standards existed on January 1, 2020 ~~2018~~.

1           Sec. 67. Section 76-2219.01, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3           76-2219.01 Valuation services means ~~all~~ services pertaining to an  
4 aspect ~~aspects~~ of property value, including a service ~~services~~ performed  
5 by real property appraisers.

6           Sec. 68. Section 76-2219.02, Reissue Revised Statutes of Nebraska,  
7 is amended to read:

8           76-2219.02 Workfile means data, information, and documentation  
9 necessary to support a real property appraiser's opinions ~~analyses,~~  
10 ~~opinion,~~ and conclusions, and to show compliance with the Uniform  
11 Standards of Professional Appraisal Practice as it applies to an  
12 assignment.

13           Sec. 69. Section 76-2220, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15           76-2220 (1) Except as provided in section 76-2221, it shall be  
16 unlawful for anyone to act as a real property appraiser in this state  
17 without first obtaining proper credentialing as required under the Real  
18 Property Appraiser Act.

19           (2) Except as provided in section 76-2221, any person who, directly  
20 or indirectly for another, offers, attempts, ~~or~~ agrees to engage, or  
21 engages in real property appraisal practice, or who advertises or holds  
22 himself or herself out to the general public as a real property  
23 appraiser, perform any act described in section 76-2216 shall be deemed a  
24 real property appraiser within the meaning of the Real Property Appraiser  
25 Act, and such action shall constitute sufficient contact with this state  
26 for the exercise of personal jurisdiction over such person in any action  
27 arising out of such act. Committing a single act described in this ~~such~~  
28 section by a person required to be credentialed under the Real Property  
29 Appraiser Act and not so credentialed shall constitute a violation of the  
30 act for which the board may impose sanctions pursuant to this section for  
31 the protection of the public health, safety, or welfare.

1           (3) The board may issue a cease and desist order against any person  
2 who violates this section ~~by performing any action described in section~~  
3 ~~76-2216 without the appropriate credential~~. Such order shall be final ten  
4 days after issuance unless such person requests a hearing pursuant to  
5 section 76-2240. The board may, through the Attorney General, obtain an  
6 order from the district court for the enforcement of the cease and desist  
7 order.

8           Sec. 70. Section 76-2221, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10           76-2221 The Real Property Appraiser Act shall not apply to:

11           (1) Any real property appraiser who is a salaried employee of (a)  
12 the federal government, (b) any agency of the state government or a  
13 political subdivision which appraises real estate, (c) any insurance  
14 company authorized to do business in this state, or (d) any bank, savings  
15 bank, savings and loan association, building and loan association, credit  
16 union, or small loan company licensed by this state or supervised or  
17 regulated by or through federal enactments covering financial  
18 institutions, except that any employee of the entities listed in  
19 subdivisions (a) through (d) of this subdivision who signs a report as a  
20 credentialed real property appraiser shall be subject to the act and the  
21 Uniform Standards of Professional Appraisal Practice. Any salaried  
22 employee of the entities listed in subdivisions (a) through (d) of this  
23 subdivision who is a credentialed real property appraiser and who does  
24 not sign a report as a credentialed real property appraiser shall include  
25 the following disclosure prominently with such report: This opinion of  
26 value may not meet the minimum standards contained in the Uniform  
27 Standards of Professional Appraisal Practice and is not governed by the  
28 Real Property Appraiser Act;

29           (2) A person referred to in subsection (1) of section 81-885.16;

30           (3) Any person who provides assistance (a) in obtaining the data  
31 upon which assignment results are an appraisal ~~is based~~, (b) in the

1 physical preparation of a report, such as taking photographs, preparing  
2 charts, maps, or graphs, or typing or printing the report, or (c) that  
3 does not directly involve the exercise of judgment in arriving at the  
4 assignment results analyses, opinions, or conclusions concerning real  
5 estate or real property set forth in the report;

6 (4) Any owner of real estate, employee of the owner, or attorney  
7 licensed to practice law in this state representing the owner who renders  
8 an estimate or opinion of value of the real estate or any interest in the  
9 real estate when such estimate or opinion is for the purpose of real  
10 estate taxation, or any other person who renders such an estimate or  
11 opinion of value when that estimate or opinion requires a specialized  
12 knowledge that a real property appraiser would not have, except that a  
13 real property appraiser or a person licensed under the Nebraska Real  
14 Estate License Act is not exempt under this subdivision;

15 (5) Any owner of real estate, employee of the owner, or attorney  
16 licensed to practice law in this state representing the owner who renders  
17 an estimate or opinion of value of real estate or any interest in real  
18 estate or damages thereto when such estimate or opinion is offered as  
19 testimony in any condemnation proceeding, or any other person who renders  
20 such an estimate or opinion when that estimate or opinion requires a  
21 specialized knowledge that a real property appraiser would not have,  
22 except that a real property appraiser or a person licensed under the  
23 Nebraska Real Estate License Act is not exempt under this subdivision;

24 (6) Any owner of real estate, employee of the owner, or attorney  
25 licensed to practice law in this state representing the owner who renders  
26 an estimate or opinion of value of the real estate or any interest in the  
27 real estate when such estimate or opinion is offered in connection with a  
28 legal matter involving real property;

29 (7) Any person appointed by a county board of equalization to act as  
30 a referee pursuant to section 77-1502.01, except that any person who also  
31 practices as an independent real property appraiser for others shall be

1 subject to the Real Property Appraiser Act and shall be credentialed  
2 prior to engaging in such other real property appraisal practice  
3 ~~appraising~~. Any real property appraiser appointed to act as a referee  
4 pursuant to section 77-1502.01 and who prepares a report for the county  
5 board of equalization shall not sign such report as a credentialed real  
6 property appraiser and shall include the following disclosure prominently  
7 with such report: This opinion of value may not meet the minimum  
8 standards contained in the Uniform Standards of Professional Appraisal  
9 Practice and is not governed by the Real Property Appraiser Act;

10 (8) Any person who is appointed to serve as an appraiser pursuant to  
11 section 76-706, except that if such person is a credential holder, he or  
12 she shall (a) be subject to the scope of practice applicable to his or  
13 her classification of credential and (b) comply with the Uniform  
14 Standards of Professional Appraisal Practice, excluding standards 1  
15 through 10; or

16 (9) Any person, including an independent contractor, retained by a  
17 county to assist in the appraisal of real property as performed by the  
18 county assessor of such county subject to the standards established by  
19 the Tax Commissioner pursuant to section 77-1301.01. A person so retained  
20 shall be under the direction and responsibility of the county assessor.

21 Sec. 71. Section 76-2223, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 76-2223 (1) The Real Property Appraiser Board shall administer and  
24 enforce the Real Property Appraiser Act and may:

25 (a) Receive applications for credentialing under the act, process  
26 such applications and regulate the issuance of credentials to qualified  
27 applicants, and maintain a directory of the names and addresses of  
28 persons who receive credentials under the act;

29 (b) Hold meetings, public hearings, informal conferences, and  
30 administrative hearings, prepare or cause to be prepared specifications  
31 for all real property appraiser classifications, solicit bids and enter

1 into contracts with one or more testing services, and administer or  
2 contract for the administration of examinations approved by the Appraiser  
3 Qualifications Board in such places and at such times as deemed  
4 appropriate;

5 (c) Develop the specifications for credentialing examinations,  
6 including timing, location, and security necessary to maintain the  
7 integrity of the examinations;

8 (d) Review the procedures and criteria of a contracted testing  
9 service to ensure that the testing meets with the approval of the  
10 Appraiser Qualifications Board;

11 (e) Collect all fees required or permitted by the act. The Real  
12 Property Appraiser Board shall remit all such receipts to the State  
13 Treasurer for credit to the Real Property Appraiser Fund. In addition,  
14 the board may collect and transmit to the appropriate federal authority  
15 any fees established under the Financial Institutions Reform, Recovery,  
16 and Enforcement Act of 1989;

17 (f) Establish appropriate administrative procedures for disciplinary  
18 proceedings conducted pursuant to the Real Property Appraiser Act;

19 (g) Issue subpoenas to compel the attendance of witnesses and the  
20 production of books, documents, records, and other papers, administer  
21 oaths, and take testimony and require submission of and receive evidence  
22 concerning all matters within its jurisdiction. In case of disobedience  
23 of a subpoena, the Real Property Appraiser Board may make application to  
24 the district court of Lancaster County to require the attendance and  
25 testimony of witnesses and the production of documentary evidence. If any  
26 person fails to obey an order of the court, he or she may be punished by  
27 the court as for contempt thereof;

28 (h) Deny an application or censure, suspend, or revoke a credential  
29 if it finds that the applicant or credential holder has committed any of  
30 the acts or omissions set forth in section 76-2238 or otherwise violated  
31 the act. Any disciplinary matter may be resolved through informal

1 disposition pursuant to section 84-913;

2 (i) Take appropriate disciplinary action against a credential holder  
3 if the Real Property Appraiser Board determines that a credential holder  
4 has violated any provision of the act or the Uniform Standards of  
5 Professional Appraisal Practice;

6 (j) Enter into consent decrees and issue cease and desist orders  
7 upon a determination that a violation of the act has occurred;

8 (k) Promote research and conduct studies relating to the profession  
9 of real property appraisal, sponsor real property appraisal educational  
10 activities, and incur, collect fees for, and pay the necessary expenses  
11 in connection with activities which shall be open to all credential  
12 holders;

13 (l) Establish and adopt minimum standards for appraisals as required  
14 under section 76-2237;

15 (m) Adopt and promulgate rules and regulations to carry out the act.  
16 The rules and regulations may include provisions establishing minimum  
17 standards for education providers, courses, and instructors. The rules  
18 and regulations shall be adopted and promulgated pursuant to the  
19 Administrative Procedure Act; and

20 (n) Do all other things necessary to carry out the Real Property  
21 Appraiser Act.

22 (2) The Real Property Appraiser Board shall also administer and  
23 enforce the Nebraska Appraisal Management Company Registration Act.

24 Sec. 72. Section 76-2227, Reissue Revised Statutes of Nebraska, is  
25 amended to read:

26 76-2227 (1) Applications for initial credentials, upgrade of  
27 credentials, credentials through reciprocity, temporary credentials, and  
28 renewal of credentials, including authorization to take the appropriate  
29 examination, shall be made in writing to the board on forms approved by  
30 the board. The payment of the appropriate fee in an amount established by  
31 the board pursuant to section 76-2241 shall accompany all applications.

1           (2) Applications for credentials shall include the applicant's  
2 social security number and such other information as the board may  
3 require.

4           (3) At the time of filing an application for a credential, the  
5 applicant shall sign a pledge that he or she has read and will comply  
6 with the Uniform Standards of Professional Appraisal Practice. Each  
7 applicant shall also certify that he or she understands the types of  
8 misconduct for which disciplinary proceedings may be initiated.

9           (4) To qualify for an initial credential, an upgrade of a  
10 credential, a credential through reciprocity, a temporary credential, or  
11 a renewal of a credential, an applicant shall:

12           (a) Certify that disciplinary proceedings are not pending against  
13 him or her in any jurisdiction or state the nature of any pending  
14 disciplinary proceedings;

15           (b) Certify that he or she has not surrendered an appraiser  
16 credential, or any other registration, license, or certification, issued  
17 by any other regulatory agency or held in any other jurisdiction, in lieu  
18 of disciplinary action pending or threatened within the five-year period  
19 immediately preceding the date of application;

20           (c) Certify that his or her appraiser credential, or any other  
21 registration, license, or certification, issued by any other regulatory  
22 agency or held in any other jurisdiction, has not been revoked or  
23 suspended within the five-year period immediately preceding the date of  
24 application;

25           (d) Not have been convicted of, including a conviction based upon a  
26 plea of guilty or nolo contendere:

27           (i) Any felony or, if so convicted, has had his or her civil rights  
28 restored;

29           (ii) Any crime of fraud, dishonesty, breach of trust, money  
30 laundering, misrepresentation, or deceit involving real estate, financial  
31 services, or in the making of an appraisal within the five-year period

1 immediately preceding the date of application; or

2 (iii) Any other crime which is related to the qualifications,  
3 functions, or duties of a real property appraiser within the five-year  
4 period immediately preceding the date of application;

5 (e) Certify that no civil judicial actions, including dismissal with  
6 settlement, in connection with real estate, financial services, or in the  
7 making of an appraisal have been brought against him or her within the  
8 five-year period immediately preceding the date of application;

9 (f) Demonstrate character and general fitness such as to command the  
10 confidence and trust of the public; and

11 (g) Not possess a background that would call into question public  
12 trust or a credential holder's fitness for credentialing.

13 (5) Credentials shall be issued only to persons who have a good  
14 reputation for honesty, trustworthiness, integrity, and competence to  
15 perform real property appraisal practice assignments in such manner as to  
16 safeguard the interest of the public and only after satisfactory proof of  
17 such qualification has been presented to the board upon request and a  
18 completed application has been approved.

19 (6) No credential shall be issued to a person other than an  
20 individual.

21 Sec. 73. Section 76-2228.01, Revised Statutes Supplement, 2019, is  
22 amended to read:

23 76-2228.01 (1) To qualify for a credential as a trainee real  
24 property appraiser, an applicant shall:

25 (a) Be at least nineteen years of age;

26 (b) Hold a high school diploma or a certificate of high school  
27 equivalency or have education acceptable to the Real Property Appraiser  
28 Board;

29 (c)(i) Have successfully completed and passed examination for no  
30 fewer than seventy-five class hours in Real Property Appraiser Board-  
31 approved qualifying education courses conducted by education providers as

1 prescribed by rules and regulations of the Real Property Appraiser Board  
2 and completed the fifteen-hour National Uniform Standards of Professional  
3 Appraisal Practice Course. Each course shall include a proctored, closed-  
4 book examination pertinent to the material presented. Except for the  
5 fifteen-hour National Uniform Standards of Professional Appraisal  
6 Practice Course, which shall be completed within the two-year period  
7 immediately preceding submission of the application, all class hours  
8 shall be completed within the five-year period immediately preceding  
9 submission of the application; or

10 (ii) Hold a bachelor's degree or higher in real estate from an  
11 accredited degree-awarding college or university that has had all or part  
12 of its curriculum approved by the Appraiser Qualifications Board as  
13 required core curriculum or the equivalent as determined by the Appraiser  
14 Qualifications Board. The degree shall be conferred within the five-year  
15 period immediately preceding submission of the application. If the degree  
16 in real estate or equivalent as approved by the Appraiser Qualifications  
17 Board does not satisfy all required qualifying education for  
18 credentialing, the remaining class hours shall be completed in Real  
19 Property Appraiser Board-approved qualifying education pursuant to  
20 subdivision (c)(i) of this subsection;

21 (d) As prescribed by rules and regulations of the Real Property  
22 Appraiser Board, successfully complete a Real Property Appraiser Board-  
23 approved supervisory real property appraiser and trainee course within  
24 one year immediately preceding the date of application; and

25 (e) Submit two copies of legible ink-rolled fingerprint cards or  
26 equivalent electronic fingerprint submissions to the Real Property  
27 Appraiser Board for delivery to the Nebraska State Patrol in a form  
28 approved by both the Nebraska State Patrol and the Federal Bureau of  
29 Investigation. A fingerprint-based national criminal history record check  
30 shall be conducted through the Nebraska State Patrol and the Federal  
31 Bureau of Investigation with such record check to be carried out by the

1 Real Property Appraiser Board.

2 (2) Prior to engaging in ~~appraisal practice~~ or real property  
3 appraisal practice activity, a trainee real property appraiser shall  
4 submit a written request for supervisory real property appraiser approval  
5 on a form approved by the board. The request for supervisory real  
6 property appraiser approval may be made at the time of application or any  
7 time after approval as a trainee real property appraiser.

8 (3) To qualify for an upgraded credential, a trainee real property  
9 appraiser shall satisfy the appropriate requirements as follows:

10 (a) Submit two copies of legible ink-rolled fingerprint cards or  
11 equivalent electronic fingerprint submissions to the Real Property  
12 Appraiser Board for delivery to the Nebraska State Patrol in a form  
13 approved by both the Nebraska State Patrol and the Federal Bureau of  
14 Investigation. A fingerprint-based national criminal history record check  
15 shall be conducted through the Nebraska State Patrol and the Federal  
16 Bureau of Investigation with such record check to be carried out by the  
17 Real Property Appraiser Board; and

18 (b) Within the twelve months following approval of the applicant's  
19 education and experience by the Real Property Appraiser Board for an  
20 upgraded credential, pass an appropriate examination approved by the  
21 Appraiser Qualifications Board for that upgraded credential, prescribed  
22 by rules and regulations of the Real Property Appraiser Board, and  
23 administered by a contracted testing service.

24 (4) To qualify for a credential as a licensed residential real  
25 property appraiser, a trainee real property appraiser shall:

26 (a) Successfully complete and pass proctored, closed-book  
27 examinations for no fewer than seventy-five additional class hours in  
28 board-approved qualifying education courses conducted by education  
29 providers as prescribed by rules and regulations of the board, or hold a  
30 bachelor's degree in real estate from an accredited degree-awarding  
31 college or university or equivalent pursuant to subdivision (1)(c)(ii) of

1 section 76-2230; and

2 (b) Meet the experience requirements pursuant to subdivision (1)(d)  
3 of section 76-2230.

4 (5) To qualify for a credential as a certified residential real  
5 property appraiser, a trainee real property appraiser shall:

6 (a) Meet the postsecondary educational requirements pursuant to  
7 subdivisions (1)(b) and (c) of section 76-2231.01;

8 (b) Successfully complete and pass proctored, closed-book  
9 examinations for no fewer than one hundred twenty-five additional class  
10 hours in board-approved qualifying education courses conducted by  
11 education providers as prescribed by rules and regulations of the board,  
12 or hold a bachelor's degree in real estate from an accredited degree-  
13 awarding college or university or equivalent pursuant to subdivision (1)  
14 (d)(ii) of section 76-2231.01; and

15 (c) Meet the experience requirements pursuant to subdivision (1)(e)  
16 of section 76-2231.01.

17 (6) To qualify for a credential as a certified general real property  
18 appraiser, a trainee real property appraiser shall:

19 (a) Meet the postsecondary educational requirements pursuant to  
20 subdivisions (1)(b) and (c) of section 76-2232;

21 (b) Successfully complete and pass proctored, closed-book  
22 examinations for no fewer than two hundred twenty-five additional class  
23 hours in board-approved qualifying education courses conducted by  
24 education providers as prescribed by rules and regulations of the board,  
25 or hold a bachelor's degree in real estate from an accredited degree-  
26 awarding college or university or equivalent pursuant to subdivision (1)  
27 (d)(ii) of section 76-2232; and

28 (c) Meet the experience requirements pursuant to subdivision (1)(e)  
29 of section 76-2232.

30 (7) The scope of practice for the trainee real property appraiser  
31 shall be limited to real property appraisal practice assignments the

1 ~~appraisal of the types of real property or real estate~~ that the  
2 supervisory certified real property appraiser is permitted to engage in  
3 ~~appraise~~ by his or her current credential and that the supervisory real  
4 property appraiser is competent to engage in ~~appraise~~.

5 Sec. 74. Section 76-2228.02, Revised Statutes Supplement, 2019, is  
6 amended to read:

7 76-2228.02 (1) Each trainee real property appraiser's experience  
8 shall be subject to direct supervision by a supervisory real property  
9 appraiser. To qualify as a supervisory real property appraiser, a real  
10 property appraiser shall:

11 (a) Be a certified residential real property appraiser or certified  
12 general real property appraiser in good standing;

13 (b) Have held a certified real property appraiser credential in this  
14 state, or the equivalent in any other jurisdiction, for a minimum of  
15 three years immediately preceding the date of the written request for  
16 approval as supervisory real property appraiser;

17 (c) Have not successfully completed disciplinary action by the board  
18 or any other jurisdiction, which action limited the real property  
19 appraiser's legal eligibility to engage in real property appraisal  
20 practice activity within three years immediately preceding the date the  
21 written request for approval as supervisory real property appraiser is  
22 submitted by the applicant or trainee real property appraiser on a form  
23 approved by the board;

24 (d) As prescribed by rules and regulations of the board, have  
25 successfully completed a board-approved supervisory real property  
26 appraiser and trainee course preceding the date the written request for  
27 approval as supervisory real property appraiser is submitted by the  
28 applicant or trainee real property appraiser on a form approved by the  
29 board; and

30 (e) Certify that he or she understands his or her responsibilities  
31 and obligations under the Real Property Appraiser Act as a supervisory

1 real property appraiser and applies his or her signature to the written  
2 request for approval as supervisory real property appraiser submitted by  
3 the applicant or trainee real property appraiser.

4 (2) The supervisory real property appraiser shall be responsible for  
5 the training and direct supervision of the trainee real property  
6 appraiser's experience by:

7 (a) Accepting responsibility for the report by applying his or her  
8 signature and certifying that the report is in compliance with the  
9 Uniform Standards of Professional Appraisal Practice;

10 (b) Reviewing the trainee real property appraiser reports; and

11 (c) Personally inspecting each appraised property with the trainee  
12 real property appraiser as is consistent with his or her scope of  
13 practice until the supervisory real property appraiser determines that  
14 the trainee real property appraiser is competent in accordance with the  
15 competency rule of the Uniform Standards of Professional Appraisal  
16 Practice.

17 (3) A certified real property appraiser disciplined by the board or  
18 any other appraiser regulatory agency in another jurisdiction, which  
19 discipline may or may not have limited the real property appraiser's  
20 legal eligibility to engage in real property appraisal practice activity,  
21 shall not be eligible as a supervisory real property appraiser as of the  
22 date disciplinary action was imposed against the appraiser by the board  
23 or any other appraiser regulatory agency. The certified real property  
24 appraiser shall be considered to be in good standing and eligible as a  
25 supervisory real property appraiser upon the successful completion of  
26 disciplinary action that does not limit the real property appraiser's  
27 legal eligibility to engage in real property appraisal practice activity,  
28 or three years after the successful completion of disciplinary action  
29 that limits the real property appraiser's legal eligibility to engage in  
30 real property appraisal practice activity.

31 (4) The trainee real property appraiser may have more than one

1 supervisory real property appraiser, but a supervisory real property  
2 appraiser may not supervise more than three trainee real property  
3 appraisers at one time.

4 (5) As prescribed by rules and regulations of the board, an  
5 appraisal experience log shall be maintained jointly by the supervisory  
6 real property appraiser and the trainee real property appraiser.

7 Sec. 75. Section 76-2230, Revised Statutes Supplement, 2019, is  
8 amended to read:

9 76-2230 (1) To qualify for a credential as a licensed residential  
10 real property appraiser, an applicant shall:

11 (a) Be at least nineteen years of age;

12 (b) Hold a high school diploma or a certificate of high school  
13 equivalency or have education acceptable to the Real Property Appraiser  
14 Board;

15 (c)(i) Have successfully completed and passed examination for no  
16 fewer than one hundred fifty class hours in Real Property Appraiser  
17 Board-approved qualifying education courses conducted by education  
18 providers as prescribed by rules and regulations of the Real Property  
19 Appraiser Board and completed the fifteen-hour National Uniform Standards  
20 of Professional Appraisal Practice Course. Each course shall include a  
21 proctored, closed-book examination pertinent to the material presented;  
22 or

23 (ii) Hold a bachelor's degree or higher in real estate from an  
24 accredited degree-awarding college or university that has had all or part  
25 of its curriculum approved by the Appraiser Qualifications Board as  
26 required core curriculum or the equivalent as determined by the Appraiser  
27 Qualifications Board. If the degree in real estate or equivalent as  
28 approved by the Appraiser Qualifications Board does not satisfy all  
29 required qualifying education for credentialing, the remaining class  
30 hours shall be completed in Real Property Appraiser Board-approved  
31 qualifying education pursuant to subdivision (c)(i) of this subsection;

1 (d) Have no fewer than one thousand hours of experience as  
2 prescribed by rules and regulations of the Real Property Appraiser Board.  
3 The required experience shall be acceptable to the Real Property  
4 Appraiser Board and subject to review and determination as to conformity  
5 with the Uniform Standards of Professional Appraisal Practice. The  
6 experience shall have occurred during a period of no fewer than six  
7 months;

8 (e) Submit two copies of legible ink-rolled fingerprint cards or  
9 equivalent electronic fingerprint submissions to the Real Property  
10 Appraiser Board for delivery to the Nebraska State Patrol in a form  
11 approved by both the Nebraska State Patrol and the Federal Bureau of  
12 Investigation. A fingerprint-based national criminal history record check  
13 shall be conducted through the Nebraska State Patrol and the Federal  
14 Bureau of Investigation with such record check to be carried out by the  
15 Real Property Appraiser Board; and

16 (f) Within the twelve months following approval of the applicant's  
17 education and experience by the Real Property Appraiser Board, pass a  
18 licensed residential real property appraiser examination, certified  
19 residential real property appraiser examination, or certified general  
20 real property appraiser examination, approved by the Appraiser  
21 Qualifications Board, prescribed by rules and regulations of the Real  
22 Property Appraiser Board, and administered by a contracted testing  
23 service.

24 (2) To qualify for an upgraded credential, a licensed residential  
25 real property appraiser shall satisfy the appropriate requirements as  
26 follows:

27 (a) Submit two copies of legible ink-rolled fingerprint cards or  
28 equivalent electronic fingerprint submissions to the Real Property  
29 Appraiser Board for delivery to the Nebraska State Patrol in a form  
30 approved by both the Nebraska State Patrol and the Federal Bureau of  
31 Investigation. A fingerprint-based national criminal history record check

1 shall be conducted through the Nebraska State Patrol and the Federal  
2 Bureau of Investigation with such record check to be carried out by the  
3 Real Property Appraiser Board; and

4 (b) Within the twelve months following approval of the applicant's  
5 education and experience by the Real Property Appraiser Board for an  
6 upgraded credential, pass an appropriate examination approved by the  
7 Appraiser Qualifications Board for that upgraded credential, prescribed  
8 by rules and regulations of the Real Property Appraiser Board, and  
9 administered by a contracted testing service.

10 (3) To qualify for a credential as a certified residential real  
11 property appraiser, a licensed residential real property appraiser shall:

12 (a)(i) Meet the postsecondary educational requirements pursuant to  
13 subdivisions (1)(b) and (c) of section 76-2231.01; or

14 (ii)(A) Have held a credential as a licensed residential real  
15 property appraiser for a minimum of five years; and

16 (B) Not have been subject to a nonappealable disciplinary action by  
17 the board or any other jurisdiction, which action limited the real  
18 property appraiser's legal eligibility to engage in real property  
19 appraisal practice activity within five years immediately preceding the  
20 date of application for the certified residential real property appraiser  
21 credential;

22 (b) Successfully complete and pass proctored, closed-book  
23 examinations for no fewer than fifty additional class hours in board-  
24 approved qualifying education courses conducted by education providers as  
25 prescribed by rules and regulations of the board, or hold a bachelor's  
26 degree in real estate from an accredited degree-awarding college or  
27 university or equivalent pursuant to subdivision (1)(d)(ii) of section  
28 76-2231.01; and

29 (c) Meet the experience requirements pursuant to subdivision (1)(e)  
30 of section 76-2231.01.

31 (4) To qualify for a credential as a certified general real property

1 appraiser, a licensed residential real property appraiser shall:

2 (a) Meet the postsecondary educational requirements pursuant to  
3 subdivisions (1)(b) and (c) of section 76-2232;

4 (b) Successfully complete and pass proctored, closed-book  
5 examinations for no fewer than one hundred fifty additional class hours  
6 in board-approved qualifying education courses conducted by education  
7 providers as prescribed by rules and regulations of the board, or hold a  
8 bachelor's degree in real estate from an accredited degree-awarding  
9 college or university or equivalent pursuant to subdivision (1)(d)(ii) of  
10 section 76-2232; and

11 (c) Meet the experience requirements pursuant to subdivision (1)(e)  
12 of section 76-2232.

13 (5) An appraiser holding a valid licensed residential real property  
14 appraiser credential shall satisfy the requirements for the trainee real  
15 property appraiser credential for a downgraded credential.

16 (6) The scope of practice for a licensed residential real property  
17 appraiser shall be limited to real property appraisal practice concerning  
18 ~~the appraisal of, and review of appraisal of,~~ noncomplex residential real  
19 property or real estate having no more than four units, if any, with a  
20 transaction value of less than one million dollars and complex  
21 residential real property or real estate having no more than four units,  
22 if any, with a transaction value of less than two hundred fifty thousand  
23 dollars. The appraisal of subdivisions for which a development analysis  
24 or appraisal is necessary is not included in the scope of practice for a  
25 licensed residential real property appraiser.

26 Sec. 76. Section 76-2231.01, Revised Statutes Supplement, 2019, is  
27 amended to read:

28 76-2231.01 (1) To qualify for a credential as a certified  
29 residential real property appraiser, an applicant shall:

30 (a) Be at least nineteen years of age;

31 (b)(i) Hold a bachelor's degree, or higher, from an accredited

1 degree-awarding college or university;

2 (ii) Hold an associate's degree from an accredited degree-awarding  
3 community college, college, or university in the study of business  
4 administration, accounting, finance, economics, or real estate;

5 (iii) Successfully complete thirty semester hours of college-level  
6 education from an accredited degree-awarding community college, college,  
7 or university that includes:

8 (A) Three semester hours in each of the following: English  
9 composition; microeconomics; macroeconomics; finance; algebra, geometry,  
10 or higher mathematics; statistics; computer science; and business law or  
11 real estate law; and

12 (B) Three semester hours each in two elective courses in any of the  
13 topics listed in subdivision (b)(iii)(A) of this subsection, or in  
14 accounting, geography, agricultural economics, business management, or  
15 real estate;

16 (iv) Successfully complete thirty semester hours of the College-  
17 Level Examination Program from an accredited degree-awarding community  
18 college, college, or university that includes three semester hours in  
19 each of the following subject matter areas: College algebra; college  
20 composition; college composition modular; college mathematics; principles  
21 of macroeconomics; principles of microeconomics; introductory business  
22 law; and information systems; or

23 (v) Successfully complete any combination of subdivisions (b)(iii)  
24 and (iv) of this subsection that ensures coverage of all topics and hours  
25 identified in subdivision (b)(iii) of this subsection;

26 (c) Have his or her education evaluated for equivalency by one of  
27 the following if the college degree is from a foreign country:

28 (i) An accredited degree-awarding college or university;

29 (ii) A foreign degree credential evaluation service company that is  
30 a member of the National Association of Credential Evaluation Services;

31 or

1 (iii) A foreign degree credential evaluation service company that  
2 provides equivalency evaluation reports accepted by an accredited degree-  
3 awarding college or university;

4 (d)(i) Have successfully completed and passed examination for no  
5 fewer than two hundred class hours in Real Property Appraiser Board-  
6 approved qualifying education courses conducted by education providers as  
7 prescribed by rules and regulations of the Real Property Appraiser Board  
8 and completed the fifteen-hour National Uniform Standards of Professional  
9 Appraisal Practice Course. Each course shall include a proctored, closed-  
10 book examination pertinent to the material presented; or

11 (ii) Hold a bachelor's degree or higher in real estate from an  
12 accredited degree-awarding college or university that has had all or part  
13 of its curriculum approved by the Appraiser Qualifications Board as  
14 required core curriculum or the equivalent as determined by the Appraiser  
15 Qualifications Board. If the degree in real estate or equivalent as  
16 approved by the Appraiser Qualifications Board does not satisfy all  
17 required qualifying education for credentialing, the remaining class  
18 hours shall be completed in Real Property Appraiser Board-approved  
19 qualifying education pursuant to subdivision (d)(i) of this subsection;

20 (e) Have no fewer than one thousand five hundred hours of experience  
21 as prescribed by rules and regulations of the Real Property Appraiser  
22 Board. The required experience shall be acceptable to the Real Property  
23 Appraiser Board and subject to review and determination as to conformity  
24 with the Uniform Standards of Professional Appraisal Practice. The  
25 experience shall have occurred during a period of no fewer than twelve  
26 months;

27 (f) Submit two copies of legible ink-rolled fingerprint cards or  
28 equivalent electronic fingerprint submissions to the Real Property  
29 Appraiser Board for delivery to the Nebraska State Patrol in a form  
30 approved by both the Nebraska State Patrol and the Federal Bureau of  
31 Investigation. A fingerprint-based national criminal history record check

1 shall be conducted through the Nebraska State Patrol and the Federal  
2 Bureau of Investigation with such record check to be carried out by the  
3 Real Property Appraiser Board; and

4 (g) Within the twelve months following approval of the applicant's  
5 education and experience by the Real Property Appraiser Board, pass a  
6 certified residential real property appraiser examination or certified  
7 general real property appraiser examination, approved by the Appraiser  
8 Qualifications Board, prescribed by rules and regulations of the Real  
9 Property Appraiser Board, and administered by a contracted testing  
10 service.

11 (2) To qualify for an upgraded credential, a certified residential  
12 real property appraiser shall satisfy the following requirements:

13 (a) Submit two copies of legible ink-rolled fingerprint cards or  
14 equivalent electronic fingerprint submissions to the Real Property  
15 Appraiser Board for delivery to the Nebraska State Patrol in a form  
16 approved by both the Nebraska State Patrol and the Federal Bureau of  
17 Investigation. A fingerprint-based national criminal history record check  
18 shall be conducted through the Nebraska State Patrol and the Federal  
19 Bureau of Investigation with such record check to be carried out by the  
20 Real Property Appraiser Board; and

21 (b) Within the twelve months following approval of the applicant's  
22 education and experience by the Real Property Appraiser Board for an  
23 upgrade to a certified general real property appraiser credential, pass a  
24 certified general real property appraiser examination approved by the  
25 Appraiser Qualifications Board, prescribed by rules and regulations of  
26 the Real Property Appraiser Board, and administered by a contracted  
27 testing service.

28 (3) To qualify for a credential as a certified general real property  
29 appraiser, a certified residential real property appraiser shall:

30 (a) Meet the postsecondary educational requirements pursuant to  
31 subdivisions (1)(b) and (c) of section 76-2232;

1 (b) Successfully complete and pass proctored, closed-book  
2 examinations for no fewer than one hundred additional class hours in  
3 board-approved qualifying education courses conducted by education  
4 providers as prescribed by rules and regulations of the board, or hold a  
5 bachelor's degree in real estate from an accredited degree-awarding  
6 college or university or equivalent pursuant to subdivision (1)(d)(ii) of  
7 section 76-2232; and

8 (c) Meet the experience requirements pursuant to subdivision (1)(e)  
9 of section 76-2232.

10 (4) ~~A An appraiser holding a valid~~ certified residential real  
11 property appraiser ~~credential~~ shall satisfy the requirements for the  
12 trainee real property appraiser credential and licensed residential real  
13 property appraiser credential for a downgraded credential. If requested,  
14 evidence acceptable to the Real Property Appraiser Board concerning the  
15 experience shall be presented along with an application in the form of  
16 written reports or file memoranda.

17 (5) The scope of practice for a certified residential real property  
18 appraiser shall be limited to real property appraisal practice concerning  
19 ~~the appraisal of, and review of appraisal of,~~ residential real property  
20 or real estate having no more than four residential units, if any,  
21 without regard to transaction value or complexity. The appraisal of  
22 subdivisions for which a development analysis or appraisal is necessary  
23 is not included in the scope of practice for a certified residential real  
24 property appraiser.

25 Sec. 77. Section 76-2232, Revised Statutes Supplement, 2019, is  
26 amended to read:

27 76-2232 (1) To qualify for a credential as a certified general real  
28 property appraiser, an applicant shall:

29 (a) Be at least nineteen years of age;

30 (b) Hold a bachelor's degree, or higher, from an accredited degree-  
31 awarding college or university;

1 (c) Have his or her education evaluated for equivalency by one of  
2 the following if the college degree is from a foreign country:

3 (i) An accredited degree-awarding college or university;

4 (ii) A foreign degree credential evaluation service company that is  
5 a member of the National Association of Credential Evaluation Services;  
6 or

7 (iii) A foreign degree credential evaluation service company that  
8 provides equivalency evaluation reports accepted by an accredited degree-  
9 awarding college or university;

10 (d)(i) Have successfully completed and passed examination for no  
11 fewer than three hundred class hours in Real Property Appraiser Board-  
12 approved qualifying education courses conducted by education providers as  
13 prescribed by rules and regulations of the Real Property Appraiser Board  
14 and completed the fifteen-hour National Uniform Standards of Professional  
15 Appraisal Practice Course. Each course shall include a proctored, closed-  
16 book examination pertinent to the material presented; or

17 (ii) Hold a bachelor's degree or higher in real estate from an  
18 accredited degree-awarding college or university that has had all or part  
19 of its curriculum approved by the Appraiser Qualifications Board as  
20 required core curriculum or the equivalent as determined by the Appraiser  
21 Qualifications Board. If the degree in real estate or equivalent as  
22 approved by the Appraiser Qualifications Board does not satisfy all  
23 required qualifying education for credentialing, the remaining class  
24 hours shall be completed in Real Property Appraiser Board-approved  
25 qualifying education pursuant to subdivision (d)(i) of this subsection;

26 (e) Have no fewer than three thousand hours of experience, of which  
27 one thousand five hundred hours shall be in nonresidential appraisal  
28 work, as prescribed by rules and regulations of the Real Property  
29 Appraiser Board. The required experience shall be acceptable to the Real  
30 Property Appraiser Board and subject to review and determination as to  
31 conformity with the Uniform Standards of Professional Appraisal Practice.

1 The experience shall have occurred during a period of no fewer than  
2 eighteen months;

3 (f) Submit two copies of legible ink-rolled fingerprint cards or  
4 equivalent electronic fingerprint submissions to the Real Property  
5 Appraiser Board for delivery to the Nebraska State Patrol in a form  
6 approved by both the Nebraska State Patrol and the Federal Bureau of  
7 Investigation. A fingerprint-based national criminal history record check  
8 shall be conducted through the Nebraska State Patrol and the Federal  
9 Bureau of Investigation with such record check to be carried out by the  
10 Real Property Appraiser Board; and

11 (g) Within the twelve months following approval of the applicant's  
12 education and experience by the Real Property Appraiser Board, pass a  
13 certified general real property appraiser examination, approved by the  
14 Appraiser Qualifications Board, prescribed by rules and regulations of  
15 the Real Property Appraiser Board, and administered by a contracted  
16 testing service.

17 (2) ~~A An appraiser holding a valid~~ certified general real property  
18 appraiser ~~credential~~ shall satisfy the requirements for the trainee real  
19 property appraiser credential, licensed residential real property  
20 appraiser credential, and certified residential real property appraiser  
21 credential for a downgraded credential. If requested, evidence acceptable  
22 to the Real Property Appraiser Board concerning the experience shall be  
23 presented along with an application in the form of written reports or  
24 file memoranda.

25 (3) The scope of practice for the certified general real property  
26 appraiser shall include real property appraisal practice concerning ~~is~~  
27 ~~the appraisal of~~ all types of real property or real estate that appraiser  
28 is competent to engage in appraise.

29 Sec. 78. Section 76-2233, Reissue Revised Statutes of Nebraska, is  
30 amended to read:

31 76-2233 (1) A person currently credentialed to engage in real

1 property appraisal practice concerning appraise real estate and real  
2 property under the laws of another jurisdiction may qualify for a  
3 credential through reciprocity as a licensed residential real property  
4 appraiser, a certified residential real property appraiser, or a  
5 certified general real property appraiser by complying with all of the  
6 provisions of the Real Property Appraiser Act relating to the appropriate  
7 classification of credentialing.

8 (2) An applicant under this section may qualify for a credential if,  
9 in the determination of the board:

10 (a) The requirements for credentialing in the applicant's  
11 jurisdiction of practice specified in an application for credentialing  
12 meet or exceed the minimum requirements of the Real Property Appraiser  
13 Qualification Criteria as adopted and promulgated by the Appraiser  
14 Qualifications Board of The Appraisal Foundation; and

15 (b) The regulatory program of the applicant's jurisdiction of  
16 practice specified in an application for credentialing is determined to  
17 be effective in accordance with Title XI of the Financial Institutions  
18 Reform, Recovery, and Enforcement Act of 1989 by the Appraisal  
19 Subcommittee of the Federal Financial Institutions Examination Council.

20 (3) The status of an applicant's jurisdiction of practice specified  
21 in an application for credentialing through reciprocity shall be verified  
22 through the most recent Compliance Review Report issued by the Appraisal  
23 Subcommittee of the Federal Financial Institutions Examination Council.  
24 In the case that findings pertaining to the adoption or implementation of  
25 the Real Property Appraiser Qualification Criteria indicate that one or  
26 more credentialing requirements do not meet or exceed the Real Property  
27 Appraiser Qualification Criteria as promulgated by the Appraiser  
28 Qualifications Board of The Appraisal Foundation, the board may request  
29 evidence from the jurisdiction of practice or the Appraisal Subcommittee  
30 of the Federal Financial Institutions Examination Council showing that  
31 progress has been made to mitigate the findings in the Compliance Review

1 Report.

2 (4) To qualify for a credential through reciprocity, the applicant  
3 shall:

4 (a) Submit two copies of legible ink-rolled fingerprint cards or  
5 equivalent electronic fingerprint submissions to the board for delivery  
6 to the Nebraska State Patrol in a form approved by both the Nebraska  
7 State Patrol and the Federal Bureau of Investigation. A fingerprint-based  
8 national criminal history record check shall be conducted through the  
9 Nebraska State Patrol and the Federal Bureau of Investigation with such  
10 record check to be carried out by the board;

11 (b) Submit an irrevocable consent that service of process upon him  
12 or her may be made by delivery of the process to the director of the  
13 board if the plaintiff cannot, in the exercise of due diligence, effect  
14 personal service upon the applicant in an action against the applicant in  
15 a court of this state arising out of the applicant's activities as a real  
16 property appraiser in this state; and

17 (c) Comply with such other terms and conditions as may be determined  
18 by the board.

19 (5) The credential status of an applicant under this section,  
20 including current standing and any disciplinary action imposed against  
21 his or her credentials, shall be verified through the National Registry  
22 of the Appraisal Subcommittee of the Federal Financial Institutions  
23 Examination Council.

24 Sec. 79. Section 76-2233.01, Reissue Revised Statutes of Nebraska,  
25 is amended to read:

26 76-2233.01 (1) A nonresident currently credentialed to engage in  
27 real property appraisal practice concerning ~~appraise~~ real estate and real  
28 property under the laws of another jurisdiction may obtain a temporary  
29 credential as a licensed residential real property appraiser, a certified  
30 residential real property appraiser, or a certified general real property  
31 appraiser to engage in real property appraisal practice ~~activity~~ in this

1 state.

2 (2) To qualify for the issuance of a temporary credential, an  
3 applicant shall:

4 (a) Submit an application on a form approved by the board;

5 (b) Submit a letter of engagement or a contract indicating the  
6 location of the real property appraisal practice assignment and  
7 completion date;

8 (c) Submit an irrevocable consent that service of process upon him  
9 or her may be made by delivery of the process to the director of the  
10 board if the plaintiff cannot, in the exercise of due diligence, effect  
11 personal service upon the applicant in an action against the applicant in  
12 a court of this state arising out of the applicant's activities in this  
13 state; and

14 (d) Pay the appropriate application fee in an amount established by  
15 the board pursuant to section 76-2241.

16 (3) The credential status of an applicant under this section,  
17 including current standing and any disciplinary action imposed against  
18 his or her credentials, shall be verified through the National Registry  
19 of the Appraisal Subcommittee of the Federal Financial Institutions  
20 Examination Council.

21 (4) Application for a temporary credential is valid for one year  
22 from the date application is made to the board or upon the expiration of  
23 the assignment specified in the letter of engagement, whichever occurs  
24 first.

25 (5) A temporary credential issued under this section shall be  
26 expressly limited to a grant of authority to engage in real property  
27 appraisal practice activity required for an assignment in this state.  
28 Each temporary credential shall expire upon the completion of the  
29 assignment or upon the expiration of a period of six months from the date  
30 of issuance, whichever occurs first. A temporary credential may be  
31 renewed for one additional six-month period.

1           (6) Any person issued a temporary credential to engage in real  
2 property appraisal practice activity in this state shall comply with all  
3 of the provisions of the Real Property Appraiser Act relating to the  
4 appropriate classification of credentialing. The board may, upon its own  
5 motion, and shall, upon the written complaint of any aggrieved person,  
6 cause an investigation to be made with respect to an alleged violation of  
7 the act by a person who is engaged in, or who has engaged in, real  
8 property appraisal practice activity as a temporary credential holder,  
9 and that person shall be deemed a real property appraiser within the  
10 meaning of the act.

11           Sec. 80. Section 76-2233.02, Reissue Revised Statutes of Nebraska,  
12 is amended to read:

13           76-2233.02 (1) A credential issued under the Real Property Appraiser  
14 Act other than a temporary credential shall remain in effect until  
15 December 31 of the designated year unless surrendered, revoked,  
16 suspended, or canceled prior to such date. To renew a valid credential,  
17 the credential holder shall file an application on a form approved by the  
18 board and pay the appropriate renewal fee in an amount established by the  
19 board pursuant to section 76-2241. The credential holder shall also pay  
20 the criminal history record check fee in an amount established by the  
21 board pursuant to section 76-2241 for maintenance of the random  
22 fingerprint audit program to the board not later than November 30 of the  
23 designated year. A credential may be renewed for one year or two years.  
24 In every second year of the two-year continuing education period, as  
25 specified in section 76-2236, evidence of completion of continuing  
26 education requirements shall accompany renewal application or be on file  
27 with the board prior to renewal.

28           (2) The board shall establish a number of credential holders to be  
29 selected at random to submit, along with the application for renewal, two  
30 copies of legible ink-rolled fingerprint cards or equivalent electronic  
31 fingerprint submissions to the board for delivery to the Nebraska State

1 Patrol in a form approved by both the Nebraska State Patrol and the  
2 Federal Bureau of Investigation. A fingerprint-based national criminal  
3 history record check shall be conducted through the Nebraska State Patrol  
4 and the Federal Bureau of Investigation with such record check to be  
5 carried out by the board.

6 (3) If a credential holder fails to apply and meet the requirements  
7 for renewal by November 30 of the designated year, such credential holder  
8 may obtain a renewal of such credential by satisfying all of the  
9 requirements for renewal and paying the appropriate late processing fee  
10 in an amount established by the board pursuant to section 76-2241 if such  
11 late renewal takes place prior to July 1 of the following year. A  
12 credential holder selected at random to submit fingerprint cards or  
13 equivalent electronic fingerprints that has applied and met all other  
14 requirements for renewal prior to November 30 of the designated year  
15 shall not pay a late processing fee if fingerprint cards or equivalent  
16 electronic fingerprints are received prior to November 30 of the  
17 designated year. If a credential holder that first obtained his or her  
18 credential at the current level on or after November 1 fails to apply and  
19 meet the requirements for renewal by December 31 of the designated year,  
20 such credential holder may obtain a renewal of such credential by  
21 satisfying all the requirements for renewal and paying a late processing  
22 fee if such late renewal takes place prior to July 1 of the following  
23 year. The board may refuse to renew any credential if the credential  
24 holder has continued to, directly or indirectly for another, offer,  
25 attempt, agree to engage in, or engage in perform real property appraisal  
26 practice activities or other related activities in this state following  
27 the expiration of his or her credential. If a credential is not renewed  
28 prior to July 1, a credential holder shall reapply for credentialing and  
29 meet the current requirements in place at the time of application, except  
30 as provided in section 76-2233.03.

31 Sec. 81. Section 76-2233.03, Reissue Revised Statutes of Nebraska,

1 is amended to read:

2 76-2233.03 (1) A credential holder may request that his or her  
3 credential be placed on inactive status for a period not to exceed two  
4 years. Such requests shall be submitted to the board on an application  
5 form prescribed by the board. The payment of the appropriate fee in an  
6 amount established by the board pursuant to section 76-2241 shall  
7 accompany all applications for requests of inactive status.

8 (2) A credential holder whose credential is placed on inactive  
9 status shall not:

10 (a) Assume or use any title, designation, or abbreviation likely to  
11 create the impression that such person holds an active credential issued  
12 by the board; or

13 (b) Engage in ~~appraisal practice~~ or real property appraisal practice  
14 ~~activity~~ or act as a credentialed real property appraiser.

15 (3) A credential holder whose credential is placed on inactive  
16 status may make a request to the board that such credential be reinstated  
17 to active status on an application form prescribed by the board. The  
18 payment of the appropriate fee in an amount established by the board  
19 pursuant to section 76-2241 shall accompany all applications for  
20 reinstatement of a credential.

21 (4) A credential holder's application for reinstatement shall  
22 include evidence that he or she has met the continuing education  
23 requirements as specified in section 76-2236 while the credential was on  
24 inactive status.

25 (5) If a credential holder's credential expires during the inactive  
26 period, an application for renewal of the credential shall accompany the  
27 application for reinstatement. All requirements for renewal specified in  
28 section 76-2233.02 shall be met, except for the requirement to pay a late  
29 processing fee for applications received after November 30 of the  
30 designated year.

31 (6) If a credential holder fails to reinstate his or her credential

1 to active status prior to the completion of the two-year period, his or  
2 her credential will return to the status as if the credential was not  
3 placed on inactive status. If a credential holder's credential is expired  
4 at the completion of the two-year period, the credential holder shall  
5 reapply for credentialing and meet the current requirements in place at  
6 the time of application.

7 Sec. 82. Section 76-2236, Revised Statutes Supplement, 2019, is  
8 amended to read:

9 76-2236 (1) Every credential holder shall furnish evidence to the  
10 board that he or she has satisfactorily completed no fewer than twenty-  
11 eight hours of approved continuing education activities in each two-year  
12 continuing education period. The continuing education period begins on  
13 January 1 of the next year for any credential holder who first obtained  
14 his or her credential at the current level on or after July 1. Hours of  
15 satisfactorily completed approved continuing education activities cannot  
16 be carried over from one two-year continuing education period to another.  
17 Evidence of successful completion of such continuing education activities  
18 for the two-year continuing education period, including passing  
19 examination if applicable, shall be submitted to the board in the manner  
20 prescribed by the board. No continuing education activity shall be less  
21 than two hours in duration. A person who holds a temporary credential  
22 does not have to meet any continuing education requirements in the Real  
23 Property Appraiser Act.

24 (2) As prescribed by rules and regulations of the Real Property  
25 Appraiser Board and at least once every two years, the seven-hour  
26 National Uniform Standards of Professional Appraisal Practice Update  
27 Course as approved by the Appraiser Qualifications Board or the  
28 equivalent of the course as approved by the Real Property Appraiser  
29 Board, shall be included in the continuing education requirement of each  
30 credential holder. An instructor certified by the Appraiser  
31 Qualifications Board satisfies this requirement by successfully

1 completing a seven-hour instructor recertification course and examination  
2 as approved by the Appraiser Qualifications Board.

3 (3) A continuing education activity conducted in another  
4 jurisdiction in which the activity is approved to meet the continuing  
5 education requirements for renewal of a credential in such other  
6 jurisdiction shall be accepted by the board if that jurisdiction has  
7 adopted and enforces standards for such continuing education activity  
8 that meet or exceed the standards established by the Real Property  
9 Appraiser Act and the rules and regulations of the board.

10 (4) The board may adopt a program of continuing education for  
11 individual credentials as long as the program is compliant with the  
12 Appraiser Qualifications Board's criteria specific to continuing  
13 education.

14 (5) No more than fourteen hours may be approved by the Real Property  
15 Appraiser Board as continuing education in each two-year continuing  
16 education period for participation, other than as a student, in appraisal  
17 educational processes and programs, which includes teaching, program  
18 development, authorship of textbooks, or similar activities that are  
19 determined by the board to be equivalent to obtaining continuing  
20 education. Evidence of participation shall be submitted to the board upon  
21 completion of the appraisal educational process or program. No  
22 preapproval will be granted for participation in appraisal educational  
23 processes or programs.

24 (6) Qualifying education, as approved by the board, successfully  
25 completed by a credential holder to fulfill the class-hour requirement to  
26 upgrade to a higher classification than his or her current  
27 classification, shall be approved by the board as continuing education.

28 (7) Qualifying education, as approved by the board, taken by a  
29 credential holder not to fulfill the class-hour requirement to upgrade to  
30 a higher classification, shall be approved by the board as continuing  
31 education if the credential holder completes the examination.

1 (8) A board-approved supervisory real property appraiser and trainee  
2 course successfully completed by a certified real property appraiser  
3 shall be approved by the board as continuing education no more than once  
4 during each two-year continuing education period.

5 (9) The Real Property Appraiser Board shall approve continuing  
6 education activities and instructors which it determines would protect  
7 the public by improving the competency of credential holders.

8 Sec. 83. Section 76-2238, Revised Statutes Supplement, 2019, is  
9 amended to read:

10 76-2238 The following acts and omissions shall be considered grounds  
11 for disciplinary action or denial of an application by the board:

12 (1) Failure to meet the minimum qualifications for credentialing  
13 established by or pursuant to the Real Property Appraiser Act;

14 (2) Procuring or attempting to procure a credential under the act by  
15 knowingly making a false statement, submitting false information, or  
16 making a material misrepresentation in an application filed with the  
17 board or procuring or attempting to procure a credential through fraud or  
18 misrepresentation;

19 (3) Paying money or other valuable consideration other than the fees  
20 provided for by the act to any member or employee of the board to procure  
21 a credential;

22 (4) An act or omission involving real estate or real property  
23 appraisal practice which constitutes dishonesty, fraud, or  
24 misrepresentation with or without the intent to substantially benefit the  
25 credential holder or another person or with the intent to substantially  
26 injure another person;

27 (5) Failure to demonstrate character and general fitness such as to  
28 command the confidence and trust of the public;

29 (6) Conviction, including a conviction based upon a plea of guilty  
30 or nolo contendere, of any felony unless his or her civil rights have  
31 been restored;

1 (7) Entry of a final civil or criminal judgment, including dismissal  
2 with settlement, on grounds of fraud, dishonesty, breach of trust, money  
3 laundering, misrepresentation, or deceit involving real estate, financial  
4 services, or real property in the making of an appraisal practice;

5 (8) Conviction, including a conviction based upon a plea of guilty  
6 or nolo contendere, of a crime which is related to the qualifications,  
7 functions, or duties of a real property appraiser;

8 (9) Performing valuation services as a credentialed real property  
9 appraiser under an assumed or fictitious name;

10 (10) Paying a finder's fee or a referral fee to any person in  
11 connection with a real property appraisal practice assignment ~~the~~  
12 ~~appraisal of real estate or real property or an appraisal review~~, except  
13 that an intracompany payment for business development shall not be  
14 considered to be unethical or a violation of this subdivision;

15 (11) Making a false or misleading statement in that portion of a  
16 written report that deals with professional qualifications or in any  
17 testimony concerning professional qualifications;

18 (12) Any violation of the act or any rules and regulations adopted  
19 and promulgated pursuant to the act;

20 ~~(13) Violation of the confidential nature of any information to~~  
21 ~~which a credential holder gained access through employment for evaluation~~  
22 ~~assignments or valuation assignments;~~

23 ~~(14) Acceptance of a fee for performing a real property appraisal~~  
24 ~~valuation assignment, evaluation assignment, or appraisal review~~  
25 ~~assignment when the fee is or was contingent upon (a) the real property~~  
26 ~~appraiser reporting a predetermined analysis, opinion, or conclusion, (b)~~  
27 ~~the analysis, opinion, conclusion, or valuation reached, or (c) the~~  
28 ~~consequences resulting from an appraisal or appraisal review;~~

29 ~~(15) Failure or refusal to exercise reasonable diligence in~~  
30 ~~developing an appraisal or appraisal review, preparing a report, or~~  
31 ~~communicating a report or assignment results;~~

1       ~~(16) Negligence or incompetence in developing an appraisal or~~  
2 ~~appraisal review, preparing a report, or communicating a report or~~  
3 ~~assignment results, including failure to follow the standards and ethical~~  
4 ~~rules adopted by the board;~~

5       (13) ~~(17)~~ Failure to maintain, or to make available for inspection  
6 and copying, records required by the board;

7       (14) ~~(18)~~ Demonstrating negligence, incompetence, or unworthiness to  
8 act as a real property appraiser, whether of the same or of a different  
9 character as otherwise specified in this section;

10       (15) ~~(19)~~ Suspension or revocation of an appraisal credential or a  
11 license in another regulated occupation, trade, or profession in this or  
12 any other jurisdiction or disciplinary action taken by another  
13 jurisdiction that limits the real property appraiser's ability to engage  
14 in real property appraisal practice activity;

15       (16) ~~(20)~~ Failure to renew or surrendering an appraisal credential  
16 or any other registration, license, or certification issued by any other  
17 regulatory agency or held in any other jurisdiction in lieu of  
18 disciplinary action pending or threatened;

19       (17) ~~(21)~~ Failure to report disciplinary action taken against an  
20 appraisal credential or any other registration, license, or certification  
21 issued by any other regulatory agency or held in any other jurisdiction  
22 within sixty days of receiving notice of such disciplinary action;

23       (18) ~~(22)~~ Failure to comply with terms of a consent agreement or  
24 settlement agreement;

25       (19) ~~(23)~~ Failure to submit or produce books, records, documents,  
26 workfiles, reports, or other materials requested by the board concerning  
27 any matter under investigation;

28       (20) ~~(24)~~ Failure of an education provider to produce records,  
29 documents, reports, or other materials, including, but not limited to,  
30 required student attendance reports, to the board;

31       (21) ~~(25)~~ Knowingly offering or attempting to offer a qualifying or

1 continuing education course or activity as being approved by the board to  
2 a real property ~~an appraiser credentialed under the Real Property~~  
3 ~~Appraiser Act,~~ or an applicant, without first obtaining approval of the  
4 activity from the board, except for courses required by an accredited  
5 degree-awarding college or university for completion of a degree in real  
6 estate, if the college or university had its curriculum approved by the  
7 Appraiser Qualifications Board as qualifying education;

8 (22) ~~(26)~~ Presentation to the Real Property Appraiser Board of any  
9 check which is returned to the State Treasurer unpaid, whether payment of  
10 fee is for an initial or renewal credential or for examination; and

11 (23) ~~(27)~~ Failure to pass the examination.

12 Sec. 84. Section 76-2239, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 76-2239 (1) The board may, upon its own motion, and shall, upon the  
15 written complaint of any aggrieved person, cause an investigation to be  
16 made with respect to an alleged violation of the Real Property Appraiser  
17 Act. The board may revoke or suspend the credential or otherwise  
18 discipline a credential holder, revoke or suspend a qualifying or  
19 continuing education course or activity, deny any application, or issue a  
20 cease and desist order for any violation of the Real Property Appraiser  
21 Act. Any disciplinary action taken against a credentialed real property  
22 appraiser, including any action that limits a credentialed real property  
23 appraiser's ability to engage in real property appraisal practice, shall  
24 be reported to federal authorities as required by Title XI of the  
25 Financial Institutions Reform, Recovery, and Enforcement Act of 1989.  
26 Upon receipt of information indicating that a person may have violated  
27 any provision of the Real Property Appraiser Act, the board shall make an  
28 investigation of the facts to determine whether or not there is evidence  
29 of a violation. If technical assistance is required, the board may  
30 contract with or use qualified persons.

31 (2)(a) If an investigation indicates that a person may have violated

1 a provision of the act, the board may offer the person an opportunity to  
2 voluntarily and informally discuss the alleged violation before the  
3 board. The board may enter into consent agreements or negotiate  
4 settlements.

5 (b) If an investigation indicates that a person not holding a  
6 credential under the act has violated a provision of the act, the board  
7 may issue a cease and desist order or refer the investigation to the  
8 appropriate county attorney for the consideration of formal charges.

9 (c) If an investigation indicates that a credential holder has  
10 violated a provision of the act, a formal complaint shall be prepared by  
11 the board and served upon the credential holder. The complaint shall  
12 require the credential holder to file an answer within thirty days of the  
13 date of service. In responding to a complaint, the credential holder may  
14 admit the allegations of the complaint, deny the allegations of the  
15 complaint, or plead otherwise. Failure to make a timely response shall be  
16 deemed an admission of the allegations of the complaint. Upon receipt of  
17 an answer to the complaint, the director or chairperson of the board  
18 shall set a date, time, and place for an administrative hearing on the  
19 complaint. The date of the hearing shall not be less than thirty nor more  
20 than one hundred twenty days from the date that the answer is filed  
21 unless such date is extended for good cause.

22 Sec. 85. Section 76-2243, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 76-2243 Nothing contained in the Real Property Appraiser Act shall  
25 be deemed to prohibit any credential holder under the act from engaging  
26 in real property appraisal practice as a professional corporation in  
27 accordance with the Nebraska Professional Corporation Act.

28 Sec. 86. Section 76-2245, Reissue Revised Statutes of Nebraska, is  
29 amended to read:

30 76-2245 No person engaged in real property appraisal practice  
31 activities in this state or acting in the capacity of a real property

1 appraiser in this state may bring or maintain any action in any court of  
2 this state to collect compensation for the performance of valuation  
3 services for which credentialing is required by the Real Property  
4 Appraiser Act without alleging and proving that he or she was duly  
5 credentialed under the act in this state at all times during the  
6 performance of such services.

7 Sec. 87. Section 76-2246, Reissue Revised Statutes of Nebraska, is  
8 amended to read:

9 76-2246 Any person required to be credentialed by the Real Property  
10 Appraiser Act who, directly or indirectly for another, offers, attempts,  
11 agrees to engage in, or engages in real property appraisal practice  
12 ~~activity~~ or who advertises or holds himself or herself out to the general  
13 public as a real property appraiser in this state without obtaining  
14 proper credentialing under the act shall be guilty of a Class III  
15 misdemeanor and shall be ineligible to apply for credentialing under the  
16 act for a period of one year from the date of his or her conviction of  
17 such offense. The board may, in its discretion, credential such person  
18 within such one-year period upon application and after an administrative  
19 hearing.

20 Sec. 88. Section 76-2247.01, Reissue Revised Statutes of Nebraska,  
21 is amended to read:

22 76-2247.01 (1) A person may retain or employ a real property  
23 appraiser credentialed under the Real Property Appraiser Act to perform  
24 valuation services. In each case, the valuation services specific to real  
25 property appraisal practice, including any ~~appraisal, appraisal review,~~  
26 ~~and~~ report, shall comply with the Real Property Appraiser Act and the  
27 Uniform Standards of Professional Appraisal Practice.

28 (2) In a valuation assignment, the real property appraiser shall  
29 remain an impartial, disinterested third party. When providing an  
30 evaluation assignment, the real property appraiser may respond to a  
31 client's stated objective but shall also remain an impartial,

1 disinterested third party.

2 Sec. 89. Section 76-3202, Revised Statutes Supplement, 2019, is  
3 amended to read:

4 76-3202 For purposes of the Nebraska Appraisal Management Company  
5 Registration Act:

6 (1) Affiliate means any person that controls, is controlled by, or  
7 is under common control with, another person;

8 (2) AMC appraiser means a person who holds a valid credential or  
9 equivalent to appraise real estate and real property under the laws of  
10 this state or another jurisdiction, and holds the status of active on the  
11 National Registry of the Appraisal Subcommittee of the Federal Financial  
12 Institutions Examination Council in one or more jurisdictions;

13 (3) AMC final rule means, collectively, the rules adopted by the  
14 federal agencies as required in section 1124 of the Financial  
15 Institutions Reform, Recovery, and Enforcement Act of 1989, as such rules  
16 existed on January 1, 2019;

17 (4) AMC National Registry means the registry of appraisal management  
18 companies that hold a registration as an appraisal management company  
19 issued by the board or the equivalent issued in another jurisdiction, and  
20 federally regulated appraisal management companies, maintained by the  
21 Appraisal Subcommittee;

22 (5) Appraisal has the same meaning as in section 76-2204;

23 (6) Appraisal management company means a person that:

24 (a) Provides appraisal management services to creditors or to  
25 secondary mortgage market participants, including affiliates;

26 (b) Provides appraisal management services in connection with  
27 valuing a consumer's principal dwelling as security for a consumer credit  
28 transaction or incorporating such transactions into securitizations; and

29 (c) Within a twelve-month period, oversees an appraiser panel of:

30 (i) More than fifteen AMC appraisers who each hold a credential in  
31 this state; or

1 (ii) Twenty-five or more AMC appraisers who each hold a credential  
2 or equivalent in two or more jurisdictions;

3 (7) Appraisal management services means one or more of the  
4 following:

5 (a) To recruit, select, and retain AMC appraisers;

6 (b) To contract with AMC appraisers to perform assignments;

7 (c) To manage the process of having an appraisal performed,  
8 including providing administrative services such as receiving appraisal  
9 orders and reports, submitting completed reports to creditors and  
10 secondary mortgage market participants, collecting fees from creditors  
11 and secondary mortgage market participants for services provided, and  
12 paying AMC appraisers for valuation services performed; or

13 (d) To review and verify the work of AMC appraisers;

14 ~~(8) Appraisal practice has the same meaning as in section~~  
15 ~~76-2205.01;~~

16 (8) ~~(9)~~ Appraisal Subcommittee means the Appraisal Subcommittee of  
17 the Federal Financial Institutions Examination Council;

18 (9) ~~(10)~~ Appraiser panel means a network, list, or roster of AMC  
19 appraisers approved by an appraisal management company to perform  
20 appraisals as independent contractors for the appraisal management  
21 company;

22 (10) ~~(11)~~ Assignment has the same meaning as in section 76-2207.01;

23 (11) ~~(12)~~ Board has the same meaning as in section 76-2207.18;

24 (12) ~~(13)~~ Consumer credit means credit offered or extended to a  
25 consumer primarily for personal, family, or household purposes;

26 (13) ~~(14)~~ Contact person means a person designated by the appraisal  
27 management company as the main contact for all communication between the  
28 appraisal management company and the board;

29 (14) ~~(15)~~ Covered transaction means any consumer credit transaction  
30 secured by the consumer's principal dwelling;

31 (15) ~~(16)~~ Credential has the same meaning as in section 76-2207.25;

1           ~~(16)~~ ~~(17)~~ Creditor means a person who regularly extends consumer  
2 credit that is subject to a finance charge or is payable by written  
3 agreement in more than four installments, not including a downpayment,  
4 and to whom the obligation is initially payable, either on the face of  
5 the note or contract or by agreement when there is no note or contract. A  
6 person regularly extends consumer credit if:

7           (a) The person extended credit, other than credit subject to the  
8 requirements of 12 C.F.R. 1026.32, as such regulation existed on January  
9 1, 2019, more than five times for transactions secured by a dwelling in  
10 the preceding calendar year, or in the current calendar year if a person  
11 did not meet these standards in the preceding calendar year; and

12           (b) In any twelve-month period, the person originates more than one  
13 credit extension that is subject to the requirements of 12 C.F.R.  
14 1026.32, as such regulation existed on January 1, 2019, or one or more  
15 such credit extensions through a mortgage broker;

16           ~~(17)~~ ~~(18)~~ Dwelling means a residential structure that contains one  
17 to four units, whether or not that structure is attached to real  
18 property, including an individual condominium unit, cooperative unit,  
19 mobile home, or trailer if used as a residence. With respect to a  
20 dwelling:

21           (a) A consumer may have only one principal dwelling at a time;

22           (b) A vacation or secondary dwelling is not a principal dwelling;  
23 and

24           (c) A dwelling bought or built by a consumer with the intention of  
25 that dwelling becoming the consumer's principal dwelling within one year,  
26 or upon completion of construction, is considered to be the consumer's  
27 principal dwelling for the purpose of the Nebraska Appraisal Management  
28 Company Registration Act;

29           ~~(18)~~ ~~(19)~~ Federally regulated appraisal management company means an  
30 appraisal management company that is:

31           (a) Owned and controlled by an insured depository institution as

1 defined in 12 U.S.C. 1813, as such section existed on January 1, 2019;  
2 and

3 (b) Regulated by the Office of the Comptroller of the Currency, the  
4 Board of Governors of the Federal Reserve System, the Federal Deposit  
5 Insurance Corporation, or the successor of any such agencies;

6 (19) ~~(20)~~ Federal agencies means the Board of Governors of the  
7 Federal Reserve System, the Federal Deposit Insurance Corporation, the  
8 Office of the Comptroller of the Currency, the National Credit Union  
9 Administration, the Consumer Financial Protection Bureau, the Federal  
10 Housing Finance Agency, or the successor of any of such agencies;

11 (20) ~~(21)~~ Financial Institutions Reform, Recovery, and Enforcement  
12 Act of 1989 has the same meaning as in section 76-2207.30;

13 (21) ~~(22)~~ Independent contractor means a person established as an  
14 independent contractor by the appraisal management company for the  
15 purpose of federal income taxation;

16 (22) ~~(23)~~ Jurisdiction has the same meaning as in section  
17 76-2207.32;

18 (23) ~~(24)~~ Person has the same meaning as in section 76-2213.02;

19 (24) ~~(25)~~ Real estate has the same meaning as in section 76-2214;

20 (25) ~~(26)~~ Real property has the same meaning as in section  
21 76-2214.01;

22 (26) ~~(27)~~ Real property appraisal practice activity has the same  
23 meaning as in section 76-2215;

24 (27) ~~(28)~~ Registration means a registration as an appraisal  
25 management company in this state issued by the board if all requirements  
26 for approval as an appraisal management company required in the Nebraska  
27 Appraisal Management Company Registration Act have been met by a person  
28 making application to the board, including the submission of all required  
29 fees, and the board has granted all rights to the person to operate as an  
30 appraisal management company in this state as allowed under the act;

31 (28) ~~(29)~~ Report has the same meaning as in section 76-2216.02;

1           (29) ~~(30)~~ Secondary mortgage market participant means a guarantor or  
2 insurer of mortgage-backed securities, or an underwriter or issuer of  
3 mortgage-backed securities, and only includes an individual investor in a  
4 mortgage-backed security if that investor also serves in the capacity of  
5 a guarantor, insurer, underwriter, or issuer for the mortgage-backed  
6 security;

7           (30) ~~(31)~~ Uniform Standards of Professional Appraisal Practice has  
8 the same meaning as in section 76-2218.02; and

9           (31) ~~(32)~~ Valuation services has the same meaning as in section  
10 76-2219.01.

11           Sec. 90. Section 76-3203.01, Revised Statutes Supplement, 2019, is  
12 amended to read:

13           76-3203.01 (1) Only AMC appraisers considered to be in good standing  
14 in all jurisdictions in which an active credential is held shall be  
15 included on an appraisal management company's appraiser panel.

16           (2) An appraisal management company shall remove any AMC appraiser  
17 from its appraiser panel within thirty days after receiving notice that  
18 the AMC appraiser:

19           (a) Is no longer considered to be in good standing in one or more  
20 jurisdictions in which he or she holds an active credential or  
21 equivalent;

22           (b) The AMC appraiser's credential or equivalent has been refused,  
23 denied, canceled, or revoked; or

24           (c) The AMC appraiser has surrendered his or her credential or  
25 equivalent in lieu of revocation.

26           (3) Pursuant to subdivision (6)(c) of section 76-3202, an appraiser  
27 panel shall include each AMC appraiser as of the earliest date on which  
28 such person was accepted by the appraisal management company:

29           (a) For consideration for future assignments in covered transactions  
30 or for secondary mortgage market participants in connection with covered  
31 transactions; or

1 (b) For engagement to perform one or more appraisals on behalf of a  
2 creditor for a covered transaction or for a secondary mortgage market  
3 participant in connection with covered transactions.

4 (4) Any AMC appraiser included on an appraisal management company's  
5 appraiser panel pursuant to subsection (3) of this section shall remain  
6 on such appraiser panel until the date on which the appraisal management  
7 company:

8 (a) Sends written notice to the AMC appraiser removing him or her  
9 from the appraiser panel. Such written notice shall include an  
10 explanation of the action taken by the appraisal management company;

11 (b) Receives written notice from the AMC appraiser requesting that  
12 he or she be removed from the appraiser panel. Such written notice shall  
13 include an explanation of the action requested by the AMC appraiser; or

14 (c) Receives written notice on behalf of the AMC appraiser of the  
15 death or incapacity of the AMC appraiser. Such written notice shall  
16 include an explanation on behalf of the AMC appraiser.

17 (5) Upon receipt of notice that he or she has been removed from the  
18 appraisal management company's appraiser panel, an AMC appraiser shall  
19 have thirty days to provide a response to the appraisal management  
20 company that removed the AMC appraiser from its appraiser panel. Upon  
21 receipt of the AMC appraiser's response, the appraisal management company  
22 shall have thirty days to reconsider the removal and provide a written  
23 response to the AMC appraiser.

24 (6) If an AMC appraiser is removed from an appraisal management  
25 company's appraiser panel pursuant to subsection (4) of this section,  
26 nothing shall prevent the appraisal management company at any time during  
27 the twelve months after removal from the appraiser panel from considering  
28 such person for future assignments in covered transactions or for  
29 secondary mortgage market participants in connection with covered  
30 transactions, or for engagement to perform one or more appraisals on  
31 behalf of a creditor for a covered transaction or for a secondary

1 mortgage market participant in connection with covered transactions. If  
2 such consideration or engagement takes place, the removal shall be deemed  
3 not to have occurred and such person shall be deemed to have been  
4 included on the appraiser panel without interruption.

5 (7) Any AMC appraiser included on an appraisal management company's  
6 appraiser panel engaged in ~~appraisal practice~~ or real property appraisal  
7 practice activity as a result of an assignment provided by an appraisal  
8 management company shall be free from inappropriate influence and  
9 coercion as required by the appraisal independence standards established  
10 under section 129E of the federal Truth in Lending Act, as such section  
11 existed on January 1, 2018, including the requirements for payment of a  
12 reasonable and customary fee to AMC appraisers when the appraisal  
13 management company is engaged in providing appraisal management services.

14 (8) An appraisal management company shall select an AMC appraiser  
15 from its appraiser panel for an assignment who is independent of the  
16 transaction and who has the requisite education, expertise, and  
17 experience necessary to competently complete the assignment for the  
18 particular market and property type.

19 Sec. 91. Section 76-3207, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 76-3207 (1) A person applying for issuance of a registration or  
22 renewal of a registration shall not:

23 (a) In whole or in part, directly or indirectly, be owned by any  
24 person who has had a credential or equivalent refused, denied, canceled,  
25 or revoked or who has surrendered a credential or equivalent in lieu of  
26 revocation in any jurisdiction for a substantive cause as determined by  
27 the board; and

28 (b) Be more than ten percent owned by a person who is not of good  
29 moral character, which for purposes of this section shall require that  
30 such person has not been convicted of, or entered a plea of nolo  
31 contendere to, a felony relating to the ~~appraisal practice~~ or real

1 property appraisal practice activity or any crime involving fraud,  
2 misrepresentation, or moral turpitude or failed to submit to a criminal  
3 history record check through the Nebraska State Patrol and the Federal  
4 Bureau of Investigation.

5 (2) For purposes of subdivision (1)(b) of this section, each  
6 individual owner of more than ten percent of an appraisal management  
7 company shall, at the time an application for issuance of a registration  
8 is made, submit two copies of legible ink-rolled fingerprint cards or  
9 equivalent electronic fingerprint submissions to the board for delivery  
10 to the Nebraska State Patrol in a form approved by both the Nebraska  
11 State Patrol and the Federal Bureau of Investigation. The board shall pay  
12 the Nebraska State Patrol the costs associated with conducting a  
13 fingerprint-based national criminal history record check through the  
14 Nebraska State Patrol and the Federal Bureau of Investigation with such  
15 record check to be carried out by the board.

16 (3) For the purpose of subdivision (1)(a) of this section, a person  
17 is not barred from issuance of a registration if the credential or  
18 equivalent of the person with an ownership interest was not refused,  
19 denied, canceled, revoked, or surrendered in lieu of revocation for a  
20 substantive cause as determined by the board and has been reinstated by  
21 the jurisdiction in which the action was taken.

22 Sec. 92. Section 76-3210, Reissue Revised Statutes of Nebraska, is  
23 amended to read:

24 76-3210 Any employee of or independent contractor to an appraisal  
25 management company that holds a registration, including any AMC appraiser  
26 included on an appraisal management company's appraiser panel engaged in  
27 ~~appraisal practice~~ or real property appraisal practice activity, shall  
28 comply with the Real Property Appraiser Act, including the Uniform  
29 Standards of Professional Appraisal Practice.

30 Sec. 93. Section 77-2387, Revised Statutes Supplement, 2019, is  
31 amended to read:

1           77-2387 For purposes of the Public Funds Deposit Security Act,  
2 unless the context otherwise requires:

3           (1) Affiliate means any entity that controls, is controlled by, or  
4 is under common control with another entity;

5           (2) Bank means any state-chartered or federally chartered bank which  
6 has a main chartered office in this state, any branch thereof in this  
7 state, or any branch in this state of a state-chartered or federally  
8 chartered bank which maintained a main chartered office in this state  
9 prior to becoming a branch of such state-chartered or federally chartered  
10 bank;

11          (3) Capital stock financial institution means a capital stock state  
12 building and loan association, a capital stock federal savings and loan  
13 association, a capital stock federal savings bank, and a capital stock  
14 state savings bank, which has a main chartered office in this state, any  
15 branch thereof in this state, or any branch in this state of a capital  
16 stock financial institution which maintained a main chartered office in  
17 this state prior to becoming a branch of such capital stock financial  
18 institution;

19          (4) Control means to own directly or indirectly or to control in any  
20 manner twenty-five percent of the voting shares of any bank, capital  
21 stock financial institution, or holding company or to control in any  
22 manner the election of the majority of directors of any bank, capital  
23 stock financial institution, or holding company;

24          (5) Custodial official means an officer or an employee of the State  
25 of Nebraska or any political subdivision who, by law, is made custodian  
26 of or has control over public money or public funds subject to the act or  
27 the security for the deposit of public money or public funds subject to  
28 the act;

29          (6) Deposit guaranty bond means a bond underwritten by an insurance  
30 company authorized to do business in this state which provides coverage  
31 for deposits of a governing authority which are in excess of the amounts

1 insured or guaranteed by the Federal Deposit Insurance Corporation;

2 (7) Director means the Director of Banking and Finance;

3 (8) Event of default means the issuance of an order by a supervisory  
4 authority or a receiver which restrains a bank, capital stock financial  
5 institution, or qualifying mutual financial institution from paying its  
6 deposit liabilities;

7 (9) Governing authority means the official, or the governing board,  
8 council, or other body or group of officials, authorized to designate a  
9 bank, capital stock financial institution, or qualifying mutual financial  
10 institution as a depository of public money or public funds subject to  
11 the act;

12 (10) Governmental unit means the State of Nebraska or any political  
13 subdivision thereof;

14 (11) Political subdivision means any county, city, village,  
15 township, district, authority, or other public corporation or entity,  
16 whether organized and existing under direct provisions of the  
17 Constitution of Nebraska or laws of the State of Nebraska or by virtue of  
18 a charter, corporate articles, or other legal instruments executed under  
19 authority of the constitution or laws, including any entity created  
20 pursuant to the Interlocal Cooperation Act or the Joint Public Agency  
21 Act;

22 (12) Qualifying mutual financial institution shall have the same  
23 meaning as in section 77-2365.01;

24 (13) Repurchase agreement means an agreement to purchase securities  
25 by the governing authority by which the counterparty bank, capital stock  
26 financial institution, or qualifying mutual financial institution will  
27 repurchase the securities on or before a specified date and for a  
28 specified amount and the counterparty bank, capital stock financial  
29 institution, or qualifying mutual financial institution will deliver the  
30 underlying securities to the governing authority by book entry, physical  
31 delivery, or third-party custodial agreement. The transfer of underlying

1 securities to the counterparty bank's, capital stock financial  
2 institution's, or qualifying mutual financial institution's customer book  
3 entry account may be used for book entry delivery if the governing  
4 authority so chooses; and

5 (14) Securities means:

6 (a) Bonds or obligations fully and unconditionally guaranteed both  
7 as to principal and interest by the United States Government;

8 (b) United States Government notes, certificates of indebtedness, or  
9 treasury bills of any issue;

10 (c) United States Government bonds;

11 (d) United States Government guaranteed bonds or notes;

12 (e) Bonds or notes of United States Government agencies;

13 (f) Bonds of any state or political subdivision which are fully  
14 defeased as to principal and interest by any combination of bonds or  
15 notes authorized in subdivision (c), (d), or (e) of this subdivision;

16 (g) Bonds or obligations, including mortgage-backed securities and  
17 collateralized mortgage obligations, issued by or backed by collateral  
18 one hundred percent guaranteed by the Federal Home Loan Mortgage  
19 Corporation, the Federal Farm Credit System, a Federal Home Loan Bank, or  
20 the Federal National Mortgage Association;

21 (h) Student loans backed or partially guaranteed by the United  
22 States Department of Education;

23 (i) ~~(h)~~ Repurchase agreements the subject securities of which are  
24 any of the securities described in subdivisions (a) through (g) of this  
25 subdivision;

26 (j) ~~(i)~~ Securities issued under the authority of the Federal Farm  
27 Loan Act;

28 (k) ~~(j)~~ Loan participations which carry the guarantee of the  
29 Commodity Credit Corporation, an instrumentality of the United States  
30 Department of Agriculture;

31 (l) ~~(k)~~ Guaranty agreements of the Small Business Administration of

1 the United States Government;

2 (m) ~~(l)~~ Bonds or obligations of any county, city, village,  
3 metropolitan utilities district, public power and irrigation district,  
4 sewer district, fire protection district, rural water district, or school  
5 district in this state which have been issued as required by law;

6 (n) ~~(m)~~ Bonds of the State of Nebraska or of any other state which  
7 are purchased by the Board of Educational Lands and Funds of this state  
8 for investment in the permanent school fund or which are purchased by the  
9 state investment officer of this state for investment in the permanent  
10 school fund;

11 (o) ~~(n)~~ Bonds or obligations of another state, or a political  
12 subdivision of another state, which are rated within the two highest  
13 classifications by at least one of the standard rating services;

14 (p) ~~(o)~~ Warrants of the State of Nebraska;

15 (q) ~~(p)~~ Warrants of any county, city, village, local hospital  
16 district, or school district in this state;

17 (r) ~~(q)~~ Irrevocable, nontransferable, unconditional standby letters  
18 of credit issued by a Federal Home Loan Bank; and

19 (s) ~~(r)~~ Certificates of deposit fully insured or guaranteed by the  
20 Federal Deposit Insurance Corporation that are issued to a bank, capital  
21 stock financial institution, or qualifying mutual financial institution  
22 furnishing securities pursuant to the Public Funds Deposit Security Act.

23 Sec. 94. Section 81-885.04, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25 81-885.04 Except as to the requirements with respect to the  
26 subdivision of land, the Nebraska Real Estate License Act shall not apply  
27 to:

28 (1) Any person, partnership, limited liability company, or  
29 corporation who as owner or lessor shall perform any of the acts  
30 described in subdivision (2) of section 81-885.01 with reference to  
31 property owned or leased by him, her, or it or to the regular employees

1    thereof, with respect to the property so owned or leased, when such acts  
2    are performed in the regular course of or as an incident to the  
3    management, sale, or other disposition of such property and the  
4    investment therein, except that such regular employees shall not perform  
5    any of the acts described in such subdivision in connection with a  
6    vocation of selling or leasing any real estate or the improvements  
7    thereon;

8           (2) An attorney in fact under a duly executed power of attorney to  
9    convey real estate from the owner or lessor or the services rendered by  
10   any attorney at law in the performance of his or her duty as such  
11   attorney at law;

12           (3) Any person acting as receiver, trustee in bankruptcy, personal  
13   representative, conservator, or guardian or while acting under a court  
14   order or under the authority of a will or of a trust instrument or as a  
15   witness in any judicial proceeding or other proceeding conducted by the  
16   state or any governmental subdivision or agency;

17           (4) Any person acting as the resident manager of an apartment  
18   building, duplex, apartment complex, or court, when such resident manager  
19   resides on the premises and is engaged in the leasing of property in  
20   connection with his or her employment, or any employee, parent, child,  
21   brother, or sister of the owner or any employee of a licensed broker who  
22   manages rental property for the owner of such property;

23           (5) Any officer or employee of a federal agency in the conduct of  
24   his or her official duties;

25           (6) Any officer or employee of the state government or any political  
26   subdivision thereof performing his or her official duties for real estate  
27   tax purposes or performing his or her official duties related to the  
28   acquisition of any interest in real property when the interest is being  
29   acquired for a public purpose;

30           (7) Any person or any employee thereof who renders an estimate or  
31   opinion of value of real estate or any interest therein when such

1 estimate or opinion of value is for the purpose of real estate taxation;  
2 or

3 (8) Any person who, for himself or herself or for others, purchases  
4 or sells oil, gas, or mineral leases or performs any activities related  
5 to the purchase or sale of such leases; or -

6 (9) Any person not required to be licensed under the act who  
7 provides a list or lists of potential purchasers to a broker or  
8 salesperson or who makes calls or facilitates the initial contact between  
9 a potential client or customer as defined in sections 76-2407 and  
10 76-2409, respectively, and a broker or salesperson. The unlicensed person  
11 may only provide information regarding the broker or salesperson and the  
12 broker's or salesperson's services in written information created by the  
13 broker or salesperson that identifies the broker or salesperson and the  
14 broker's or salesperson's place of business and which is sent by email,  
15 United States mail, or by link to a web site created by the broker or  
16 salesperson. The unlicensed person is not permitted to discuss with such  
17 potential client or customer the services offered or to be offered by the  
18 broker or salesperson. The unlicensed person acting under this exemption  
19 may not discuss with such potential client or customer the client's or  
20 customer's motivation, motivating factors, or price such potential client  
21 or customer is willing to offer or accept. The unlicensed person does not  
22 have the authority and shall not purport to have the authority to  
23 obligate any such potential client or customer to work with a particular  
24 broker or salesperson or particular broker's or salesperson's place of  
25 business. The unlicensed person shall, at the beginning of any contact  
26 with such potential client or customer, identify who the unlicensed  
27 person is, the name of the entity that employs the unlicensed person, the  
28 name of the broker or salesperson, and the name of the broker's or  
29 salesperson's real estate business on whose behalf the contact is being  
30 made. The unlicensed person shall not perform any other activity of a  
31 broker or salesperson described in section 81-885.01, except those acts

1 specifically provided for in this subdivision.

2       Sec. 95. Section 81-885.24, Revised Statutes Cumulative Supplement,  
3 2018, is amended to read:

4       81-885.24 The commission may, upon its own motion, and shall, upon  
5 the sworn complaint in writing of any person, investigate the actions of  
6 any broker, associate broker, salesperson, or subdivider, may censure the  
7 licensee or certificate holder, revoke or suspend any license or  
8 certificate issued under the Nebraska Real Estate License Act, or enter  
9 into consent orders, and, alone or in combination with such disciplinary  
10 actions, may impose a civil fine on a licensee pursuant to section  
11 81-885.10, whenever the license or certificate has been obtained by false  
12 or fraudulent representation or the licensee or certificate holder has  
13 been found guilty of any of the following unfair trade practices:

14       (1) Refusing because of religion, race, color, national origin,  
15 ethnic group, sex, familial status, or disability to show, sell, or rent  
16 any real estate for sale or rent to prospective purchasers or renters;

17       (2) Intentionally using advertising which is misleading or  
18 inaccurate in any material particular or in any way misrepresents any  
19 property, terms, values, policies, or services of the business conducted;

20       (3) Failing to account for and remit any money coming into his or  
21 her possession belonging to others;

22       (4) Commingling the money or other property of his or her principals  
23 with his or her own;

24       (5) Failing to maintain and deposit in a separate trust account all  
25 money received by a broker acting in such capacity, or as escrow agent or  
26 the temporary custodian of the funds of others, in a real estate  
27 transaction unless all parties having an interest in the funds have  
28 agreed otherwise in writing;

29       (6) Accepting, giving, or charging any form of undisclosed  
30 compensation, consideration, rebate, or direct profit on expenditures  
31 made for a principal;

1           (7) Representing or attempting to represent a real estate broker,  
2 other than the employer, without the express knowledge and consent of the  
3 employer;

4           (8) Accepting any form of compensation or consideration by an  
5 associate broker or salesperson from anyone other than his or her  
6 employing broker without the consent of his or her employing broker;

7           (9) Acting in the dual capacity of agent and undisclosed principal  
8 in any transaction;

9           (10) Guaranteeing or authorizing any person to guarantee future  
10 profits which may result from the resale of real property;

11           (11) Placing a sign on any property offering it for sale or rent  
12 without the written consent of the owner or his or her authorized agent;

13           (12) Offering real estate for sale or lease without the knowledge  
14 and consent of the owner or his or her authorized agent or on terms other  
15 than those authorized by the owner or his or her authorized agent;

16           (13) Inducing any party to a contract of sale or lease to break such  
17 contract for the purpose of substituting, in lieu thereof, a new contract  
18 with another principal;

19           (14) Negotiating a sale, exchange, listing, or lease of real estate  
20 directly with an owner or lessor if he or she knows that such owner has a  
21 written outstanding listing contract in connection with such property  
22 granting an exclusive agency or an exclusive right to sell to another  
23 broker or negotiating directly with an owner to withdraw from or break  
24 such a listing contract for the purpose of substituting, in lieu thereof,  
25 a new listing contract;

26           (15) Discussing or soliciting a discussion of, with an owner of a  
27 property which is exclusively listed with another broker, the terms upon  
28 which the broker would accept a future listing upon the expiration of the  
29 present listing unless the owner initiates the discussion;

30           (16) Violating any provision of sections 76-2401 to 76-2430;

31           (17) Soliciting, selling, or offering for sale real estate by

1 offering free lots or conducting lotteries for the purpose of influencing  
2 a purchaser or prospective purchaser of real estate;

3 (18) Providing any form of compensation or consideration to any  
4 person for performing the services of a broker, associate broker, or  
5 salesperson who has not first secured his or her license under the  
6 Nebraska Real Estate License Act unless such person is (a) a nonresident  
7 who is licensed in his or her resident regulatory jurisdiction or (b) a  
8 citizen and resident of a foreign country which does not license persons  
9 conducting the activities of a broker and such person provides reasonable  
10 written evidence to the Nebraska broker that he or she is a resident  
11 citizen of that foreign country, is not a resident of this country, and  
12 conducts the activities of a broker in that foreign country;

13 (19) Failing to include a fixed date of expiration in any written  
14 listing agreement and failing to leave a copy of the agreement with the  
15 principal;

16 (20) Failing to deliver within a reasonable time a completed and  
17 dated copy of any purchase agreement or offer to buy or sell real estate  
18 to the purchaser and to the seller;

19 (21) Failing by a broker to deliver to the seller in every real  
20 estate transaction, at the time the transaction is consummated, a  
21 complete, detailed closing statement showing all of the receipts and  
22 disbursements handled by such broker for the seller, failing to deliver  
23 to the buyer a complete statement showing all money received in the  
24 transaction from such buyer and how and for what the same was disbursed,  
25 and failing to retain true copies of such statements in his or her files;

26 (22) Making any substantial misrepresentations;

27 (23) Acting for more than one party in a transaction without the  
28 knowledge of all parties for whom he or she acts;

29 (24) Failing by an associate broker or salesperson to place, as soon  
30 after receipt as practicable, in the custody of his or her employing  
31 broker any deposit money or other money or funds entrusted to him or her

1 by any person dealing with him or her as the representative of his or her  
2 licensed broker;

3 (25) Filing a listing contract or any document or instrument  
4 purporting to create a lien based on a listing contract for the purpose  
5 of casting a cloud upon the title to real estate when no valid claim  
6 under the listing contract exists;

7 (26) Violating any rule or regulation adopted and promulgated by the  
8 commission in the interest of the public and consistent with the Nebraska  
9 Real Estate License Act;

10 (27) Failing by a subdivider, after the original certificate has  
11 been issued, to comply with all of the requirements of the Nebraska Real  
12 Estate License Act;

13 (28) Conviction of a felony or entering a plea of guilty or nolo  
14 contendere to a felony charge by a broker or salesperson;

15 (29) Demonstrating negligence, incompetency, or unworthiness to act  
16 as a broker, associate broker, or salesperson, whether of the same or of  
17 a different character as otherwise specified in this section;

18 (30) Inducing or attempting to induce a person to transfer an  
19 interest in real property, whether or not for monetary gain, or  
20 discouraging another person from purchasing real property, by  
21 representing that (a) a change has occurred or will or may occur in the  
22 composition with respect to religion, race, color, national origin,  
23 ethnic group, sex, familial status, or disability of the owners or  
24 occupants in the block, neighborhood, or area or (b) such change will or  
25 may result in the lowering of property values, an increase in criminal or  
26 antisocial behavior, or a decline in the quality of schools in the block,  
27 neighborhood, or area;

28 (31) Failing by a team leader to provide a current list of all team  
29 members to his or her designated broker;

30 (32) Failing by a designated broker to maintain a record of all team  
31 leaders and team members working under him or her;

1 (33) Utilizing advertising which does not prominently display the  
2 name under which the designated broker does business as filed with the  
3 commission;

4 (34) Utilizing team advertising or a team name suggesting the team  
5 is an independent real estate brokerage;~~or~~

6 (35) Charging or collecting, as part or all of his or her  
7 compensation or consideration, any part of the earnest money or other  
8 money paid to him or her or the entity under which he or she does  
9 business in connection with any real estate transaction until the  
10 transaction has been consummated or terminated. However, a payment for  
11 goods or services rendered by a third party on behalf of the client shall  
12 not be considered compensation or consideration if such payment does not  
13 include any profit, compensation, or payment for services rendered by the  
14 broker and the broker retains a record of the payment to the third party  
15 for such goods or services; or -

16 (36) Failing to provide a copy of section 81-885.04 or written  
17 instructions explaining the provisions of the exemption from licensure as  
18 set forth in subdivision (9) of section 81-885.04 to any unlicensed  
19 person who assists in procuring a potential client or customer as defined  
20 in sections 76-2407 and 76-2409, respectively, for the purpose of the  
21 listing, sale, purchase, exchange, renting, leasing, or optioning of any  
22 real estate.

23 Sec. 96. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,  
24 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,  
25 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50,  
26 51, 52, 94, 95, and 98 of this act become operative three calendar months  
27 after the adjournment of this legislative session. The other sections of  
28 this act become operative on their effective date.

29 Sec. 97. If any section in this act or any part of any section is  
30 declared invalid or unconstitutional, the declaration shall not affect  
31 the validity or constitutionality of the remaining portions.

1           Sec. 98. Original sections 25-223, 76-842, 76-844, 76-854, 76-857,  
2 76-859, 76-860, 76-867, 76-869, 76-870, 76-884, 76-890, and 81-885.04,  
3 Reissue Revised Statutes of Nebraska, sections 1-116, 21-201, and  
4 81-885.24, Revised Statutes Cumulative Supplement, 2018, and section  
5 76-861, Revised Statutes Supplement, 2019, are repealed.

6           Sec. 99. Original sections 76-2202, 76-2204, 76-2205.02,  
7 76-2207.01, 76-2207.17, 76-2207.22, 76-2207.26, 76-2212.03, 76-2215,  
8 76-2216, 76-2216.02, 76-2218.02, 76-2219.01, 76-2219.02, 76-2220,  
9 76-2221, 76-2223, 76-2227, 76-2233, 76-2233.01, 76-2233.02, 76-2233.03,  
10 76-2239, 76-2243, 76-2245, 76-2246, 76-2247.01, 76-3207, and 76-3210,  
11 Reissue Revised Statutes of Nebraska, and sections 76-2207.27,  
12 76-2207.30, 76-2228.01, 76-2228.02, 76-2230, 76-2231.01, 76-2232,  
13 76-2236, 76-2238, 76-3202, 76-3203.01, and 77-2387, Revised Statutes  
14 Supplement, 2019, are repealed.

15           Sec. 100. The following sections are outright repealed: Sections  
16 76-2205.01 and 76-2216.03, Reissue Revised Statutes of Nebraska.

17           Sec. 101. Since an emergency exists, this act takes effect when  
18 passed and approved according to law.