

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 892

Introduced by Walz, 15.

Read first time January 07, 2022

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to
2 amend section 81-885.02, Reissue Revised Statutes of Nebraska, and
3 sections 81-885.04 and 81-885.13, Revised Statutes Cumulative
4 Supplement, 2020; to change provisions relating to restrictions on
5 unlicensed persons, applicability of the act, and broker's license
6 applications; to harmonize provisions; and to repeal the original
7 sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-885.02, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 81-885.02 After September 2, 1973, it shall be unlawful for any
4 person, directly or indirectly, to engage in or conduct, or to advertise
5 or hold himself or herself out as engaging in or conducting the business,
6 or acting in the capacity, of a real estate broker, associate broker, or
7 real estate salesperson within this state without first obtaining a
8 license as such broker, associate broker, or salesperson, as provided in
9 the Nebraska Real Estate License Act, unless he or she is exempted from
10 obtaining a license under section 81-885.04.

11 For purposes of this section, acting as a real estate broker,
12 associate broker, or real estate salesperson includes publicly marketing
13 for sale an equitable interest in a contract for the purchase of real
14 property between a property owner and a prospective purchaser.

15 Sec. 2. Section 81-885.04, Revised Statutes Cumulative Supplement,
16 2020, is amended to read:

17 81-885.04 Except as to the requirements with respect to the
18 subdivision of land, the Nebraska Real Estate License Act shall not apply
19 to:

20 (1) Any person, partnership, limited liability company, or
21 corporation who as owner or lessor shall perform any of the acts
22 described in subdivision (2) of section 81-885.01 with reference to
23 property owned or leased by him, her, or it or to the regular employees
24 thereof, with respect to the property so owned or leased, when such acts
25 are performed in the regular course of or as an incident to the
26 management, sale, or other disposition of such property and the
27 investment therein, except that such regular employees shall not perform
28 any of the acts described in such subdivision in connection with a
29 vocation of selling or leasing any real estate or the improvements
30 thereon. An equitable interest in real property shall not be considered
31 an ownership interest for purposes of this subdivision;

1 (2) An attorney in fact under a duly executed power of attorney to
2 convey real estate from the owner or lessor or the services rendered by
3 any attorney at law in the performance of his or her duty as such
4 attorney at law;

5 (3) Any person acting as receiver, trustee in bankruptcy, personal
6 representative, conservator, or guardian or while acting under a court
7 order or under the authority of a will or of a trust instrument or as a
8 witness in any judicial proceeding or other proceeding conducted by the
9 state or any governmental subdivision or agency;

10 (4) Any person acting as the resident manager of an apartment
11 building, duplex, apartment complex, or court, when such resident manager
12 resides on the premises and is engaged in the leasing of property in
13 connection with his or her employment, or any employee, parent, child,
14 brother, or sister of the owner or any employee of a licensed broker who
15 manages rental property for the owner of such property;

16 (5) Any officer or employee of a federal agency in the conduct of
17 his or her official duties;

18 (6) Any officer or employee of the state government or any political
19 subdivision thereof performing his or her official duties for real estate
20 tax purposes or performing his or her official duties related to the
21 acquisition of any interest in real property when the interest is being
22 acquired for a public purpose;

23 (7) Any person or any employee thereof who renders an estimate or
24 opinion of value of real estate or any interest therein when such
25 estimate or opinion of value is for the purpose of real estate taxation;

26 (8) Any person who, for himself or herself or for others, purchases
27 or sells oil, gas, or mineral leases or performs any activities related
28 to the purchase or sale of such leases; or

29 (9) Any person not required to be licensed under the act who
30 provides a list or lists of potential purchasers to a broker or
31 salesperson or who makes calls or facilitates the initial contact between

1 a potential client or customer as defined in sections 76-2407 and
2 76-2409, respectively, and a broker or salesperson. The unlicensed person
3 may only provide information regarding the broker or salesperson and the
4 broker's or salesperson's services in written information created by the
5 broker or salesperson that identifies the broker or salesperson and the
6 broker's or salesperson's place of business and which is sent by email,
7 United States mail, or by link to a website created by the broker or
8 salesperson. The unlicensed person is not permitted to discuss with such
9 potential client or customer the services offered or to be offered by the
10 broker or salesperson. The unlicensed person acting under this exemption
11 may not discuss with such potential client or customer the client's or
12 customer's motivation, motivating factors, or price such potential client
13 or customer is willing to offer or accept. The unlicensed person does not
14 have the authority and shall not purport to have the authority to
15 obligate any such potential client or customer to work with a particular
16 broker or salesperson or particular broker's or salesperson's place of
17 business. The unlicensed person shall, at the beginning of any contact
18 with such potential client or customer, identify who the unlicensed
19 person is, the name of the entity that employs the unlicensed person, the
20 name of the broker or salesperson, and the name of the broker's or
21 salesperson's real estate business on whose behalf the contact is being
22 made. The unlicensed person shall not perform any other activity of a
23 broker or salesperson described in section 81-885.01, except those acts
24 specifically provided for in this subdivision.

25 Sec. 3. Section 81-885.13, Revised Statutes Cumulative Supplement,
26 2020, is amended to read:

27 81-885.13 (1)(a) No broker's or salesperson's license shall be
28 issued to any person who has not attained the age of nineteen years.

29 (b) No broker's or salesperson's license shall be issued to any
30 person who is not a graduate of a public or private high school or the
31 holder of a certificate of high school equivalency. This subdivision does

1 not apply to: (i) A person who is a graduate of a school exempt from the
2 State Department of Education requirements under section 79-1601 or an
3 equivalent exempt school or home school program from another
4 jurisdiction; or (ii) a person who has completed a program of education
5 acceptable to the commission.

6 (2) Each applicant for a salesperson's license shall furnish
7 evidence that he or she has completed two courses in real estate
8 subjects, approved by the commission, composed of not less than sixty
9 class hours of study or, in lieu thereof, courses delivered in a distance
10 education format approved by the commission.

11 (3) Each applicant for a broker's license shall either:

12 (a) Have first served actively for two years as a licensed
13 salesperson or broker and shall furnish evidence of completion of sixty
14 class hours in addition to the hours required by subsection (2) of this
15 section in a course of study approved by the commission or, in lieu
16 thereof, courses delivered in a distance education format approved by the
17 commission; or

18 (b) Upon special application and hearing before the commission,
19 provide satisfactory evidence of ~~(i) equivalent or sufficiently relevant~~
20 ~~experience in a real estate related industry or (ii) hardship due to an~~
21 existing brokerage being unable to retain the services of a licensee to
22 act as its designated broker who has the two years' experience required
23 in this subsection. Any applicant so approved must furnish a certificate
24 that he or she has passed a course of at least eighteen credit hours in
25 subjects related to real estate at an accredited university or college,
26 or completed six courses in real estate subjects composed of not less
27 than one hundred eighty class hours in a course of study approved by the
28 commission or, in lieu thereof, courses delivered in a distance education
29 format approved by the commission.

30 (4) No person issued a broker's license may act as a designated
31 broker for any other licensee until such person has taken additional

1 courses of postlicensure education in the subjects of real estate trust
2 accounting, brokerage finance, business ethics, and risk management,
3 except that the commission may extend, for up to six months, the
4 postlicensure course work requirement under the hardship provision of
5 subdivision ~~(3)(b)~~ ~~(3)(b)(ii)~~ of this section.

6 (5) Each applicant for a broker's or salesperson's license shall
7 furnish evidence of completion of six class hours of study in a course
8 approved by the commission related to professional practice and
9 standards.

10 (6) Each applicant for a broker's license must pass a written
11 examination covering generally the matters confronting real estate
12 brokers, and each applicant for a salesperson's license must pass a
13 written examination covering generally the matters confronting real
14 estate salespersons. Such examination may be taken before the commission
15 or any person designated by the commission. Failure to pass the
16 examination shall be grounds for denial of a license without further
17 hearing. Within thirty days after passing the examination the applicant
18 must complete all requirements necessary for the issuance of a license.
19 The commission may prepare and distribute to licensees under the Nebraska
20 Real Estate License Act informational material deemed of assistance in
21 the conduct of their business.

22 (7) An applicant for an original broker's or salesperson's license
23 shall be subject to fingerprinting and a check of his or her criminal
24 history record information maintained by the Federal Bureau of
25 Investigation through the Nebraska State Patrol. After filing application
26 for a license, each applicant shall furnish directly to the Nebraska
27 State Patrol, or to a fingerprint processing service that may be selected
28 by the commission for this purpose, a full set of fingerprints to enable
29 a criminal background investigation to be conducted. The applicant shall
30 request that the Nebraska State Patrol submit the fingerprints to the
31 Federal Bureau of Investigation for a national criminal history record

1 check. The applicant shall pay the actual cost, if any, of the
2 fingerprinting and check of his or her criminal history record
3 information. The applicant shall authorize release of the national
4 criminal history record check to the commission.

5 (8) Courses of study, referred to in subsections (2), (3), (4), (5),
6 and (9) of this section, shall include courses offered by private
7 proprietary real estate schools when such courses are prescribed by the
8 commission and are taught by instructors approved by the commission. The
9 commission shall monitor schools offering approved real estate courses
10 and for good cause shall have authority to suspend or withdraw approval
11 of such courses or instructors.

12 (9) All licensees shall, within one hundred eighty days after
13 license issuance, furnish satisfactory evidence of completion of twelve
14 hours of class study in a commission-approved class related to required
15 knowledge and skills for real estate practice, including, but not limited
16 to, completing contracts and listing agreements and handling of client
17 funds. If a licensee fails to do so, the commission shall place his or
18 her license on inactive status until the commission receives such
19 satisfactory evidence. Transfer to active status pursuant to this
20 subsection shall be subject to the fee provided for in section 81-885.20.

21 Sec. 4. Original section 81-885.02, Reissue Revised Statutes of
22 Nebraska, and sections 81-885.04 and 81-885.13, Revised Statutes
23 Cumulative Supplement, 2020, are repealed.