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Nebraska Real Estate License Act

As Amended

81-885. Act, how cited. Sections 81-885 to 81-885.55 shall be known and may be cited as the Nebraska Real Estate License Act.

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

(1) Real estate 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 means any person who, for 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 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 consideration to sell such real estate or any part thereof in lots or parcels or make other disposition thereof; (b) who auctions, offers, attempts, or agrees to auction real estate; or (c) who buys or offers to buy or sell or otherwise deals in options to buy real estate;

(3) Associate broker 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 means an individual holding a broker's license 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 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, 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 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 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, 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 means and includes individuals, corporations, partnerships, and limited liability companies, except that when referring to a person licensed under the act, it means an individual;

(9) Subdivision or subdivided land 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 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 does not include a public agency or officer authorized by law to create subdivisions;

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

(12) Commission means the State Real Estate Commission;

(13) Broker's price opinion 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 (a) listing, purchase, or sale or (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction;

(14) Comparative market analysis 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 (a) listing, purchase, or sale or (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction;

(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;

(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;

(17) Federal financial institution regulatory agency means (a) the Board of Governors of the Federal Reserve System, (b) the Federal Deposit Insurance Corporation, (c) the Office of the Comptroller of the Currency, (d) the Office of Thrift Supervision, (e) the National Credit Union Administration, or (f) the successors of any of those agencies; and

(18) Federally related transaction means a real-estate-related transaction that (a) requires the services of an appraiser and (b) is engaged in, contracted for, or regulated by a federal financial institution regulatory agency.

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

81-885.03. Broker, associate broker, salesperson, defined; license required; cease and desist order; violation; fine; procedure.

(1) Any person who, directly or indirectly for another, with the intention or upon the promise of receiving any 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 the Nebraska Real Estate License Act, and such action shall constitute sufficient contact with the state for the exercise of personal jurisdiction over such person in any action arising out of such action. Committing a single act described in such subdivision by a person required to be licensed under the Nebraska Real Estate License Act and not so licensed shall constitute a violation of the act for which the commission may impose sanctions pursuant to this section for the protection of the public health, safety, or welfare.

(2) Notwithstanding any other provision of the law to the contrary, the director may issue a cease and desist order against any person who violates this section by performing any action described in subsection (1) of this section without the appropriate license. Such order shall be final ten days after issuance unless the violator requests a hearing pursuant to section 81-885.25.

(3) If such person violates a cease and desist order issued pursuant to this section, he or she shall be subject to further proceedings before the commission. If, during such proceedings, the commission makes a finding of guilt, the commission may impose a fine not to exceed (a) one thousand dollars for each day that any action is performed without the appropriate license following the issuance of the order or (b) the amount of all money earned as commission by the violator, whichever is greater. Judgments for the collection of any fine imposed under this section may be filed in the district court of any county in this state.

(4) Notice and hearing requirements under this section shall be in accordance with the Administrative Procedure Act.

81-885.04. Act; exceptions. Except as to the requirements with respect to the subdivision of land, the Nebraska Real Estate License Act shall not apply to:

(1) Any person, partnership, limited liability company, 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 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 that such regular employees shall not perform any of the acts described in such subdivision 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, 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.

81-885.05. Railroads; public utilities; applicability of act. The Nebraska Real Estate License Act shall not apply to railroads and other public utilities regulated by the State of Nebraska, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subdivision (2) of section 81-885.01 is in connection with the sale, purchase, lease, or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof.

81-885.06. Action for recovery of compensation; prohibited, except to licensed brokers, associate brokers, or salespersons. No action or suit shall be instituted, nor recovery be had, in any court of this state by any person for compensation for any act done or service rendered,

the doing or rendering of which is prohibited under the Nebraska Real Estate License Act to other than licensed brokers, licensed associate brokers, or licensed salespersons. A licensed broker may bring an action in the name of a partnership, limited liability company, or corporation if the broker operates under any of such business organizations.

81-885.07. State Real Estate Commission; created; members; appointment; qualifications; compensation; director; rules and regulations; conduct real estate institutes and seminars; fees.

(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. Three of the members of the commission appointed by the Governor shall be active and licensed real estate brokers who have engaged in the real estate business as brokers or associate brokers for not less than five years, which members shall be appointed by the Governor, one from each of the three congressional districts as the districts were constituted on January 1, 2006. The remaining members shall be appointed at large, one of whom shall be representative of the public, one of whom shall be a licensed real estate salesperson who has engaged in the real estate business as a salesperson for not less than three years, and one of whom shall be an active and licensed real estate broker who has engaged in the real estate business as a broker or associate broker for not less than five years. The member representing the former congressional district 1 on July 14, 2006, shall represent congressional district 1 for the balance of his or her term. The member representing the former congressional district 2 on July 14, 2006, shall represent congressional district 2 for the balance of his or her term. The member representing the former congressional district 3 on July 14, 2006, shall become an at-large member for the balance of his or her term. The member representing the former congressional district 4 on July 14, 2006, shall represent congressional district 3 for the balance of his or her term.

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

(3) Each member of the commission shall receive as compensation for each day actually spent on official duties at scheduled meetings the sum of one hundred dollars and 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 Nebraska Real Estate License Act, fix the salaries of such employees, and make such other expenditures as are necessary to properly carry out the act. The office of the commission shall

be maintained in Lincoln and all files, records, and property of the commission shall remain in such office. Neither the director nor any employee of the commission may be an officer or paid employee of any real estate association or group of real estate dealers or brokers.

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

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

(7) The commission may charge reasonable fees for services it renders, not to exceed the actual costs thereof, except as otherwise provided in the act. The fees established by the commission pursuant to the act shall be established at the level necessary to meet expenditures of the commission as approved by the Legislature and to provide a sufficient cash fund balance.

81-885.08. Seal; adopt; use. The commission shall adopt a seal, which may be either an engraved or ink stamp seal, with the words State Real Estate Commission, State of Nebraska and such other device as the commission may desire included thereon, by which the acts of the commission shall be authenticated. Copies of all records and papers in the office of the commission, certified by the signature of the director and the seal of the commission, shall be received in evidence in all cases equally and with like effect as the originals.

81-885.09. Attorney General; opinions on questions of law; act as attorney; fees and expenses; paid from State Real Estate Commission's Fund. The Attorney General shall render to the State Real Estate Commission opinions on all questions of law relating to the interpretation of the Nebraska Real Estate License Act or arising in the administration thereof and shall act as attorney for the commission in all actions and proceedings brought by or against it under or pursuant to the act. All fees and expenses of the Attorney General arising out of such duties shall be paid out of the State Real Estate Commission's Fund.

81-885.10. Commission; powers; licensing; sanctions; consent decrees; civil fine. The commission shall have the full power to regulate the issuance of licenses and the activities of licensees and may impose sanctions pursuant to this section for the protection of the public health, safety, or welfare. The commission may revoke or suspend licenses issued under the Nebraska Real Estate License Act, censure licensees, enter into consent decrees, and issue cease and desist orders to violators of section 81-885.03. The commission may, alone or in combination with such disciplinary actions, impose a civil fine on a licensee for each violation alleged in a complaint for which the commission has made a finding of guilt, except that the total fine for such violations shall not exceed two thousand five hundred dollars per complaint. The commission may also impose a civil fine on violators of section 81-885.03 subject to the limits in such section.

The commission shall retain its powers under this section with respect to the actions of a licensee, whether or not he or she continues to be licensed under the act.

81-885.11. Broker or salesperson; application for license; contents. 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 prescribes,

setting forth the following:

(1) The name and address of the applicant and, when applicable, the name under which he or she intends to conduct business; if the applicant 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; if the applicant will be conducting business through a limited liability company, the name and address of each of its members, the name of the company's designated broker, and the name under which the business will be conducted; if the applicant will be conducting business through a corporation, the name and address of each of its principal officers, 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 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.

81-885.12. License; when granted.

(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 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.

(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.

(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.

81-885.13. License; conditions for issuance; enumerated; examination; fingerprinting; criminal history record information check; courses of study.

(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, 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 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, courses delivered in a distance education format approved by the commission.

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

(5) An applicant for an original broker's or salesperson's license shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. Each applicant shall furnish to the Nebraska State Patrol a full set of fingerprints to enable a criminal background investigation to be conducted. The applicant shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The applicant shall authorize release of the national criminal history record check to the commission. The criminal history record information check shall be completed within ninety days preceding the date the original application for a license is received in the commission's office, and if not, the application shall be returned to the applicant.

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

81-885.14. Fees; license; renewal; procedure.

(1) To pay the expense of the maintenance and operation of the office of the commission and the enforcement of 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 not more than two hundred fifty dollars and an application fee of not more than two hundred fifty dollars. The commission shall also collect a reexamination fee to be established by the commission of not more than two hundred fifty 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. Prior to the issuance of an original license, each applicant who has passed the examination required by section 81-885.13 or who has received a license under section 81-885.17 shall pay a license fee to be established by the commission. The license fee established by the commission shall not exceed the following amounts: For a broker's license, not more than two hundred fifty dollars; and for a salesperson's license, not more than two hundred dollars.

(2) After the original issuance of a license, a renewal application and a renewal fee to be established by the commission of not more than five hundred dollars for each broker, and not more than four hundred dollars for each salesperson, shall be due and payable on or before November 30 of each renewal year. A broker or salesperson who: (a) Is required to submit evidence of completion of continuing education pursuant to section 81-885.51 on or before November 30, 2011, shall renew his or her license on or before such date for two years; (b) is not required to submit evidence of completion of continuing education until November 30, 2012, shall renew his or her license on or before November 30, 2011, for one year and shall renew his or her license on or before November 30, 2012, for two years; or (c) receives his or her original license on or after January 1, 2011, shall renew his or her license on or before the immediately following November 30 for two years. Each subsequent renewal under subdivisions (a), (b), and (c) of this subsection shall be for a two-year period and shall be due on or before November 30 of each renewal year. Failure to remit renewal fees when due shall automatically cancel such license on December 31 of the renewal 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, an amount to be established by the commission of not more than twenty-five dollars for each month or fraction thereof beginning with the first day of December if such late application is filed before July 1 of the ensuing year.

(3) 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 or any electronic payment presented to the commission as a fee for either an original or renewal license or for examination for license that is not accepted against the commission shall be cause for revocation or denial of license.

(4) An inactive broker or salesperson may renew his or her license by submitting an application before December 1 prior to the ensuing year. Such broker or 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 broker or 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 fulfills the requirements for active status. 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.

81-885.15. Fees; deposited in State Real Estate Commission's Fund; investment.
All fees collected under the Nebraska Real Estate License Act shall be deposited in the state treasury in a fund to be known as the State Real Estate Commission's Fund. The commission may use such part of the money in this fund as is necessary to be used by it in the administration and enforcement of the act. Transfers may be made from the fund to the General Fund at the direction of the Legislature through June 30, 2011. The State Real Estate Commission's Fund shall be paid out only upon proper vouchers and upon warrants issued by the Director of Administrative Services and countersigned by the State Treasurer, as provided by law. The expenses of conducting the office must always be kept within the income collected and deposited with the State Treasurer by such commission and such office, and the expense thereof shall not be supported or paid from any other state fund. Any money in the State Real Estate Commission's Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

81-885.16. Real Property Appraiser Act; applicability; broker's price opinion or comparative market analysis; requirements.

(1) The Real Property Appraiser Act shall not apply to a person licensed under the Nebraska Real Estate License Act who, in the ordinary course of his or her business, gives a broker's price opinion or comparative market analysis, except that such opinion or analysis shall not be referred to as an appraisal.

(2) No compensation, fee, or other consideration shall be charged for a broker's price opinion or comparative market analysis other than a real estate commission or brokerage fee charged or paid for brokerage services rendered in connection with the sale of the real estate involved unless the opinion or analysis is in writing, is signed by the preparer, includes the date on which it was prepared, and contains or has attached thereto the following disclosure in bold fourteen-point type: This opinion or analysis is not an appraisal. It is intended only for the benefit of the addressee for the purpose of assisting buyers or sellers or prospective buyers or sellers in deciding the listing, offering, or sale price of the real property or for lending purposes in a transaction other than a federally related transaction. This opinion or analysis is not governed by the Real Property Appraiser Act.

(3) A broker's price opinion or comparative market analysis prepared for an existing or potential lienholder originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction may not be used as the sole basis to determine the value of the real estate for the purpose of originating a loan secured by such real estate, and the person giving the opinion or analysis must be engaged directly by the lienholder or its agent. Such person shall have no duty to inquire as to any other basis used to determine such value.

81-885.17. Nonresident broker's license; nonresident salesperson's license; issuance; requirements; fingerprinting; criminal history record information check; reciprocal agreements.

(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 regulatory jurisdiction, and who has been duly licensed in that regulatory jurisdiction to conduct such business in that 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 resident regulatory jurisdiction shall be issued a resident broker's or salesperson's license upon filing an application, paying the applicable license fee, complying with the criminal history record information check under subsection (4) of this section, filing the affidavit required by subsection (7) of this section, and providing to the commission adequate proof of completion of a three-hour class approved by the commission specific to the Nebraska Real Estate License Act and sections 76-2401 to 76-2430.

(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 resident regulatory jurisdiction, 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, and provide to the commission adequate proof of completion of a three-hour class approved by the commission specific to the Nebraska Real Estate License Act and sections 76-2401 to 76-2430.

(4) An applicant for an original nonresident broker's or salesperson's license shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. Each applicant shall furnish to the Nebraska State Patrol a full set of fingerprints to enable a criminal background investigation to be conducted. The applicant shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The applicant shall authorize release of the national criminal history record check to the commission. The criminal history record information check shall be completed within ninety days preceding the date the original application for a license is received in the commission's office, and if not, the application shall be returned to the applicant.

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

(6) Nonresident licenses granted as provided in this section shall remain in force for 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.

(7) 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. Within ninety days after the issuance of a license to a nonresident licensee prior to July 18, 2008, the licensee shall provide to the commission adequate proof of completion of a three-hour class approved by the commission

specific to the Nebraska Real Estate License Act and the law of agency relationships enumerated in sections 76-2401 to 76-2430. If the licensee fails to provide adequate proof of completion of the approved class to the commission within the ninety-day period, the director of the commission or his or her designee shall place the license on inactive status and notify the licensee that he or she must show cause why the license should not be revoked.

81-885.18. Application; refusal; hearing; decision.

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

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

(3) The hearing shall be at such time and place as the commission shall prescribe. At least twenty days prior to the date set for the hearing the commission shall notify the applicant and other persons protesting, and the notice shall set forth the reasons why the director refused to accept the application. Such written notice of hearing may be served by delivery personally to the applicant and protesters or by mailing the same by registered 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 after the date of any order issued by the commission.

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

81-885.19. License; form; issuance; broker's branch office; license; fee.
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 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. 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 broker or an associate broker shall be the manager of a branch office.

81-885.20. Broker, salesperson; change in place of business or status; notify commission; fee.

(1) Should the broker change his or her place of business, he or she shall forthwith notify the commission in writing of such change.

(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.

(3) When a salesperson or associate broker transfers from one employing broker to another, 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 to be established by the commission of not more than fifty dollars shall be paid to the commission.

81-885.21. Broker; separate trust account; notify commission where maintained; examination by representative of commission; broker entitled to money; when.

(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. Until July 1, 2014, such trust account may be either an interest-bearing or a non-interest-bearing account and, if interest-bearing, shall comply with subsection (7) of this section. On and after July 1, 2014, such trust account shall be a non-interest-bearing account.

(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 therefore.

(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 compensation or consideration until the transaction has been consummated or terminated.

(7) If the trust account is an interest-bearing account, as authorized under subsection (1) of this section, the interest may only be distributed or otherwise accrue to nonprofit organizations that are exempt from the payment of federal income taxes. The commission may further define policies and procedures for the processing of and distributions from interest-bearing trust accounts by rule and regulation.

81-885.22. Broker, failure to comply with separate bank accounts and trust account provisions; report to Attorney General; action by Attorney General; receiver. Whenever it shall appear to the commission from any examination or report provided by the laws of this state that a broker has failed to comply with the provisions of section 81-885.21, or if any broker shall refuse to submit his or her books, papers, and affairs to the inspection of any examiner, the commission shall have reason to conclude that the trust account of such broker is in an unsafe or unsound condition and the commission shall forthwith submit a complete report to the Attorney General of all information available to it. An action may be brought by the State of Nebraska to enjoin such broker from engaging in or continuing such violation or doing any act or acts in furtherance thereof. In any such action an order or judgment may be entered awarding such preliminary or final injunction as may be deemed proper. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which such action is brought shall have power and jurisdiction to impound and appoint a receiver for the property and business of the defendant, including books, papers, documents, and records pertaining thereto or as much thereof as the court may deem reasonably necessary to prevent violations of the law or injury to the public through or by means of the use of such property and business. Such receiver, when so appointed and qualified, shall have such powers and duties as to custody, collection, administration, winding up, and liquidation of such property and business as shall, from time to time, be conferred upon him or her by the court.

81-885.23. Attorney General; special counsel; appoint; fees allowed; taxed as costs. The Attorney General may appoint special counsel to prosecute the action as provided for in section 81-885.22, and all fees allowed to the receiver and to counsel so appointed shall be taxed as costs in such action as the court may direct.

81-885.24. Commission; investigative powers; disciplinary powers; civil fine; violations of unfair trade practices. The commission may, upon its own motion, and shall, upon the sworn complaint in writing of any person, investigate the actions of any broker, associate broker, salesperson, or subdivider, may censure the licensee or certificate holder, revoke or suspend any license or certificate issued under the Nebraska Real Estate License Act, or enter into consent orders, and, alone or in combination with such disciplinary actions, may impose a civil fine on a licensee pursuant to section 81-885.10, whenever the license or certificate has been obtained by false or fraudulent representation or the licensee or certificate holder has been found guilty of any of the following unfair trade practices:

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

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

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

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

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

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

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

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

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

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

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

(12) Offering real estate for sale or lease without the knowledge and consent of the owner or his or her authorized agent or on terms other than those authorized by the owner or his or her authorized agent;

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

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

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

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

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

(18) Providing any form of compensation or consideration to any person for performing the services of a broker, associate broker, or salesperson who has not first secured his or her license under the Nebraska Real Estate License Act unless such person is (a) a nonresident who is licensed in his or her 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) Conviction of a felony or entering a plea of guilty or nolo contendere to a felony charge by a broker or salesperson;

(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section; 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, sex, familial status, or disability of the owners or occupants in the block, neighborhood, or area or (b) such change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area.

81-885.25. Censure, revoke, or suspend license; impose civil fine; cease and desist order; hearing; notice; contents.

(1) Before the commission censures a licensee, imposes a civil fine, revokes or suspends a license, or issues a cease and desist order, the commission shall send to the licensee or violator a copy of the complaint by certified mail which contains the charges against the licensee or violator and, unless the licensee or violator waives the right to a hearing and has executed a consent order, give the licensee or violator a hearing on the matter.

(2) The licensee or violator shall have full authority to be heard in person or by counsel before the commission in reference to such charges. The commission shall, at least twenty days prior to the date set for hearing, notify the licensee or violator in writing of the date and place of the hearing. Such notice may be served by delivering it personally to the licensee or violator or by sending it by either registered or certified mail to the last-known business address of such licensee or any known address of the violator. If the licensee is an associate broker or a salesperson, the commission shall also notify the broker employing the licensee by mailing a copy of such notice to the broker's last-known business address.

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

81-885.27. Hearing; witnesses; subpoenas; depositions. In the preparation and conducting of the hearing, the director shall have power to issue and sign subpoenas to require the attendance and testimony of any witness and the production of any papers, books, or documents. The chairperson or any member of the commission may administer oaths, examine the witnesses, and take any evidence he or she deems pertinent to the determination of the charges. Any witness subpoenaed shall be entitled to the same fees as prescribed by law in judicial proceedings in the district courts of this state in civil actions and mileage at the rate provided in section 81-1176 for state employees, but the payment of such fees and mileage shall be paid out of and kept within the limits of the funds created from license fees. The party against whom such charges may be filed shall have the right to obtain from the director a subpoena for any witnesses which he or she may desire at such hearing. Depositions may also be taken and used as in civil cases in the district courts.

81-885.28. Refusal of witness to attend or testify; proceedings in district court.

(1) If any witness so subpoenaed shall refuse to attend the taking of a deposition or the hearing, or if attending shall refuse to testify, the commission may apply to the district court of the county in which the deposition is to be taken or in which the hearing is to be held for an order compelling the attendance of the witness, the giving of testimony, and the production of books, papers, and documents.

(2) The application shall be by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books, papers, and documents;

(b) That the witness has been subpoenaed in the manner prescribed by section 81-885.27; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the commission, or officer taking the deposition in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him or her in the course of the hearing or deposition.

(3) The court, upon petition of the commission, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause why he or she has not attended, testified, or produced the books, papers, or documents before the commission. A certified copy of the order shall be served upon the witness.

(4) If at the show-cause hearing, it shall appear to the court that the subpoena was regularly issued by the director of the commission, the court shall thereupon enter an order that the witness appear before the commission or the officer taking the deposition at the time and place fixed in the order and testify or produce the required books, papers, or documents, and upon failure to obey such order the witness shall be dealt with as for contempt of court.

81-885.29. Findings and determination by commission; license revoked or suspended; when; censure; civil fine; stay of execution; probation.
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 licensee has been guilty of any violation of the Nebraska Real Estate License Act or the rules and regulations of the commission or the violator has been guilty of a violation of section 81-885.03, the commission may revoke or suspend the license, enter an order censuring the licensee, or impose a civil fine on a licensee pursuant to section 81-885.10 or on a violator pursuant to section 81-885.03. 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.

81-885.30. Appeal; procedure. An order of the commission which has become final may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

81-885.31. Civil fines; distribution; collection procedure.

(1) All civil fines collected pursuant to the Nebraska Real Estate License Act shall be remitted to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska.

(2) Any civil fine imposed pursuant to the act which remains unpaid for more than sixty days shall constitute a debt to the State of Nebraska which may be recovered by the Attorney General, along with reasonable attorney's fees and court costs, in a proper form of action in the name of the state in the district court of the county in which the violator resides. The commission shall consider such debt to be grounds for denial, refusal to renew, or refusal to reinstate a license under the act or grounds for additional disciplinary action by the commission.

81-885.32. Repealed. Laws 1978, LB 361, § 14.

81-885.33. Subdivision real estate; sale or offer to sell; requirements. 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 in this state.

81-885.34. Subdivision real estate; sale; subdivision certificate; application; contents; fee. 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 (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 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.

81-885.35. Subdivision real estate; investigation; expenses; certificate; conditions.

(1) The commission shall thoroughly investigate all matters relating to the application and may require a personal inspection of the real estate by a person or persons designated by it. All expenses incurred by the commission in investigating such real estate and the proposed sale thereof in this state shall be borne by the applicant and the commission shall require a deposit sufficient to cover such expenses prior to incurring the same.

(2) No application shall be approved by the commission unless the subdivider offers satisfactory proof of his or her ability to provide promised public improvements such as but not limited to water, sewer, gas, and streets. Satisfactory proof shall be in the form of performance bonds or other security.

(3) Obtaining a certificate of registration shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such applicant in any action arising out of the applicant's activity in this state.

81-885.36. Subdivision real estate; application for certificate; approval; fee; renewal. If the application is approved, the commission shall issue a certificate of registration to the applicant. After issuance of a certificate, an annual fee of fifty dollars plus ten dollars for each one hundred lots or fraction thereof computed on the number of lots in the original application shall be due and payable on or before January 1 of each year. Failure to remit annual fees when due shall automatically cancel such certificate, but otherwise such certificate shall remain in full force and effect if the commission determines from satisfactory investigation that such certificate should be renewed. Before issuing the renewal certificate each year, the certificate holder shall furnish to the commission such information as may be requested by the commission. If an investigation is required, the cost of making the investigation shall be paid by the certificate holder.

81-885.37. Subdivision real estate; instrument conveying an interest; recordable form; recording. Any instrument conveying an interest in the subdivided real estate shall be in recordable form and the subdivider or buyer may record such instrument in the county where the real estate is located and in the office where deeds are recorded.

81-885.38. Subdivision real estate; representations that commission has inspected and approved; unlawful. No broker or salesperson shall in any manner refer to the commission or any member or employee thereof in selling, offering for sale, or advertising or otherwise promoting the sale, mortgage, or lease of any such real estate, nor make any representation whatsoever that such real estate has been inspected or approved or otherwise passed upon by the commission or any state official, department, or employee.

81-885.39. Subdivision real estate; cease and desist orders. The director, with the consent of the commission, shall have the power to issue a cease and desist order upon determination that sections 81-885.33 to 81-885.38 have been or are about to be violated.

81-885.40. Subdivision real estate; failure to comply with sections; contract void; repayment of money with interest. 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 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.

81-885.41. Subdivision real estate; industrial or commercial properties. Sections 81-885.33 to 81-885.40 shall not apply to the sale or lease of lots in a subdivision for industrial or commercial properties.

81-885.42. Subdivision real estate; sales of twenty-five or more lots.
Sections 81-885.33 to 81-885.40 shall not apply to sale or lease of real estate not pursuant to a common promotional plan to offer or sell twenty-five or more lots in a subdivision.

81-885.43. Violations; Attorney General; maintain action. Except as provided in subsection (2) of section 81-885.31, whenever, in the judgment of the commission, any person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the Nebraska Real Estate License Act, the Attorney General may maintain an action in the name of the State of Nebraska, in the district court of the county in which such violation or threatened violation occurred, to abate and temporarily and permanently enjoin such acts and practices and to enforce compliance with the act. The plaintiff shall not be required to give any bond nor shall any court costs be adjudged against the plaintiff.

81-885.44. Complaint for violations of act. The commission by and through its director may prefer a complaint for violation of the Nebraska Real Estate License Act.

81-885.45. Acting without license or certificate; penalty. 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.

81-885.46. License or certificate under prior law; renewal. Any real estate license or subdivision certificate issued prior to September 2, 1973, shall, for purposes of renewal, be considered to have been originally issued under the Nebraska Real Estate License Act.

81-885.47. Repealed. Laws 2009, LB 30, § 17.

81-885.48. Terms, how construed. Except for purposes of section 81-885.04, the terms employ, employed, employer, or employee as used in the Nebraska Real Estate License Act shall not necessarily be construed to imply an employer and employee relationship. The use of such terms shall not prohibit the establishment of any independent contract or other relationship between a business and an individual, between individuals, or between businesses, including an employer and employee relationship.

81-885.49. Continuing education; purpose. The purpose of sections 81-885.49 to 81-885.54 is to establish requirements for continuing education and training of real estate brokers and salespersons who are licensed in order to maintain and improve the quality of real estate services provided to the public.

81-885.50. Continuing education; terms, defined.
As used in sections 81-885.49 to 81-885.54, unless the context otherwise requires:

(1) Commission shall mean the State Real Estate Commission;

(2) Licensee shall mean a natural person who is licensed by the commission as a real estate broker or salesperson; and

(3) Two-year period shall mean twenty-four months commencing on January 1 following either the date of licensing of the real estate broker or salesperson or March 8, 1985, whichever is later, and each succeeding twenty-four-month period.

81-885.51. Continuing education; evidence of completion. In each two-year period, every licensee shall complete twelve hours of approved continuing education activities and six hours of broker-approved training. Evidence of completion of such continuing education and training activities for the two-year period shall be submitted to the commission pursuant to rules and regulations adopted and promulgated by the commission.

81-885.52. Continuing education; certify activities.

(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 or training activity and refuse approval of any continuing education or training 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 or training 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 may certify the number of hours to be awarded for successful completion of a 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.

81-885.53. Continuing education; licensee; requirements. 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 and training 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.

81-885.54. Continuing education; rules and regulations. The commission shall adopt and promulgate rules and regulations necessary for the effective administration of sections 81-885.49 to 81-885.54 pursuant to the Administrative Procedure Act. Such rules and regulations may include, but not be limited to, the establishment of minimum standards for schools, courses, and instructors.

81-885.55. Errors and omissions insurance; commission; duties; certificate of coverage; required; when; group plan unavailable at a reasonable premium; effect.

(1) 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 five hundred dollars, the errors and omissions insurance requirement of this section shall not apply during the year for which coverage cannot be obtained.