

## ENGROSSED LEGISLATIVE BILL 187

Introduced by Dover, 19.

A BILL FOR AN ACT relating to real property; to amend sections 76-2422, 81-885.02, 81-885.13, and 81-885.24, Reissue Revised Statutes of Nebraska; to change provisions relating to written agency agreements for brokerage services and restricted acts, issuance of licenses, and unfair trade practices under the Nebraska Real Estate License Act; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

**Section 1.** Section 76-2422, Reissue Revised Statutes of Nebraska, is amended to read:

76-2422 (1) All written agreements for brokerage services on behalf of a seller, landlord, buyer, or tenant shall be entered into by the designated broker on behalf of that broker and affiliated licensees, except that the designated broker may authorize affiliated licensees in writing to enter into the written agreements on behalf of the designated broker. A copy of a written agreement for brokerage services shall be left with the client or clients.

(2) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to establish a single agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. Except as provided in section 76-2422.01, the agreement shall include a licensee's duties and responsibilities specified in section 76-2417, the terms of compensation, a fixed date of expiration of the agreement, and whether an offer of subagency may be made to any other designated broker, except that if a licensee is a limited seller's agent for a builder, the terms of compensation may be established for a specific new construction property on or before the builder's acceptance of a contract to sell.

(3)(a) Before engaging in any of the acts enumerated in subdivision (2) of

section 81-885.01, a designated broker acting as a single agent for a buyer for real property being used primarily for residential purposes where no fewer than one or more than four dwelling units are located shall enter into a written agency agreement with the party to be represented.

(b) Before or while engaging in any of the acts enumerated in subdivision (2) of section 81-885.01, a designated broker acting as a single agent for a buyer or tenant for all other types of property not specified in subdivision (a) of this subsection may enter into a written agency agreement with the party to be represented.

(c) An agreement under this subsection shall include a licensee's duties and responsibilities specified in section 76-2418, the terms of compensation, a fixed date of expiration of the agreement, and whether an offer of subagency may be made to any other designated broker.

(4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a dual agent shall obtain the written consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent shall include a licensee's duties and responsibilities specified in section 76-2419. The requirements of this subsection are met as to a seller or landlord if the written agreement entered into with the seller or landlord complies with this subsection. The requirements of this subsection are met as to a buyer or tenant if a consent or buyer's or tenant's agency agreement is signed by a potential buyer or tenant which complies with this subsection. The consent of the buyer or tenant does not need to refer to a specific property and may refer generally to all properties for which the buyer's or tenant's agent may also be acting as a seller's or landlord's agent and would be a dual agent. If a licensee is acting as a dual agent with regard to a specific property, the seller and buyer or landlord and tenant shall confirm in writing the dual-agency status and the party or parties responsible for paying any compensation prior to or at the time a contract to purchase property or a lease or letter of intent to lease is entered into for the specific property.

(5) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker intending to act as a subagent shall enter into a written contract with the primary designated broker for the client. If a designated broker has made a unilateral offer of subagency, another designated broker can enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client.

(6) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a designated broker who intends to establish an agency relationship with any party or parties to a transaction in which the designated broker's duties and responsibilities exceed those contained in sections 76-2417 and 76-2418 shall enter into a written agency agreement with a party or parties to the transaction to perform services on their behalf. The agreement shall specify the agent's duties and responsibilities, including any duty of confidentiality, and the terms of compensation. Any agreement under this subsection shall be subject to the common-law requirements of agency applicable to real estate licensees.

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

81-885.02 (1) After September 2, 1973, it shall be unlawful for any person, directly or indirectly, to engage in or conduct, or to advertise or hold himself or herself out as engaging in or conducting the business, or acting in the capacity, of a real estate broker, associate broker, or real estate salesperson within this state without first obtaining a license as such broker, associate broker, or salesperson, as provided in the Nebraska Real Estate License Act, unless he or she is exempted from obtaining a license under section 81-885.04.

(2) For purposes of this section, acting as a real estate broker, associate broker, or real estate salesperson includes publicly marketing for sale an equitable interest in a contract for the purchase of real property, other than a vacant lot, between a property owner and a prospective purchaser.

**Sec. 3.** Section 81-885.13, Reissue Revised Statutes of Nebraska, is

amended to read:

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

(b) No broker's or salesperson's license shall be issued to any person who is not a graduate of a public or private high school or the holder of a certificate of high school equivalency. This subdivision does not apply to: (i) A person who is a graduate of a school exempt from the State Department of Education requirements under section 79-1601 or an equivalent exempt school or home school program from another jurisdiction; or (ii) a person who has completed a program of education acceptable to the commission.

(2) Each applicant for a salesperson's license shall furnish evidence that he or she has completed three courses in real estate subjects, approved by the commission, composed of not less than ninety class hours of study in total or, in lieu thereof, courses delivered in a distance education format approved by the commission. The commission may adopt and promulgate rules and regulations specifying the mandatory subject matter for the courses required under this subsection.

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

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

(b) Upon special application and hearing before the commission, provide satisfactory evidence of hardship due to an existing brokerage being unable to retain the services of a licensee to act as its designated broker who has the two years' experience required in this subsection. Any applicant so approved shall furnish a certificate that he or she has passed a course of at least eighteen credit hours in subjects related to real estate at an accredited university or college, or completed six courses in real estate subjects composed of not less than one hundred eighty class hours in total in a course

of study approved by the commission or, in lieu thereof, courses delivered in a distance education format approved by the commission.

(4) No person issued a broker's license may act as a designated broker for any other licensee until such person has taken additional courses of postlicensure education in the subjects of real estate trust accounting, brokerage finance, business ethics, and risk management, except that the commission may extend, for up to six months, the postlicensure course work requirement under the hardship provision of subdivision (3)(b) of this section.

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

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

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

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

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

(9)(a) All licensees shall, within one hundred eighty days after license issuance, furnish satisfactory evidence of completion of twelve hours of class study in a commission-approved class related to required knowledge and skills for real estate practice, including, but not limited to, completing contracts and listing agreements and handling of client funds. Such satisfactory evidence of completion is valid for four years from the date of completion for any license application.

(b) If a licensee fails to submit such satisfactory evidence of completion, the commission shall place his or her license on inactive status until the commission receives such satisfactory evidence. Transfer to active status pursuant to this subsection shall be subject to the fee provided for in section 81-885.20.

**Sec. 4.** Section 81-885.24, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.24 The commission may, upon its own motion, and shall, upon the sworn complaint in writing of any person, investigate the actions of any broker, associate broker, salesperson, or subdivider, may censure the licensee or certificate holder, revoke or suspend any license or certificate issued under the Nebraska Real Estate License Act, or enter into consent orders, and, alone or in combination with such disciplinary actions, may impose a civil fine on a licensee pursuant to section 81-885.10, whenever the license or

certificate has been obtained by false or fraudulent representation or the licensee or certificate holder has been found guilty of any of the following unfair trade practices:

(1) Refusing because of religion, race, color, national origin, ethnic group, sex, familial status, or disability to show, sell, or rent any real estate for sale or rent to prospective purchasers or renters;

(2) Intentionally using advertising which is misleading or inaccurate in any material particular or in any way misrepresents any property, terms, values, policies, or services of the business conducted;

(3) Failing to account for and remit any money coming into his or her possession belonging to others;

(4) Commingling the money or other property of his or her principals with his or her own;

(5) Failing to maintain and deposit in a separate trust account all money received by a broker acting in such capacity, or as escrow agent or the temporary custodian of the funds of others, in a real estate transaction unless all parties having an interest in the funds have agreed otherwise in writing;

(6) Accepting, giving, or charging any form of undisclosed compensation, consideration, rebate, or direct profit on expenditures made for a principal;

(7) Representing or attempting to represent a real estate broker, other than the employer, without the express knowledge and consent of the employer;

(8) Accepting any form of compensation or consideration by an associate broker or salesperson from anyone other than his or her employing broker without the consent of his or her employing broker;

(9) Acting in the dual capacity of agent and undisclosed principal in any transaction;

(10) Guaranteeing or authorizing any person to guarantee future profits which may result from the resale of real property;

(11) Placing a sign on any property offering it for sale or rent without the written consent of the owner or his or her authorized agent;

(12) Offering real estate for sale or lease without the knowledge and

consent of the owner or his or her authorized agent or on terms other than those authorized by the owner or his or her authorized agent;

(13) Inducing any party to a contract of sale or lease to break such contract for the purpose of substituting, in lieu thereof, a new contract with another principal;

(14) Negotiating a sale, exchange, listing, or lease of real estate directly with an owner or lessor if he or she knows that such owner has a written outstanding listing contract in connection with such property granting an exclusive agency or an exclusive right to sell to another broker or negotiating directly with an owner to withdraw from or break such a listing contract for the purpose of substituting, in lieu thereof, a new listing contract;

(15) Discussing or soliciting a discussion of, with an owner of a property which is exclusively listed with another broker, the terms upon which the broker would accept a future listing upon the expiration of the present listing unless the owner initiates the discussion;

(16) Violating any provision of sections 76-2401 to 76-2430;

(17) Soliciting, selling, or offering for sale real estate by offering free lots or conducting lotteries for the purpose of influencing a purchaser or prospective purchaser of real estate;

(18) Providing any form of compensation or consideration to any person for performing the services of a broker, associate broker, or salesperson who has not first secured his or her license under the Nebraska Real Estate License Act unless:

(a) Such compensation or consideration is a referral fee; and

(b) Such person is a:

(i) Nonresident who is licensed in his or her resident regulatory jurisdiction; or

(ii) Citizen and resident of a foreign country which does not license persons conducting the activities of a broker and such person provides reasonable written evidence to the Nebraska broker that he or she is a resident



citizen of that foreign country, is not a resident of this country, and conducts the activities of a broker in that foreign country;

(19) Failing to include a fixed date of expiration in any written listing agreement and failing to leave a copy of the agreement with the principal;

(20) Failing to deliver within a reasonable time a completed and dated copy of any purchase agreement or offer to buy or sell real estate to the purchaser and to the seller;

(21) Failing by a broker to deliver to the seller in every real estate transaction, at the time the transaction is consummated, a complete, detailed closing statement showing all of the receipts and disbursements handled by such broker for the seller, failing to deliver to the buyer a complete statement showing all money received in the transaction from such buyer and how and for what the same was disbursed, and failing to retain true copies of such statements in his or her files;

(22) Making any substantial misrepresentations;

(23) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts;

(24) Failing by an associate broker or salesperson to place, as soon after receipt as practicable, in the custody of his or her employing broker any deposit money or other money or funds entrusted to him or her by any person dealing with him or her as the representative of his or her licensed broker;

(25) Filing a listing contract or any document or instrument purporting to create a lien based on a listing contract for the purpose of casting a cloud upon the title to real estate when no valid claim under the listing contract exists;

(26) Violating any rule or regulation adopted and promulgated by the commission in the interest of the public and consistent with the Nebraska Real Estate License Act;

(27) Failing by a subdivider, after the original certificate has been issued, to comply with all of the requirements of the Nebraska Real Estate License Act;

(28) Conviction of a felony or entering a plea of guilty or nolo contendere to a felony charge by a broker or salesperson;

(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section;

(30) Inducing or attempting to induce a person to transfer an interest in real property, whether or not for monetary gain, or discouraging another person from purchasing real property, by representing that (a) a change has occurred or will or may occur in the composition with respect to religion, race, color, national origin, ethnic group, sex, familial status, or disability of the owners or occupants in the block, neighborhood, or area or (b) such change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area;

(31) Failing by a team leader to provide a current list of all team members to his or her designated broker;

(32) Failing by a designated broker to maintain a record of all team leaders and team members working under him or her;

(33) Utilizing advertising which does not prominently display the name under which the designated broker does business as filed with the commission;

(34) Utilizing team advertising or a team name suggesting the team is an independent real estate brokerage;

(35) Charging or collecting, as part or all of his or her compensation or consideration, any part of the earnest money or other money paid to him or her or the entity under which he or she does business in connection with any real estate transaction until the transaction has been consummated or terminated. However, a payment for goods or services rendered by a third party on behalf of the client shall not be considered compensation or consideration if such payment does not include any profit, compensation, or payment for services rendered by the broker and the broker retains a record of the payment to the third party for such goods or services;

(36) Failing to provide a copy of section 81-885.04 or written instructions explaining the provisions of the exemption from licensure as set forth in subdivision (9) of section 81-885.04 to any unlicensed person who assists in procuring a potential client or customer as defined in sections 76-2407 and 76-2409, respectively, for the purpose of the listing, sale, purchase, exchange, renting, leasing, or optioning of any real estate; or

(37) Offering or entering into a right-to-list home sale agreement.

**Sec. 5.** Sections 1 and 6 of this act become operative on July 1, 2025. Sections 3 and 8 of this act become operative on January 1, 2026. The other sections of this act become operative on their effective date.

**Sec. 6.** Original section 76-2422, Reissue Revised Statutes of Nebraska, is repealed.

**Sec. 7.** Original sections 81-885.02 and 81-885.24, Reissue Revised Statutes of Nebraska, are repealed.

**Sec. 8.** Original section 81-885.13, Reissue Revised Statutes of Nebraska, is repealed.

**Sec. 9.** Since an emergency exists, this act takes effect when passed and approved according to law.

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**PRESIDENT OF THE LEGISLATURE**

*THIS IS TO CERTIFY that the within LB 187 was passed by the One Hundred Ninth  
Legislature of Nebraska at its First Session on the ..... day  
of ..... 20.....*

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**CLERK OF THE LEGISLATURE**

**Approved:**

..... 20....., ..... o'clock .....M.

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**GOVERNOR**