

LEGISLATIVE BILL 151

Approved by the Governor February 13, 2024

Introduced by Dover, 19.

A BILL FOR AN ACT relating to the State Real Estate Commission; to amend sections 81-885.18 and 81-885.25, Reissue Revised Statutes of Nebraska, and section 81-885.07, Revised Statutes Cumulative Supplement, 2022; to change provisions relating to the membership of the State Real Estate Commission and certain notice requirements; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-885.07, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-885.07 ~~(1)(a)~~ (1) There is hereby created the State Real Estate Commission which shall consist of the Secretary of State, who shall be chairperson of the commission, and six members appointed by the Governor.

(b) Three of the members of the commission appointed by the Governor shall be active and licensed real estate brokers who have engaged in the real estate business as brokers or associate brokers for not less than five years, which members shall be appointed by the Governor, one from each of the three congressional districts ~~as the districts were constituted on January 1, 2006. If a boundary of a congressional district changes, a member affected by such change shall continue to serve the balance of the term of appointment for the district for which such member was appointed.~~

(c) The remaining members shall be appointed at large, one of whom shall be representative of the public, one of whom shall be a licensed real estate salesperson who has engaged in the real estate business as a salesperson for not less than three years, and one of whom shall be an active and licensed real estate broker who has engaged in the real estate business as a broker or associate broker for not less than five years. ~~The member representing the former congressional district 1 on July 14, 2006, shall represent congressional district 1 for the balance of his or her term. The member representing the former congressional district 2 on July 14, 2006, shall represent congressional district 2 for the balance of his or her term. The member representing the former congressional district 3 on July 14, 2006, shall become an at large member for the balance of his or her term. The member representing the former congressional district 4 on July 14, 2006, shall represent congressional district 3 for the balance of his or her term.~~

(2) At the expiration of the term of any member of the commission, the Governor shall appoint a successor for a term of six years. Any appointed member shall be limited to one six-year term, in addition to any partial term served. In the event of a vacancy on the commission, the Governor shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant. In the absence of the chairperson, the senior member of the commission in point of service present shall serve as presiding officer. Not less than four members of the commission must be present at any official meeting of the commission. The action of the majority of the members of the commission shall be deemed the action of the commission. No appointed person may act as a member of the commission while holding any other elective or appointive state or federal office.

(3) Each member of the commission shall receive as compensation for each day actually spent on official duties at scheduled meetings the sum of one hundred dollars and expenses incurred in the performance of ~~his or her~~ official duties as provided in sections 81-1174 to 81-1177.

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

(5) The commission may adopt and promulgate rules and regulations relating to the administration of but not inconsistent with the act.

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

(7) The commission may charge reasonable fees for services it renders, not to exceed the actual costs thereof, except as otherwise provided in the act. The fees established by the commission pursuant to the act shall be established

at the level necessary to meet expenditures of the commission as approved by the Legislature and to provide a sufficient cash fund balance.

Sec. 2. Section 81-885.18, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.18 (1) If the director of the commission, after an application in proper form has been filed with the commission, accompanied by the proper fee, refuses to accept the application, the director shall give notice of the fact to the applicant within twenty days after his or her ruling, order, or decision.

(2) Upon written request from the applicant, filed within thirty days after receipt of such notice by the applicant, the commission shall set the matter down for a hearing to be conducted within ninety days after receipt of the applicant's request.

(3) The hearing shall be at such time and place as the commission shall prescribe. At least twenty days prior to the date set for the hearing the commission shall notify the applicant and other persons protesting, and the notice shall set forth the reasons why the director refused to accept the application. Such written notice of hearing may be served by delivery personally to the applicant and protesters or by mailing the same by registered mail, or certified mail, first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service, or a designated delivery service as provided in section 25-505.01, to the last-known business address of the applicant and protesters.

(4) At the hearing the applicant shall be entitled to examine, either in person or by counsel, any and all persons protesting against him or her, as well as all other witnesses whose testimony is relied upon to substantiate any protest or denial of the application. The applicant shall be entitled to present such evidence, written and oral, as he or she may see fit and as may be pertinent to the inquiry.

(5) At the hearing all witnesses shall be duly sworn by the chairperson of the commission, or any member thereof, and stenographic notes of the proceedings shall be taken. Any party to the proceedings desiring a copy of the stenographic notes shall be furnished with a copy upon the payment to the commission of such fee as the commission shall prescribe, if the request is made within ten days after the date of any order issued by the commission.

(6) The commission shall render a decision on any application within sixty days after the final hearing on such application and shall immediately notify the parties to the proceedings, in writing, of its ruling, order, or decision.

Sec. 3. Section 81-885.25, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.25 (1) Before the commission censures a licensee, imposes a civil fine, revokes or suspends a license, or issues a cease and desist order, the commission shall send to the licensee or violator a copy of the complaint by registered mail, certified mail, first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service, or a designated delivery service as provided in section 25-505.01, which contains the charges against the licensee or violator and, unless the licensee or violator waives the right to a hearing and has executed a consent order, give the licensee or violator a hearing on the matter.

(2) The licensee or violator shall have full authority to be heard in person or by counsel before the commission in reference to such charges. The commission shall, at least twenty days prior to the date set for hearing, notify the licensee or violator in writing of the date and place of the hearing. Such notice may be served by delivering it personally to the licensee or violator or by sending it by either registered mail, or certified mail, first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service, or a designated delivery service as provided in section 25-505.01, to the last-known business address of such licensee or any known address of the violator. If the licensee is an associate broker or a salesperson, the commission shall also notify the broker employing the licensee by mailing a copy of such notice to the broker's last-known business address.

Sec. 4. Original sections 81-885.18 and 81-885.25, Reissue Revised Statutes of Nebraska, and section 81-885.07, Revised Statutes Cumulative Supplement, 2022, are repealed.