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## LEGISLATIVE BILL 350

Approved by the Governor February 20, 1990

Introduced by Goodrich, 20

AN ACT relating to the Nebraska Real Estate License Act; to amend sections 81-885.01, 81-885.04, 81-885.07, 81-885.11, 81-885.12, 81-885.14, 81-885.17, 81-885.18, 81-885.19, 81-885.20, 81-885.24, 81-885.25, 81-885.26, and 81-885.29, Reissue Revised Statutes of Nebraska, 1943; to define terms; to change exemptions from the act as prescribed; to change the compensation of members of the State Real Estate Commission; to change provisions relating to partnerships and corporations engaged in real estate activities; to change provisions relating to fees; to delete provisions relating to reexamination; to provide and change requirements for issuance of nonresident licenses; to authorize reciprocal agreements; to change notice requirements; to change provisions relating to branch offices; to require the dating of purchase agreements and offers; to change procedures for certain disciplinary proceedings as prescribed; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 81-885.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.01. As used in sections 81-885.01 to 81-885.48 For purposes of the Nebraska Real Estate License Act, unless the context otherwise requires:

(1) Real estate shall mean and include condominiums and leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold, and whether the real estate is situated in this state or elsewhere;

(2) Broker shall mean any person who, for a fee, a commission, or any other valuable consideration; or with the intent or expectation of receiving the same from another, negotiates or attempts to negotiate the listing, sale, purchase, exchange, rent, or lease, or

option for any real estate or improvements thereon, or assists in procuring prospects or holds himself or herself out as a referral agent for the purpose of securing prospects for the listing, sale, purchase, exchange, renting, leasing, or optioning of any real estate or collects rents or attempts to collect rents, or holds himself or herself out as engaged in any of the foregoing. Broker shall also include any person: (a) Employed by or on behalf of the owner or owners of lots or other parcels of real estate at a salary, fee, or commission; or any other valuable consideration to sell such real estate or any part thereof in lots or parcels or make other disposition thereof; (b) who engages in the business of charging an advance fee in connection with any contract whereby he or she undertakes primarily to promote the sale of real estate either through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers; or both; (c) who auctions, offers, attempts, or agrees to auction real estate; or (d) who buys or offers to buy or sell or otherwise deals in options to buy real estate;

(3) Associate broker shall mean a person who has a broker's license and who is employed by another broker to participate in any activity described in subdivision (2) of this section;

(4) Designated broker shall mean an individual holding a broker's license appointed by a partnership or corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership or corporation and to whom the partners or board of directors has subordinated full authority to conduct the real estate activities of the partnership or corporation;

(4) (5) Salesperson shall mean any person, other than an associate broker, who is employed by a broker to participate in any activity described in subdivision (2) of this section;

(6) Inactive salesperson shall mean a salesperson whose license has been returned to the commission by the licensee's broker, a salesperson who has requested the commission to place the license on inactive status, or a new licensee who has failed to designate an employing broker;

(5) (7) Person shall mean and include individuals, corporations, and partnerships, except that when referring to a person licensed under this the act, it shall mean an individual;

(6) (8) Subdivision or subdivided land shall

mean any real estate offered for sale and which has been registered under the Interstate Land Sales Full Disclosure Act, 82 Stat. 590 and following, 15 U.S.C. 1701 and following, as such act existed on January 1, 1973, or real estate located out of this state which is divided or proposed to be divided into twenty-five or more lots, parcels, or units;

~~(7)~~ (9) Subdivider shall mean any person who causes land to be subdivided into a subdivision for himself, herself, or others; or who undertakes to develop a subdivision; but shall not include a public agency or officer authorized by law to create subdivisions;

~~(8)~~ (10) Purchaser shall mean a person who acquires or attempts to acquire or succeeds to an interest in land; and

~~(9)~~ (11) Commission shall mean the State Real Estate Commission.

Sec. 2. That section 81-885.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.04. Except as to the requirements with respect to the subdivision of land, ~~the provisions of sections 81-885-01 to 81-885-48~~ the Nebraska Real Estate License Act shall not apply to:

(1) Any person, partnership, or corporation who as owner or lessor shall perform any of the acts described in subdivision (2) of section 81-885.01 with reference to property owned or leased by ~~them, him, her, or it~~ or to the regular employees thereof, with respect to the property so owned or leased, when such acts are performed in the regular course of or as an incident to the management, sale, or other disposition of such property; and the investment therein, ~~except~~ PROVIDED, that such regular employees shall not perform any of the acts described in such subdivision ~~(2)~~ of section 81-885-01 in connection with a vocation of selling or leasing any real estate or the improvements thereon;

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

(3) Any person acting as receiver, trustee in bankruptcy, ~~administrator, executor, personal representative, conservator,~~ or guardian; or while acting under a court order or under the authority of a will or of a trust instrument or as a witness in any judicial proceeding or other proceeding conducted by the

state or any governmental subdivision or agency;

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

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

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

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

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

Sec. 3. That section 81-885.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.07. (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. Four of the members of ~~such~~ 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 four congressional districts as the districts were constituted on January 1, 1961. The remaining members shall be appointed at large, one of whom shall be representative of the public and 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.

(2) ~~The present members of the commission shall continue to serve for the terms for which they were respectively appointed. Within thirty days after September 27, 1973, the Governor shall appoint the~~

at-large member for a term of six years from September 27, 1973. Within thirty days after July 22, 1978, the Governor shall appoint the salesperson member for a term of six years from July 22, 1978. 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 fifty one hundred dollars and actual and necessary expenses incurred in the performance of his or her official duties.

(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 his or her discretion 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 provisions of sections 81-885-01 to 81-885-48 Nebraska Real Estate License Act, fix the salaries of such employees, and make such other expenditures as are necessary to properly carry out the provisions of sections 81-885-01 to 81-885-48 act. The office of the commission shall be maintained in Lincoln and all files, records, and property of the commission shall remain therein 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 provisions of sections 81-885-01 to 81-885-48 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.

Sec. 4. That section 81-885.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.11. Any person, desiring to act as a real estate broker or real estate salesperson, must shall file an application for a license with the commission. The application shall be in such form and detail as the commission shall prescribe, setting forth the following:

(1) The name and address of the applicant or the name under which he or she intends to conduct business and, if the applicant conducts business as through a partnership, the name and residence address of each member thereof, the name of the partnership's designated broker, and the name under which the partnership business is to be conducted; and, if the applicant conducts business as through a corporation, the name and address of each of its principal officers and the name of the corporation's designated broker;

(2) The place or places, including the city or village with the street and street number, if any, where the business is to be conducted; and

(3) Such other information as the commission shall require requires.

Sec. 5. That section 81-885.12, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.12. (1) Licenses shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of broker or salesperson in such manner as to safeguard the interest of the public; and only after satisfactory proof of such qualifications has been presented to the commission. No license shall be granted to an applicant who conducts business as through a corporation or partnership unless any stockholder or partner having a controlling interest therein, if any, bears a good reputation for honesty, trustworthiness, and integrity.

(2) When an applicant has been convicted of

forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses; or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction of this or any other state, district, or territory of the United States; or of a foreign country, such untrustworthiness of the applicant; and the conviction; may in itself be sufficient ground for refusal of a license. The ~~7~~ and ~~the~~ commission may in its discretion deny a license to any person who has engaged in the real estate business without a license.

(3) When an applicant has made a false statement of material fact on ~~his or her~~ an application, such false statement may in itself be sufficient ground for refusal of a license.

(4) Grounds for suspension or revocation of a license, as provided for by ~~sections 81-885-01 to 81-885-48~~ the Nebraska Real Estate License Act, or the previous revocation of a real estate license shall also be grounds for refusal to grant a license.

Sec. 6. That section 81-885.14, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.14. (1) To pay the expense of the maintenance and operation of the office of the commission and the enforcement of ~~sections 81-885-01 to 81-885-48~~ the Nebraska Real Estate License Act, the commission shall, at the time an application is submitted, collect from an applicant for each broker's or salesperson's examination a fee to be established by the commission of twenty-five not more than one hundred dollars and an application fee of fifty seventy-five dollars. The commission shall also collect a reexamination fee to be established by the commission of not more than one hundred dollars for each reexamination. The commission may direct an applicant to pay the examination or reexamination fee to a third party who has contracted with the commission to administer the examination. if the applicant fails to pass the original examination; the applicant may take the examination one more time within a year for a fee of five dollars; if the applicant fails the second examination; then the third and all subsequent examinations may be taken upon the payment of twenty-five dollars for each examination. A nonresident applicant who is duly licensed in the state of residence and who is granted a nonresident license under the provisions of a reciprocal agreement; without being

required to take an examination; shall not be required to pay the examination and application fees. Prior to the issuance of an original license, each applicant who has passed the examination; as required by section 81-885.13, or who has received a license under a reciprocal agreement shall pay a license fee in advance as follows: For a broker's license, fifty sixty-five dollars for a resident and one hundred thirty dollars for a nonresident, and for a salesperson's license, thirty forty-five dollars for a resident and eighty ninety dollars for a nonresident. After the original issuance of a license, a renewal application and an annual fee of fifty sixty-five dollars for each resident broker, and one hundred thirty dollars for each nonresident broker, forty-five and thirty dollars for each resident salesperson, and eighty ninety dollars for each nonresident salesperson shall be due and payable on or before the last day of November of each year. Failure to remit annual fees when due shall automatically cancel such license on December 31 of that year, but otherwise the license shall remain in full force and effect continuously from the date of issuance; unless suspended or revoked by the commission for just cause. Any licensee who fails to file an application for the renewal of any license and pay the renewal fee as provided in this section may file a late renewal application and shall pay, in addition to the renewal fee, the sum of ten dollars for each month or fraction thereof beginning with the first day of December; ~~PROVIDED, that~~ if such late application is filed before July 1 of the ensuing year. Any check presented to the commission as a fee for either an original or renewal license or for examination for license which is returned to the State Treasurer unpaid; shall be cause for revocation or denial of license.

(2) An inactive salesperson Any real estate salesperson who is temporarily unemployed or without an employing broker may renew his or her license by submitting an application before December 1 prior to the ensuing year. Such salesperson shall submit the renewal fee together with the completed renewal application on which he or she has noted his or her present inactive status. Any salesperson whose license has been renewed on such inactive status shall not be permitted to engage in the real estate business until such time as he or she shall secure a new employing broker. ~~On or after January 1, 1977, any~~ Any license which has been inactive for a continuous period of more than three years shall be reinstated only if the licensee has met the

examination requirement of an original applicant.

Sec. 7. That section 81-885.17, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.17. (1)(a) A nonresident of this state, who is actively engaged in the real estate business, who maintains a place of business in his or her resident state, and who has been duly licensed in the state of residence to conduct such business in that state, may, in the discretion of the commission, be issued a nonresident broker's license, if such state has entered into a reciprocal agreement with the commission in regard to the issuance of reciprocal licenses-

(b) A nonresident salesperson employed by a broker holding a nonresident broker's license may, in the discretion of the commission, be issued a nonresident salesperson's license under such nonresident broker.

(c) A nonresident licensee who becomes a resident of the State of Nebraska and who holds a broker's or salesperson's license in his or her prior state of residence shall be issued a resident broker's or salesperson's license upon filing an application, paying the applicable license fee, and filing the affidavit required by subsection (6) of this section, or who desires to maintain a place of business in this state, or is employed by a broker maintaining a place of business in this state shall secure a regular resident license in compliance with the statutes and rules governing original resident applicants. If another state requires a resident of this state to maintain a place of business in such other state in order to transact business in such state, a resident of such other state shall maintain a place of business in this state and need not secure a regular resident license to maintain such place of business in this state in order to transact business in this state. A nonresident of this state shall meet the same rules and requirements of his or her resident state in order to obtain a reciprocal license in this state.

(2) Obtaining a nonresident broker's license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over the licensee in any action arising out of the licensee's activity in this state.

(3) Prior to the issuance of any license to any nonresident, he or she shall file with the commission a duly certified copy of the license issued

to the applicant by the state of residence him or her for the conducting of such business in any other state, and pay to the commission the nonresident license fee as provided in section 81-885.14 for the obtaining of a broker's or salesperson's license.

(4) Nothing in this section shall preclude the commission from entering into reciprocal agreements with other states when such agreements are necessary to provide Nebraska residents authority to secure licenses in other states.

(5) Nonresident licenses granted under reciprocal agreements as provided in this section shall remain in force, unless suspended or revoked by the commission for just cause or for failure to pay the annual renewal fee, only as long as a reciprocal agreement is in effect between this state and the resident state of the nonresident ~~licensee~~ licensee.

(6) Prior to the issuance of any license to a nonresident applicant, an affidavit shall be filed by the applicant with the commission certifying that the applicant has reviewed and is familiar with the Nebraska Real Estate License Act and the rules and regulations of the commission and agrees to be bound by the act, rules, and regulations.

Sec. 8. That section 81-885.18, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.18. (1) If the commission, after an application in proper form has been filed with it, accompanied by the proper fee, shall refuse to accept the application, the commission shall give notice of the fact to the applicant within ~~fifteen~~ twenty days after its 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 sixty 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 ~~fifteen~~ 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 ~~in the notice~~ the reasons why the commission 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 or certified mail 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 it a copy of the stenographic notes shall be furnished with a copy of such stenographic notes upon the payment to the commission of such fee as the commission shall prescribe, if the request for such copy is made within ten days from the date of any order issued by the commission.

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

Sec. 9. That section 81-885.19, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.19. The commission shall prescribe the form of license. Each license shall have placed thereon the seal of the commission. The license of each salesperson and associate broker shall be delivered or mailed to the broker by whom the salesperson or associate broker is employed, and shall be kept in the custody and control of such broker. It shall be the duty of each broker to display his or her own license and those of his or her associate brokers and salespersons conspicuously in his or her place of business. The commission shall annually prepare and deliver a pocket card certifying that the person, whose name appears thereon, is a licensed real estate broker or a licensed real estate associate broker or salesperson, as the case may be, stating the period of time for which fees have been paid and including, on salesperson's and associate broker's cards only, the name and address of the broker employing such salesperson or associate broker. If a broker maintains more than one place of business within the state, a branch office license shall be issued to such broker for each branch office so maintained by him or her upon the payment of an annual fee of thirty dollars and the

branch office license shall be displayed conspicuously in each branch office. The manager of a branch office must be an officer of the corporation, a partner, or an associate broker, and he or she shall manage no more than one branch office.

Sec. 10. That section 81-885.20, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.20. (1) Should the broker change his or her place of business, he or she shall forthwith notify the commission in writing of such change and thereupon a new pocket card shall be granted to the broker and to his or her associate brokers and salespersons.

(2) When a salesperson or associate broker leaves the employ of a broker, the employing broker shall immediately forward the license of such employee to the commission and shall furnish such information regarding the termination of employment as the commission may require and the employee shall immediately forward his or her pocket card to the commission.

(3) When a salesperson or associate broker transfers from one employing broker to another, or when an associate broker changes his or her status from associate broker to that of broker, or when a broker changes his or her status to that of associate broker, a transfer fee of five twenty dollars shall be paid to the commission.

Sec. 11. That section 81-885.24, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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 and ~~shall have power to may~~ censure the licensee or certificate holder, ~~or to~~ revoke or suspend any license or certificate issued under the Nebraska Real Estate License Act, or enter into consent decrees, 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 race, color, national origin, or ethnic group 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 non-interest-bearing checking 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 undisclosed commission, 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 a commission or other valuable 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) Accepting employment or compensation for appraising real estate contingent upon the reporting of a predetermined value or issuing an appraisal report on real estate in which he or she has an undisclosed interest;

(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) Paying a commission or compensation 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 such person is a nonresident who is licensed in his or her state of residence;

(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) The broker or salesperson has been convicted of a felony or entered a plea of guilty or nolo contendere to a felony charge;

(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 ~~hereinbefore~~ otherwise specified in this section; or

(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, age, sex, or marital status 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.

Sec. 12. That section 81-885.25, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.25. (1) Before the commission shall ensure censures a licensee or before revoking or suspending a license, it shall, unless the licensee waives his or her right to a hearing and has entered into a consent decree, give the holder of the license a hearing on the matter and shall, at least twenty days prior to the date set for the hearing, notify the licensee holder in writing. Such notice shall contain an exact statement of the charges against him or her and the date and place of hearing the commission shall send to the licensee a copy of the complaint by certified mail which contains the charges against the licensee

and, unless the licensee waives the right to a hearing and has executed a consent order, give the licensee a hearing on the matter.

(2) The license holder 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 in writing of the date and place of the hearing. Such notice may be served by delivering it personally to the license holder or by sending it by either registered or certified mail to the last-known business address of such license holder. If the license holder is an associate broker or a salesperson, the commission shall also notify the broker employing the license holder by mailing a copy of such notice to the broker's last-known business address.

(3) The license holder may request a description of the facts which are alleged as the basis for the censure, revocation, or suspension. The commission shall provide such description within ten days after receipt of the request.

Sec. 13. That section 81-885.26, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.26. Within twenty days from the time of service of the complaint and notice the licensee shall ~~may~~ file his or her sworn answer thereto, which shall contain all defenses which he or she intends to assert. No and no motions or other pleadings shall be authorized.

Sec. 14. That section 81-885.29, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.29. After ~~such~~ the hearing, the commission shall state in writing, officially signed by the chairperson and attested to by the director, its findings and determination and its order in the matter. If the commission ~~shall determine~~ determines that the license holder has been guilty of any violation of the provisions of sections 81-885-01 to 81-885-48 Nebraska Real Estate License Act or the rules and regulations of the commission, his or her license shall be revoked or suspended forthwith, or the commission may enter an order censoring the license holder. The execution of a penalty of suspension may be stayed by the commission, and the licensee may be placed on probation for the suspension period, after satisfactory completion of which his or her license shall be fully reinstated. Any violation of sections 81-885-01 to 81-885-48 the act or

the rules and regulations by the licensee during the period of probation shall cause the immediate execution of the suspension penalty.

Sec. 15. That original sections 81-885.01, 81-885.04, 81-885.07, 81-885.11, 81-885.12, 81-885.14, 81-885.17, 81-885.18, 81-885.19, 81-885.20, 81-885.24, 81-885.25, 81-885.26, and 81-885.29, Reissue Revised Statutes of Nebraska, 1943, are repealed.