

LEGISLATIVE BILL 863

Approved by the Governor April 17, 2002

Introduced by Byars, 30; Schimek, 27

AN ACT relating to real estate; to amend sections 76-2,120, 76-2403, 76-2407, 76-2417 to 76-2419, 76-2421, 76-2422, 76-2426, 81-885.03, 81-885.12, 81-885.13, 81-885.17 to 81-885.19, 81-885.24, 81-885.29, 81-885.33, 81-885.34, 81-885.40, 81-885.45, 81-885.51 to 81-885.53, and 81-885.55, Reissue Revised Statutes of Nebraska, and sections 81-885.01, 81-885.11, and 81-885.21, Revised Statutes Supplement, 2000; to change provisions relating to real estate disclosure statements and regulation and licensure of real estate professionals; and to repeal the original sections.

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

Section 1. Section 76-2,120, Reissue Revised Statutes of Nebraska, is amended to read:

76-2,120. (1) For purposes of this section:

(a) Ground lease coupled with improvements shall mean a lease for a parcel of land on which one to four residential dwelling units have been constructed;

(b) Purchaser shall mean a person who acquires, attempts to acquire, or succeeds to an interest in land;

(c) Residential real property shall mean real property which is being used primarily for residential purposes on which no fewer than one or more than four dwelling units are located; and

(d) Seller shall mean an owner of real property who sells or attempts to sell, including lease with option to purchase, residential real property, whether an individual, partnership, limited liability company, corporation, or trust. A sale of a residential dwelling which is subject to a ground lease coupled with improvements shall be a sale of residential real property for purposes of this subdivision.

(2) ~~On and after January 1, 1995, each~~ Each seller of residential real property located in Nebraska shall provide the purchaser with a written disclosure statement of the real property's condition. The disclosure statement shall be executed by the seller. The requirements of this section shall also apply to a sale of improvements which contain residential real property when the improvements are sold coupled with a ground lease and to any lease with the option to purchase residential real property.

(3) The disclosure statement shall include language at the beginning which states:

(a) That the statement is being completed and delivered in accordance with Nebraska law;

(b) That Nebraska law requires the seller to complete the statement;

(c) The real property's address and legal description;

(d) That the statement is a disclosure of the real property's condition as known by the seller on the date of disclosure;

(e) That the statement is not a warranty of any kind by the seller or any agent representing a principal in the transaction;

(f) That the statement should not be accepted as a substitute for any inspection or warranty that the purchaser may wish to obtain;

(g) That even though the information provided in the statement is not a warranty, the purchaser may rely on the information in deciding whether and on what terms to purchase the real property;

(h) That any agent representing a principal in the transaction may provide a copy of the statement to any other person in connection with any actual or possible sale of the real property; and

(i) That the information provided in the statement is the representation of the seller and not the representation of any agent and that the information is not intended to be part of any contract between the seller and purchaser.

(4) In addition to the requirements of subsection (3) of this section, the disclosure statement shall disclose the condition of the real property and any improvements on the real property, including:

(a) The condition of all appliances that are included in the sale and whether the appliances are in working condition;

(b) The condition of the electrical system;

(c) The condition of the heating and cooling systems;

(d) The condition of the water system;

(e) The condition of the sewer system;

(f) The condition of all improvements on the real property and any defects that materially affect the value of the real property or improvements;

(g) Any hazardous conditions, including substances, materials, and products on the real property which may be an environmental hazard;

(h) Any title conditions which affect the real property, including encroachments, easements, and zoning restrictions; and

(i) The utility connections and whether they are public, private, or community.

(5) The disclosure statement shall be completed to the best of the seller's belief and knowledge as of the date the disclosure statement is completed and signed by the seller. If any information required by the disclosure statement is unknown to the seller, the seller may indicate that fact on the disclosure statement and the seller shall be in compliance with this section. On or before the effective date of any contract which binds the purchaser to purchase the real property, the seller shall update the information on the disclosure statement whenever the seller has knowledge that information on the disclosure statement is no longer accurate.

(6) This section shall not apply to a transfer:

(a) Pursuant to a court order, a foreclosure sale, or a sale by a trustee under a power of sale in a deed of trust;

(b) By a trustee in bankruptcy;

(c) To a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;

(d) By a mortgagee, a beneficiary under a deed of trust, or a seller under a land contract who has acquired the real property at a sale conducted pursuant to a power of sale under a deed of trust, at a sale pursuant to a court-ordered foreclosure, or by a deed in lieu of foreclosure;

(e) By a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust except when the fiduciary is also the occupant or was an occupant of one of the dwelling units being sold;

(f) From one ~~co-owner~~ or more co-owners to one or more other co-owners;

(g) Made to a spouse or to a person or persons in the lineal line of consanguinity of one or more of the transferors;

(h) Between spouses resulting from a decree of dissolution of marriage or a decree of legal separation or from a property settlement agreement incidental to such a decree;

(i) Pursuant to a merger, consolidation, sale, or transfer of assets of a corporation pursuant to a plan of merger or consolidation filed with the Secretary of State; ~~or~~

(j) To or from any governmental entity;

(k) Of newly constructed residential real property which has never been occupied; or

(l) From a third-party relocation company if the third-party relocation company has provided the prospective purchaser a disclosure statement from the most immediate seller unless the most immediate seller meets one of the exceptions in this section. If a disclosure statement is required, and if a third-party relocation company fails to supply a disclosure statement from its most immediate seller on or before the effective date of any contract which binds the purchaser to purchase the real property, the third-party relocation company shall be liable to the prospective purchaser to the same extent as a seller under this section.

(7) The disclosure statement and any update to the statement shall be delivered by the seller or the agent of the seller to the purchaser or the agent of the purchaser on or before the effective date of any contract entered into on or after January 1, 1995, which binds the purchaser to purchase the real property, and the purchaser shall acknowledge in writing receipt of the disclosure statement or update.

(8) The seller shall not be liable under this section for any error, inaccuracy, or omission of any information in a disclosure statement if the error, inaccuracy, or omission was not within the personal knowledge of the seller.

(9) A person representing a principal in the transaction shall not be liable under this section for any error, inaccuracy, or omission of any information in a disclosure statement unless that person has knowledge of the error, inaccuracy, or omission on the part of the seller.

(10) A person licensed as a salesperson or broker pursuant to the Nebraska Real Estate License Act shall not be required to verify the accuracy or completeness of any disclosure statement prepared pursuant to this section, and the only obligation of a buyer's agent pursuant to this section is to

assure that a copy of the statement is delivered to the buyer on or before the effective date of any purchase agreement which binds the buyer to purchase the property subject to the disclosure statement. This subsection does not limit the duties and obligations provided in section 76-2418 or in subsection (9) of this section with respect to a buyer's agent.

~~(10)~~ (11) A transfer of an interest in real property subject to this section may not be invalidated solely because of the failure of any person to comply with this section.

(12) ~~(11)~~ If a conveyance of real property is not made in compliance with this section, the purchaser shall have a cause of action against the seller and may recover the actual damages, court costs, and reasonable attorney's fees. The cause of action created by this section shall be in addition to any other cause of action that the purchaser may have. Any action to recover damages under the cause of action shall be commenced within one year after the purchaser takes possession or the conveyance of the real property, whichever occurs first.

(13) ~~(12)~~ The State Real Estate Commission shall adopt and promulgate rules and regulations to carry out this section.

Sec. 2. Section 76-2403, Reissue Revised Statutes of Nebraska, is amended to read:

76-2403. Adverse material fact shall mean a fact which (1) significantly affects the desirability or value of the property to a party and is not reasonably ascertainable or known to a party which significantly affects the desirability or value of the property to that party or which or (2) establishes a reasonable belief that another party will not be able to, or does not intend to, complete that party's obligations under a contract creating an interest in real property.

Sec. 3. Section 76-2407, Reissue Revised Statutes of Nebraska, is amended to read:

76-2407. Client shall mean a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee pursuant to sections 76-2401 to 76-2430 and is the seller, landlord, buyer, or tenant to whom the licensee owes the duty as set forth in such sections.

Sec. 4. Section 76-2417, Reissue Revised Statutes of Nebraska, is amended to read:

76-2417. (1) A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations:

(a) To perform the terms of the written agreement made with the client;

(b) To exercise reasonable skill and care for the client;

(c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:

(i) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract for sale or to seek additional offers to lease the property while the property is subject to a lease or letter of intent to lease;

(ii) Presenting all written offers to and from the client in a timely manner regardless of whether the property is subject to a contract for sale or lease or a letter of intent to lease;

(iii) Disclosing in writing to the client all adverse material facts actually known by the licensee; and

(iv) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(d) To account in a timely manner for all money and property received;

(e) To comply with all requirements of sections 76-2401 to 76-2430, the Nebraska Real Estate License Act, and any rules and regulations promulgated pursuant to such sections or act; and

(f) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes and regulations.

(2) A licensee acting as a seller's or landlord's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute fraudulent misrepresentation. No cause of action for any person shall arise against a licensee acting as a seller's or landlord's agent for making any required or permitted disclosure.

(3) (a) A licensee acting as a seller's or landlord's agent owes no duty or obligation to a ~~customer~~ buyer, a tenant, or a prospective buyer or

tenant, except that a licensee shall disclose in writing to any customer the buyer, tenant, or prospective buyer or tenant all adverse material facts actually known by the licensee. The adverse material facts may include, but are not limited to, adverse material facts pertaining to: (i) Any environmental hazards affecting the property which are required by law to be disclosed; (ii) the physical condition of the property; (iii) any material defects in the property; (iv) any material defects in the title to the property; or (v) any material limitation on the client's ability to perform under the terms of the contract.

(b) A seller's or landlord's agent owes no duty to conduct an independent inspection of the property for the benefit of the customer buyer, tenant, or prospective buyer or tenant and owes no duty to independently verify the accuracy or completeness of any statement made by the client or any independent inspector.

(4) A seller's or landlord's agent may show alternative properties not owned by the client to prospective buyers or tenants and may list competing properties for sale or lease without breaching any duty or obligation to the client.

(5) (a) A seller or landlord may agree in writing with a seller's or landlord's agent that other designated brokers may be retained and compensated as subagents.

(b) Any designated broker acting as a subagent on the seller's or landlord's behalf shall be a limited agent with the obligations and responsibilities set forth in subsections (1) through (4) of this section.

Sec. 5. Section 76-2418, Reissue Revised Statutes of Nebraska, is amended to read:

76-2418. (1) A licensee representing a buyer or tenant as a buyer's or tenant's agent shall be a limited agent with the following duties and obligations:

(a) To perform the terms of any written agreement made with the client;

(b) To exercise reasonable skill and care for the client;

(c) To promote the interests of the client with the utmost good faith, loyalty, and fidelity, including:

(i) Seeking a price and terms which are acceptable to the client, except that the licensee shall not be obligated to seek other properties while the client is a party to a contract to purchase property or to a lease or letter of intent to lease;

(ii) Presenting all written offers to and from the client in a timely manner regardless of whether the client is already a party to a contract to purchase property or is already a party to a contract or a letter of intent to lease;

(iii) Disclosing in writing to the client adverse material facts actually known by the licensee; and

(iv) Advising the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee;

(d) To account in a timely manner for all money and property received;

(e) To comply with all requirements of sections 76-2401 to 76-2430, the Nebraska Real Estate License Act, and any rules and regulations promulgated pursuant to such sections or act; and

(f) To comply with any applicable federal, state, and local laws, rules, regulations, and ordinances, including fair housing and civil rights statutes or regulations.

(2) A licensee acting as a buyer's or tenant's agent shall not disclose any confidential information about the client unless disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute fraudulent misrepresentation. No cause of action for any person shall arise against a licensee acting as a buyer's or tenant's agent for making any required or permitted disclosure.

(3) (a) A licensee acting as a buyer's or tenant's agent owes no duty or obligation to a customer seller, a landlord, or a prospective seller or landlord, except that the licensee shall disclose in writing to any customer seller, landlord, or prospective seller or landlord all adverse material facts actually known by the licensee. The adverse material facts may include, but are not limited to, adverse material facts concerning the client's financial ability to perform the terms of the transaction.

(b) A buyer's or tenant's agent owes no duty to conduct an independent investigation of the client's financial condition for the benefit of the customer and owes no duty to independently verify the accuracy or completeness of statements made by the client or any independent inspector.

(4) A buyer's or tenant's agent may show properties in which the client is interested to other prospective buyers or tenants without breaching any duty or obligation to the client. This section shall not be construed to prohibit a buyer's or tenant's agent from showing competing buyers or tenants the same property and from assisting competing buyers or tenants in attempting to purchase or lease a particular property.

(5)(a) A client may agree in writing with a buyer's or tenant's agent that other designated brokers may be retained and compensated as subagents.

(b) Any designated broker acting as a subagent on the buyer's or tenant's behalf shall be a limited agent with the obligations and responsibilities set forth in subsections (1) through (4) of this section.

Sec. 6. Section 76-2419, Reissue Revised Statutes of Nebraska, is amended to read:

76-2419. (1) A licensee may act as a dual agent only with the informed consent of all parties to the transaction. The informed consent shall be evidenced by a written agreement pursuant to section 76-2422.

(2) A dual agent shall be a limited agent for both the seller and buyer or the landlord and tenant and shall have the duties and obligations required by sections 76-2417 and 76-2418 unless otherwise provided for in this section.

(3) Except as provided in subsections (4) and (5) of this section, a dual agent may disclose any information to one client that the licensee gains from the other client if the information is relevant to the transaction or client. A dual agent shall disclose to both clients all adverse material facts actually known by the licensee.

(4) The following information shall not be disclosed by a dual agent without the informed written consent of the client to whom the information pertains:

(a) That a buyer or tenant is willing to pay more than the purchase price or lease rate offered for the property;

(b) That a seller or landlord is willing to accept less than the asking price or lease rate for the property;

(c) What the motivating factors are for any client buying, selling, or leasing the property; and

(d) That a client will agree to financing terms other than those offered.

(5)(a) A dual agent shall not disclose to one client any confidential information about the other client unless the disclosure is required by statute, rule, or regulation or failure to disclose the information would constitute fraudulent misrepresentation.

(b) No cause of action for any person shall arise against a dual agent for making any required or permitted disclosure.

(c) A dual agent does not terminate the ~~dual agency~~ dual-agency relationship by making any required or permitted disclosure.

(6) In a dual-agency relationship there shall be no imputation of knowledge or information between any client and the dual agent or among persons within an entity engaged as a dual agent.

Sec. 7. Section 76-2421, Reissue Revised Statutes of Nebraska, is amended to read:

76-2421. (1) At the earliest practicable opportunity during or following the first substantial contact with a seller, landlord, buyer, or tenant who has not entered into a written agreement for brokerage services with a designated broker, the licensee who is offering brokerage services to that person or who is providing brokerage services for that property shall:

(a) Provide that person with a written copy of the current brokerage disclosure pamphlet which has been prepared and approved by the commission; and

(b) Disclose in writing to that person the types of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing.

(2) When a seller, landlord, buyer, or tenant has already entered into a written agreement for brokerage services with a designated broker or when a buyer or tenant has a brokerage relationship under sections 76-2401 to 76-2430 without a written agreement, no other licensee shall be required to make the disclosures required by this section.

(3) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a licensee working as an agent or subagent of the seller or landlord with a buyer or tenant who is not represented by a licensee shall provide a written disclosure to the customer which contains the following:

(a) A statement that the licensee is an agent for the seller or landlord and is not an agent for the customer; and

(b) A list of the tasks that the agent acting as a seller's or landlord's agent or subagent ~~intends to~~ may perform with the customer.

(4) Before engaging in any of the activities enumerated in subdivision (2) of section 81-885.01, a licensee working as an agent or subagent of the buyer or tenant with a seller or landlord who is not represented by a licensee shall provide a written disclosure to the customer which contains the following:

(a) A statement that the licensee is an agent for the buyer or tenant and is not an agent for the customer; and

(b) A list of the tasks that the agent acting as a buyer's or tenant's agent or subagent ~~intends to~~ may perform with the customer.

(5) The written disclosure required pursuant to subsections (1), (3), and (4) of this section shall contain a signature block for the client or customer to acknowledge receipt of the disclosure. The customer's acknowledgment of disclosure shall not constitute a contract with the licensee. If the customer fails or refuses to sign the disclosure, the licensee shall note that fact on a copy of the disclosure and retain the copy.

(6) A licensee shall not be required to give the written disclosures required by this section to a corporation, limited liability company, partnership, limited liability partnership, or similar entity or to any entity which, if doing business in the State of Nebraska, would be required to be registered with the Secretary of State when such corporation, limited liability company, partnership, limited liability partnership, or entity is purchasing, leasing, or selling real property (a) on which there are five or more residential dwelling units, (b) which is subdivided for five or more residential dwelling units, or (c) any portion of which is zoned or assessed by the county assessor as commercial or industrial property.

(7) Disclosures made in accordance with sections 76-2401 to 76-2430 shall be sufficient to disclose brokerage relationships to the public.

Sec. 8. 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. The agreement shall include a licensee's duties and responsibilities specified in section 76-2417, and the terms of compensation, a fixed date of expiration of the agreement, and shall specify whether an offer of subagency may be made to any other designated broker.

(3) 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 may enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 76-2418, and the terms of compensation, a fixed date of expiration of the agreement, and shall specify 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 ~~agreement~~ consent of the seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The consent in the proposed transaction. The agreement 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.
~~and the terms of compensation.~~

(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. 9. Section 76-2426, Reissue Revised Statutes of Nebraska, is amended to read:

76-2426. (1) A client shall not be liable for a misrepresentation of his or her limited agent arising out of the limited-agency agreement unless the client knew or should have known of the misrepresentation.

(2) A licensee who is serving as a limited agent or subagent of a client shall not be liable for a misrepresentation of his or her client arising out of the brokerage-services agreement unless the licensee knew or should have known of the misrepresentation.

(3) A licensee who is serving as a limited agent of a client shall not be liable for a misrepresentation of any subagent unless the licensee knew or should have known of the misrepresentation. ~~This section shall not limit the liability of a designated broker for a misrepresentation by an affiliated licensee under his or her supervision.~~

(4) A licensee who is serving as a subagent shall not be liable for a misrepresentation of the primary limited agent unless the subagent knew or should have known of the misrepresentation.

Sec. 10. Section 81-885.01, Revised Statutes Supplement, 2000, is amended to read:

81-885.01. For purposes of the Nebraska Real Estate License Act, unless the context otherwise requires:

(1) Real estate ~~shall mean and include means and includes~~ 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 means~~ any person who, for a fee, a commission, ~~or any other valuable~~ any form of compensation or consideration or with the intent or expectation of receiving the same from another, negotiates or attempts to negotiate the listing, sale, purchase, exchange, rent, 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, gives a broker's price opinion or comparative market analysis, or holds himself or herself out as engaged in any of the foregoing. Broker shall also include also includes any person: (a) Employed, by or on behalf of the owner or owners of lots or other parcels of real estate, for any form of compensation or 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 means~~ 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 means~~ an individual holding a broker's license ~~appointed by a partnership, limited liability company, or corporation engaged in the real estate brokerage business to be responsible~~

for the acts of the partnership, limited liability company, or corporation and to whom the partners, members, or board of directors has subordinated full authority to conduct the real estate activities of the partnership, limited liability company, or corporation who has full authority to conduct the real estate activities of a real estate business. In a sole proprietorship, the owner, or broker identified by the owner, shall be the designated broker. In the event the owner identifies the designated broker, the owner shall file a statement with the commission subordinating to the designated broker full authority to conduct the real estate activities of the sole proprietorship. In a partnership, limited liability company, or corporation, the partners, limited liability company members, or board of directors shall identify the designated broker for its real estate business by filing a statement with the commission subordinating to the designated broker full authority to conduct the real estate activities of the partnership, limited liability company, or corporation. The designated broker shall also be responsible for supervising the real estate activities of any associate brokers or salespersons;

(5) Inactive broker shall mean means an associate broker whose license has been returned to the commission by the licensee's broker, a broker who has requested the commission to place the license on inactive status, or a new licensee who has failed to designate an employing broker or have the license issued as an individual broker, or a broker whose license has been placed on inactive status under statute, rule, or regulation;

(6) Salesperson shall mean means 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;

(7) Inactive salesperson shall mean means 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, or a salesperson whose license has been placed on inactive status under statute, rule, or regulation;

(8) Person shall mean and include means and includes individuals, corporations, partnerships, and limited liability companies, except that when referring to a person licensed under the act, it shall mean means an individual;

(9) Subdivision or subdivided land shall mean means 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;

(10) Subdivider shall mean means 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 does not include a public agency or officer authorized by law to create subdivisions;

(11) Purchaser shall mean means a person who acquires or attempts to acquire or succeeds to an interest in land;

(12) Commission shall mean means the State Real Estate Commission;

(13) Broker's price opinion shall mean means an analysis, opinion, or conclusion prepared by a person licensed under the Nebraska Real Estate License Act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property for the purpose of listing, purchase, or sale; and

(14) Comparative market analysis shall mean means an analysis, opinion, or conclusion prepared by a person licensed under the act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property by comparison to other real property currently or recently in the marketplace for the purpose of listing, purchase, or sale;

(15) Distance education means courses in which instruction does not take place in a traditional classroom setting, but rather through other media by which instructor and student are separated by distance and sometimes by time; and

(16) Regulatory jurisdiction means a state, district, or territory of the United States, a province of Canada or a foreign country, or a political subdivision of a foreign country, which has implemented and administers laws regulating the activities of a broker.

Sec. 11. Section 81-885.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.03. Any person who, directly or indirectly for another, with the intention or upon the promise of receiving any valuable form of compensation or consideration, offers, attempts, or agrees to perform, or

performs any single act described in subdivision (2) of section 81-885.01, whether as a part of a transaction, or as an entire transaction, shall be deemed a broker, associate broker, or salesperson within the meaning of ~~sections 81-885.01 to 81-885.48~~. The commission of the Nebraska Real Estate License Act. Committing a single ~~such~~ act described in such subdivision by a person required to be licensed under ~~sections 81-885.01 to 81-885.48~~ the Nebraska Real Estate License Act and not so licensed shall constitute a violation of ~~sections 81-885.01 to 81-885.48~~ the act.

Sec. 12. Section 81-885.11, Revised Statutes Supplement, 2000, is amended to read:

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

(1) The name and address of the applicant ~~or~~ and, when applicable, the name under which he or she intends to conduct business; and, if the applicant ~~conducts~~ will be conducting business 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~~ will be conducting business through a limited liability company, the name and address of each of its members, ~~and~~ the name of the company's designated broker, and, ~~the name under which the business will be conducted; if the applicant ~~conducts~~ will be conducting business through a corporation, the name and address of each of its principal officers, ~~and~~ the name of the corporation's designated broker, and the name under which the business will be conducted; and if ~~the~~ applicant is an individual, the application shall include the applicant's social security number;~~

(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 requires.

Sec. 13. Section 81-885.12, Reissue Revised Statutes of Nebraska, is amended to read:

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~~ will be conducting business through a corporation, partnership, or limited liability company unless any stockholder, partner, or member 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.

(3) The commission may in its discretion deny a license to any person who has engaged in the real estate business without a license.

~~(3)~~ (4) When an applicant has made a false statement of material fact on an application, such false statement may in itself be sufficient ground for refusal of a license.

~~(4)~~ (5) Grounds for suspension or revocation of a license, as provided for by 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. 14. Section 81-885.13, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

(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 a ~~correspondence course~~ approved by the commission, or (b) 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 a course of study approved by the commission or, in lieu thereof, ~~correspondence courses~~ delivered in a distance education format approved by the commission. The applicant for a license must pass a written examination covering generally the matters confronting real estate brokers and 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. The commission may prepare and distribute to licensees under ~~sections 81-885.01 to 81-885.48~~ the Nebraska Real Estate License Act informational material deemed of assistance in the conduct of their business.

(4) Courses of study, referred to in subsections (2) and (3) of this section, ~~and subsection (1) of section 81-885.14,~~ 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.

Sec. 15. Section 81-885.17, Reissue Revised Statutes of Nebraska, is amended to read:

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 regulatory jurisdiction, and who has been duly licensed in the ~~state of residence~~ that regulatory jurisdiction to conduct such business in that ~~state regulatory jurisdiction~~ may, in the discretion of the commission, be issued a nonresident broker's license.

(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 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~~ resident regulatory jurisdiction 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.

(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~~ resident regulatory jurisdiction 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~~ states regulatory jurisdictions when such agreements are necessary to provide Nebraska residents authority to secure licenses in other ~~states~~ states regulatory jurisdictions.

(5) Nonresident licenses granted ~~under reciprocal agreements~~ as provided in this section shall remain in force, ~~unless~~ only as long as the requirements of issuing and maintaining a license are met unless (a) suspended or revoked by the commission for just cause or (b) lapsed for failure to pay the annual renewal fee. r only as long as a reciprocal agreement is in effect between this state and the resident state of the nonresident 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. 16. 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 ~~it~~ the commission, accompanied by the proper fee, ~~shall refuse~~ refuses to accept the application, the ~~commission~~ director shall give notice of the fact to the applicant within twenty days after ~~its~~ 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 ~~sixty~~ 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 ~~commission~~ 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 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 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 ~~from~~ after the date of any order issued by the commission.

(6) The commission shall render a decision on any application within sixty days ~~from~~ 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. 17. Section 81-885.19, Reissue Revised Statutes of Nebraska, is amended to read:

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~~ is 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 to be established by the commission of not more than fifty dollars and the branch office license shall be displayed conspicuously in each branch office. The manager of a branch office must be an associate broker. ~~and he or she shall manage no more than one branch office.~~

Sec. 18. Section 81-885.21, Revised Statutes Supplement, 2000, is amended to read:

81-885.21. (1) Each broker other than an inactive broker shall maintain in a bank, savings bank, building and loan association, or savings and loan association a separate, insured non-interest-bearing checking account in this state in his or her name or the name under which he or she does business which shall be designated a trust account in which all downpayments, earnest money deposits, or other trust funds received by him or her, his or her associate brokers, or his or her salespersons on behalf of his or her principal or any other person shall be deposited and remain until the transaction is closed or otherwise terminated unless all parties having an interest in the funds have agreed otherwise in writing.

(2) Each broker shall notify the commission of the name of the bank, savings bank, building and loan association, or savings and loan association in which the trust account is maintained and also the name of the account on forms provided therefor.

(3) Each broker shall authorize the commission to examine such trust account by a duly authorized representative of the commission. Such examination shall be made annually or at such time as the commission may direct.

(4) A broker may maintain more than one trust account in his or her name or the name under which he or she does business if the commission is

advised of such account as required in subsection (2) of this section.

(5) In the event a branch office maintains a separate trust account, a separate bookkeeping system shall be maintained in the branch office.

(6) A broker shall not be entitled to 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 as part or all of his or her ~~commission or fee~~ compensation or consideration until the transaction has been consummated or terminated.

Sec. 19. 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 and 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 ~~decrees~~ orders, 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, or 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 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 form of undisclosed ~~commission~~ 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 a ~~commission or other valuable~~ 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) 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 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) ~~Paying a commission or~~ 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 such person is (a) a nonresident who is licensed in his or her ~~state of residence~~ resident regulatory jurisdiction or (b) a 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) 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 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, ethnic group, age, sex, or marital status ~~status~~ 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.

Sec. 20. Section 81-885.29, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.29. After 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 determines that the license holder has been guilty of any violation of the 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 ~~censuring~~ censuring 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 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. 21. Section 81-885.33, Reissue Revised Statutes of Nebraska,

is amended to read:

81-885.33. It shall be unlawful for any person, partnership, limited liability company, or corporation to sell or offer for sale any real estate in a subdivision except by a broker and his or her employees duly licensed ~~and residing~~ in this state.

Sec. 22. Section 81-885.34, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.34. Prior to the time when such subdivision real estate is offered for sale, such person, partnership, limited liability company, or corporation shall make application for a subdivision certificate to the commission in writing on a form to be prescribed by the commission and approved by the Attorney General. Such application shall be accompanied by a filing fee of one hundred dollars plus twenty-five dollars for each one hundred lots or fraction thereof to be offered for sale. Such application shall contain the following information and supporting documents:

(1) The name and address of the applicant and whether the applicant is a person, partnership, limited liability company, or corporation;

(2) If the applicant is a partnership, the names and addresses of the individual members thereof;

(3) If the applicant is a limited liability company, the names and addresses of the individual members thereof;

(4) If the applicant is a corporation, the place of incorporation and the names and addresses of its officers and members of its board of directors;

(5) The legal description and area of the real estate to be offered for sale, including maps and recorded plats thereof showing the area involved;

(6) The name and address of the legal owner of the real estate to be offered for sale;

(7) A certified, audited financial statement fully and fairly disclosing the current financial condition of the developer;

(8) A statement of the condition of the title of the subdivided lands including encumbrances as of a specified date within thirty days of the application;

(9) Copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrances upon the title and copies of the instruments creating the lien or encumbrances, if any, with dates as to recording, along with the documentary evidence that any mortgagee or trustee of a deed of trust has subordinated his or her interest in the real estate to the interest of a purchaser of the real estate;

(10) A true statement of the terms and conditions on which it is intended to dispose of the real estate, together with copies of any contracts intended to be used, which contracts shall contain ~~the following provisions:~~ ~~(a) A (a) a provision entitling the purchaser, if he or she has not seen the land, to an unconditional right of refund of all payments made under the contract if such right is exercised within fourteen days after inspecting the land and if inspection is made within a time provided in the contract which shall not be less than four months from the date of the contract and (b) a provision granting to the purchaser an unconditional right to rescind the contract for a period of fourteen days if he or she has not inspected the land; and (b) if the land is located outside of this state, a provision to limit the right of recovery by the subdivider or his or her assignee to the remedy of foreclosure without a deficiency judgment against the purchaser within the time provided in the contract for inspection;~~

(11) A statement of the zoning and other governmental regulations affecting the use of the land to be sold or offered for sale disclosing whether or not such regulations have been satisfied; and

(12) A copy of an offering statement which sets forth the material facts with respect to the land to be offered or sold.

After receiving the application, the commission may require such additional information concerning the real estate as it deems necessary.

Sec. 23. Section 81-885.40, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.40. Failure on the part of any person, partnership, limited liability company, or corporation to comply with sections 81-885.33 to 81-885.39 shall render any contract (1) entered into in this state or (2) arising out of contacts between the purchaser and subdivider within this state void and unenforceable, and any money paid under such contract to the ~~certificate holder~~ subdivider, together with interest at the rate of six percent per annum from date of such payment, may be recovered in an action at law brought in the county where the cause of action or some part thereof arose.

Sec. 24. Section 81-885.45, Reissue Revised Statutes of Nebraska,

is amended to read:

81-885.45. Any person or subdivider acting as a broker, salesperson, or subdivider without having first obtained the required license or subdivision certificate or while his or her license or subdivision certificate is under suspension shall be guilty of a Class II misdemeanor.

Sec. 25. Section 81-885.51, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.51. In each two-year period, every licensee shall furnish evidence to the commission that he or she has satisfactorily completed twelve hours of approved continuing education activities. ~~except that during the first two-year period only, commencing on January 1 following March 8, 1985, every licensee shall furnish evidence to the commission that he or she has satisfactorily completed six hours of approved continuing education activities.~~ Evidence of completion of such continuing education activities for the two-year period shall be ~~retained by each licensee and~~ submitted to the commission ~~when the total hour requirement has been met pursuant to rules and regulations adopted and promulgated by the commission.~~

Sec. 26. Section 81-885.52, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.52. (1) The commission shall certify as approved continuing education activities those courses, lectures, seminars, or other instructional programs which it determines would protect the public by improving the competency of licensees. The commission may require descriptive information about any continuing education activity and refuse approval of any continuing education activity which does not advance the purposes of sections 81-885.49 to 81-885.54. The commission shall not approve any provider of continuing education courses, lectures, seminars, or other instructional programs unless such provider meets the standards established by the commission.

(2) The commission shall certify the number of hours to be awarded for participation in an approved continuing education activity, based upon contact or classroom hours or other criteria prescribed by rule and regulation of the commission.

(3) The commission ~~shall~~ may certify the number of hours to be awarded for successful completion of a ~~correspondence course or program of independent study~~ course delivered in a distance education format, based upon the number of hours which would be awarded in an equivalent classroom course or program or other criteria prescribed by rule and regulation of the commission.

Sec. 27. Section 81-885.53, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.53. Except for inactive licensees, the commission shall not renew a license or issue a new license to any licensee who has failed to comply with the requirements of sections 81-885.49 to 81-885.54. Inactive licensees may renew their licenses at the end of the two-year period without having completed the hours of continuing education activities required by section 81-885.51 for each two-year period. Inactive licensees shall not be activated until the licensee has satisfactorily completed the total number of deficient hours of continuing education activities and filed evidence of such completion with the commission, except that no inactive licensee shall be required to make up more than the number of hours of continuing education required by section 81-885.51 for a two-year period. ~~other than the first two-year period.~~

Sec. 28. Section 81-885.55, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.55. (1) Commencing January 1, 1993, every licensee under the Nebraska Real Estate License Act, except an inactive broker or salesperson, shall have errors and omissions insurance to cover all activities contemplated under the act. The commission shall make the errors and omissions insurance available to all licensees by contracting with an insurer for a group policy after competitive bidding. Any group policy obtained by the commission shall be available to all licensees with no right on the part of the insurer to cancel any licensee. Licensees may obtain errors and omissions insurance independently if the coverage complies with the minimum requirements established by the commission.

(2) The commission shall determine the terms and conditions of coverage required under this section, including the minimum limits of coverage, the permissible deductible, and permissible exemptions. Each licensee shall be notified of the required terms and conditions at least thirty days prior to the annual license renewal date. A certificate of coverage showing compliance with the required terms and conditions shall be filed with the commission by the annual license renewal date by each licensee who does not participate in the group program administered by the commission.

(3) If the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the group program at a reasonable premium not to exceed ~~one~~ two hundred dollars, the errors and omissions insurance requirement of this section shall not apply during the year for which coverage cannot be obtained.

Sec. 29. Original sections 76-2,120, 76-2403, 76-2407, 76-2417 to 76-2419, 76-2421, 76-2422, 76-2426, 81-885.03, 81-885.12, 81-885.13, 81-885.17 to 81-885.19, 81-885.24, 81-885.29, 81-885.33, 81-885.34, 81-885.40, 81-885.45, 81-885.51 to 81-885.53, and 81-885.55, Reissue Revised Statutes of Nebraska, and sections 81-885.01, 81-885.11, and 81-885.21, Revised Statutes Supplement, 2000, are repealed.