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Governor

NEBRASKA REAL ESTATE COMMISSION  
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TO: Nebraska Real Estate Commission

FROM: Greg Lemon  Director

RE: Teams Regulation Discussion, Part IV

Date: 11/10/2016

Attached please find proposed rules and regulations relating to teams adopted pursuant to LB678, the teams regulation bill, as well as copies of the joint teams task force recommendations and the final reading copy of LB678.

The draft regulations incorporate the changes as discussed at the last Commission meeting, and should be getting very close to final form for submission for rule hearing.

**Explanation of Amendments:**

1. Title 299, Chapter 1, Sec. 004.02, corrects an improper reference to statute that was not changed when the statute was amended (the language in §81-885.13(4) was moved to §885.13(6) a number of years ago, but the change was not reflected in the regulation which references that statutory section)
2. Title 299, Chapter 2, Sec. 003, adds the prominence requirement for broker name in all advertising and further defines prominence to mean "conspicuous, discernible, and easily identifiable by the public"
3. Title 299, Chapter 2, Sec 007a, requires all team advertising to include the team name as recorded with the designated broker.
3. Title 299, Chapter 2, Sec 007b, requires all team advertising to prominently display the name the broker conducts business under in similar size and visibility to the team name.
4. Title 299, Chapter 2, Sec 007c, requires all affiliated licensee advertising to prominently display the name the broker conducts business under in similar size and visibility to the affiliated licensee's name.
5. Title 299, Chapter 2, Sec. 003.08a, requires all team names to include the word "team" or "group" as part of the name.

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Team Memo

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6. Title 299, Chapter 2, Sec. 003.08b, list of prohibited words in team names that would imply the team is an independent company or real estate brokerage.
7. Title 299, Chapter 2, Sec. 003.08c, allows the words "real estate" and "realty" to be used in team names only if immediately followed by "team" or "group."
8. Title 299, Chapter 2, Sec. 014, requires a team to designate a new team leader if the team leader's license is suspended or revoked, also requires the team to designate a new team name if the team name includes the name of a team member whose license is suspended or revoked. The provisions do not apply to suspension being served on probation
9. Title 299, Chapter 7, Sec 001, requires team members, team leaders and designated brokers to take a three hour continuing education course relating to teams within 180 days of the teams formation or membership on the team.
10. Title 299, Chapter 7, Sec. 001.03, provides that the team continuing education shall only be required to be taken once every 4 years.



## Nebraska REALTORS® Association's

### Recommendations for Proposed Rules and Regulations on Teams

- I. Definition of Team or Group: A team or group consists of two or more real estate licensees who work together on any given real estate transaction to provide real estate brokerage services, represent themselves to the public as being part of one team or group; and designate themselves by a team or group name.
- II. Each team or group shall designate a leader who shall be a real estate licensee. The team or group leader shall be responsible for supervising the licensees on his/her team (see Title 299 Chapter 5, 003.19). In the event that a team or group leader's license is suspended or revoked, unless dissolved, the team or group must designate a new leader. If a team or group member for whom the team or group is named leaves the team or group, such team or group may designate a new name for the team or group.
- III. The team or group leader is responsible for maintaining a current list of all members and employees of the team or group, and for reporting who is currently on the team or group, including any revisions to the team or group, to the designated broker for which the team or group works. The team or group leader is also responsible for all communications, and the structural, regulatory, and advertising guidelines of a team or group. Teams or groups may have their own independent service location per an agreement with their broker. The broker is responsible for maintaining copies of these lists and making them available upon request to the NREC. (Brokers must retain all team and group lists for 5 years)
- IV. No team may imply that the team is a separate entity from the brokerage firm of its employment. Team names may not include the terms "realty," "real estate", "realtors", "company" or similar terms suggesting a brokerage.
- V. Each member of a team or group including the leader shall adhere to all laws, rules and regulations applicable to real estate licensees in Nebraska. Each team or group including the leader shall be under the supervision of the designated broker for the company under which the team or group works. Thus, each team or group member shall adhere to all office rules, practices, and procedures established by the designated broker for the company under which the team or group works.
- VI. The rules regarding teams or groups shall be for the benefit of the public and apply to all real estate activities of the type set forth in Section 81-885.01(2) or advertising with regard thereto.
- VII. Each individual member of a team or group when acting as a member of a team or group shall include the team or group name in conjunction with their own. i.e. Bob Johnson of The Smith Team or Group at ABC Brokerage.
- VIII. Teams or groups must use 'team' or 'group' when advertising as a team or group. The team or group, and any and all team or group member(s), must display and promote that they are directly connected to the broker under which the team or group works. All team or group advertising shall be close in proximity to the broker under which the team or group works. The broker under whom the team or group works is to be displayed prominently and visibly in a meaningful and conspicuous way on all methods of advertising. Example: Bob Johnson of The Smith Team at ABC Broker. This representation shall be upon each separately reachable public presentation. Example: each separate page of a web site shall show the designation to the broker under which the team or group works.
- IX. The team or group member is responsible to register their applicable compensation structure with their team or group leader. The team or group leader is responsible to register their applicable compensation structure with the designated broker.
- X. The team or group leader is to complete a 3-hour CE course on teams and groups or on team or group leadership within 180 days of joining the team or group, which said education shall be counted towards the required 18-hours of continuing education.
- XI. All other team or group members are also to complete a 3-hour CE course on teams and groups or on team or group leadership within 180 days of joining the team or group, which said education shall be counted towards the required 18-hours continuing education.

## LEGISLATIVE BILL 678

Approved by the Governor April 06, 2016

Introduced by Craighead, 6.

A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to amend sections 81-885 and 81-885.24, Reissue Revised Statutes of Nebraska, and section 81-885.01, Revised Statutes Supplement, 2015; to define and redefine terms; to provide duties for a team leader as prescribed; to provide unfair trade practices; to harmonize provisions; to provide an operative date; and to repeal the original sections.

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

Section 1. Section 81-885, Reissue Revised Statutes of Nebraska, is amended to read:

81-885 Sections 81-885 to 81-885.55 and section 3 of this act shall be known and may be cited as the Nebraska Real Estate License Act.

Sec. 2. Section 81-885.01, Revised Statutes Supplement, 2015, is amended to read:

81-885.01 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) Team means two or more persons licensed by the commission who (a) work under the supervision of the same broker, (b) work together on real estate transactions to provide real estate brokerage services, (c) represent

themselves to the public as being part of a team, and (d) are designated by a team name;

(10) Team leader means any person licensed by the commission and appointed or recognized by his or her broker as the leader for his or her team;

(11 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 et seq. 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;

(12 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;

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

(14 12) Commission means the State Real Estate Commission;

(15 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, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;

(16 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, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;

(17 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;

(18 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;

(19 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

(20 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.

Sec. 3. A team leader shall be responsible for supervising the real estate activities of his or her team performed under the Nebraska Real Estate License Act subject to the overall supervision by the designated broker of the team leader and team members.

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

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

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

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

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

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

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

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

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

- (8) Accepting any form of compensation or consideration by an associate broker or salesperson from anyone other than his or her employing broker without the consent of his or her employing broker;
- (9) Acting in the dual capacity of agent and undisclosed principal in any transaction;
- (10) Guaranteeing or authorizing any person to guarantee future profits which may result from the resale of real property;
- (11) Placing a sign on any property offering it for sale or rent without the written consent of the owner or his or her authorized agent;
- (12) Offering real estate for sale or lease without the knowledge and consent of the owner or his or her authorized agent or on terms other than those authorized by the owner or his or her authorized agent;
- (13) Inducing any party to a contract of sale or lease to break such contract for the purpose of substituting, in lieu thereof, a new contract with another principal;
- (14) Negotiating a sale, exchange, listing, or lease of real estate directly with an owner or lessor if he or she knows that such owner has a written outstanding listing contract in connection with such property granting an exclusive agency or an exclusive right to sell to another broker or negotiating directly with an owner to withdraw from or break such a listing contract for the purpose of substituting, in lieu thereof, a new listing contract;
- (15) Discussing or soliciting a discussion of, with an owner of a property which is exclusively listed with another broker, the terms upon which the broker would accept a future listing upon the expiration of the present listing unless the owner initiates the discussion;
- (16) Violating any provision of sections 76-2401 to 76-2430;
- (17) Soliciting, selling, or offering for sale real estate by offering free lots or conducting lotteries for the purpose of influencing a purchaser or prospective purchaser of real estate;
- (18) Providing any form of compensation or consideration to any person for performing the services of a broker, associate broker, or salesperson who has not first secured his or her license under the Nebraska Real Estate License Act unless 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; or
- (31) Failing by a team leader to provide a current list of all team

members to his or her designated broker;

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

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

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

Sec. 5. This act becomes operative on October 1, 2016.

Sec. 6. Original sections 81-885 and 81-885.24, Reissue Revised Statutes of Nebraska, and section 81-885.01, Revised Statutes Supplement, 2015, are repealed.

## **Title 299 - NEBRASKA REAL ESTATE COMMISSION**

### **Chapter 1 - LICENSES; APPLICATIONS; TERMS, DEFINED; EXAMINATIONS; SURRENDER, SUSPENSION OR REVOCATION; RENEWAL; CANCELLATION; REINSTATEMENT; TRANSFER OF LICENSE.**

**001** All applications for real estate broker's or salesperson's original licenses must be filed in the Office of the Real Estate Commission and the applicant approved in accordance with the Nebraska Real Estate License Act prior to the date of examination. All applications to re-take an examination must be filed in the Office of the Real Estate Commission and the applicant re-approved in accordance with the Nebraska Real Estate License Act prior to the date of re-examination.

**002** An applicant shall forfeit the examination fee when said applicant fails to appear to take the examination for which said applicant has been scheduled, unless said applicant has given the required cancellation notice as contracted by the Real Estate Commission with the examination provider.

**003** Each original application for a broker's or salesperson's original license must include the Social Security Number of the applicant and be accompanied by a passport-type picture of the applicant taken within the past year.

**004** Persons desiring to secure a broker's license must first file with the Commission such application for a broker's license and pass a written examination. Written examination includes examinations completed by paper and pencil and computerized or electronic examinations as contracted for by the Real Estate Commission.

**004.01** The words "have first served actively for two years," as provided in Subsection (3) of Section 81-885.13 of the Nebraska Real Estate License Act, shall mean that the applicant must have devoted his or her full-time experience to activities requiring the holding of a salesperson's license or, if less than full time, for a period of time equal to two years of full-time experience.

**004.02** Courses of study provided in Section 81-885.13 of the Nebraska Real Estate License Act shall be courses of study approved by the Real Estate Commission and which are offered by (1) Nebraska accredited baccalaureate degree granting institutions and Nebraska or non-Nebraska institutions offering programs from which credits can be transferred to an accredited Nebraska baccalaureate degree granting institution, (2) Nebraska Community Colleges, (3) Special Institutes relating to real estate which Institutes are approved by the Real Estate Commission and (4) Proprietary Schools as provided in Section 81-885.13(46) of the Nebraska Real Estate License Act; Provided, the Real Estate Commission may give credit for similar courses taken at similar institutions in other states.

**004.03** Courses of study provided for in Section 81-885.13 of the Nebraska Real Estate License Act which are offered in a distance education format must be approved by the Real Estate Commission and certified by the Association of Real Estate License Law Officials, with the exception that such certification will not be required of courses in a correspondence study format that held the certification by the Association of Real Estate License Law Officials and were in good standing as of January 1, 2012, and such courses shall remain exempt from Association of License Law Officials certification through January 1, 2017.

**004.04** After January 1, 2017, courses of study provided for in Section 81-885.13 offered in correspondence study format shall be certified as to delivery method by the Real Estate

Commission. Such certification shall include: learning objectives stated through performance terms, required levels of cognition higher than rudimentary knowledge, intellectual interactions with the content, and a combination of purposeful formative and summative assessments.

**004.05** A student must complete the distance education course within one year of the date of enrollment. Distance education as used in this subsection shall mean courses in which instruction does not take place primarily by means of real time audio and visual interaction between teacher and student.

**005** All examinations will be given under the supervision of the Director or his or her representative. The examination will be given no less than monthly unless otherwise ordered by the Commission. The Commission will inform applicants of approval to sit for the examination. In conducting the examination, the Commission may utilize professional testing services.

**006** The Commission shall pass upon the granting of broker's and salesperson's licenses and upon applications for reciprocal and non-resident licenses.

**007** An associate broker or salesperson, upon surrendering his or her license or when an order of suspension or revocation of his or her license becomes final, shall have their license forwarded by the employing broker at once to the Commission. If such license is that of a broker, such broker shall forward to the Commission with his or her own broker's license, all salesperson's or associate broker's licenses in his or her possession or in his or her office and shall be responsible for all missing licenses of his or her salespersons or associate brokers.

**008** Failure to make application for the renewal of a license prior to December 1st of the year the licensee's renewal is due as defined by Section 81-885.14 will automatically cancel the license of a real estate broker or a real estate salesperson as of December 31st of that year and such real estate broker or real estate salesperson is prohibited from engaging in the real estate business in the State of Nebraska until such license has been renewed in accordance with Section 81-885.14 of the Nebraska Real Estate License Act.

**009** Any licensee whose license has been canceled for failure to pay the renewal fee when due must comply with all requirements of a new applicant and comply with Section 81-885.53 of the Nebraska Real Estate License Act, if applicable, in order to secure reinstatement of his or her license, except as provided in Section 81-885.14(1) of the Nebraska Real Estate License Act.

**010** Any inactive broker or salesperson may renew his or her license by making application, before December 1st by submitting the renewal fee, together with the completed renewal application on which he or she has noted his or her present "Inactive Status". Any licensee whose license has been renewed on such "Inactive Status" shall not be permitted to engage in activities which require a real estate license under the Nebraska Real Estate License Act 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 after the licensee sits for and passes the applicable licensing examination in use at the time of activating the license and has made-up the required continuing education as set forth in Section 81-885.53 of the Nebraska Real Estate License Act.

**011** All licensees who enter the armed service or are called to active duty after issuance of a real estate license are not required to pay the renewal fee or complete the continuing education requirement during the period of service. Upon discharge from said service the license shall be reinstated if the date of discharge is within three years of the date of beginning such service. In order to be eligible for reinstatement upon discharge from said service, the licensee may make application for said reinstatement within six months of the date of discharge as long as the date of discharge is within three years of the date of beginning such service. In any case of reinstatement, the licensee shall show proof, in the form of a photostatic copy of his or her discharge or papers of separation, that his or her discharge was other than dishonorable. If date of discharge is after three years from the date of beginning such service, the licensee shall be required to meet all the requirements for active status including the successful completion of the current real estate examination before the license will be reinstated.

**012** When a licensee is transferring his/her license, the licensee shall not be deemed transferred until all required documents, fees and information have been received by the Commission. The licensee will be considered to be on inactive status from the date employment is terminated until the transfer is completed.

Laws 1973, LB 68 §10; RS 1943, §81-885.07(5) R.S. Supp., 1974. Effective date September 2, 1973.

## **Title 299 - NEBRASKA REAL ESTATE COMMISSION**

### **Chapter 2 - BUSINESS PRACTICES; EMPLOYMENT OF SALESPERSON OR ASSOCIATE BROKER; ADVERTISING; SOLICITING LISTINGS OR REPRESENTATION; TRANSMISSION OF WRITTEN OFFERS TO OWNER; CLOSING REAL ESTATE TRANSACTIONS; GOOD FUNDS; REPRESENTING ANOTHER BROKER; RETENTION OF SIGNS; BRANCH OFFICES.**

**001** It shall be presumed that a duly licensed broker whose principal business is other than that of a real estate broker is unable to supervise licensed employees, and said broker shall not be allowed to employ a real estate salesperson or an associate broker until such presumption is overcome by satisfactory evidence to the contrary.

**002** Each broker shall record with the Commission the type of business form under which the broker is doing business, i.e., sole proprietorship, general or limited partnership, corporation, limited liability company, or any other entity authorized by law under which a broker may be operating a real estate business, and the legal name of such entity if it is not a sole proprietorship. A broker may operate only under one business entity. In addition, the broker shall record with the Commission all names under which the broker will be conducting business. All trade names shall be recorded with the Commission only after registration with the Secretary of State's Office.

**003** Advertising shall include all forms of identification, representation, promotion, and solicitation disseminated in any manner and by any means of communication to the public for any purpose related to licensed real estate activity. All advertising shall be under the direct supervision of the broker, and in prominently display the name the broker is conducting business as recorded with the Commission in a way that is conspicuous, discernible, and easily identifiable by the public. Advertising which is contrary to Sections 003 to 006 of these regulations shall constitute misleading or inaccurate advertising under Section 81-885.24(2) of the Nebraska Real Estate License Act.

**003.01** Each broker who is operating as an independent broker or sole proprietorship, without being a corporation or limited liability company or filing a trade name, shall advertise in his or her name as recorded with the Commission and include the word(s) "Broker" or "Real Estate Broker", e.g. Sara Stone, Broker or Sara Stone, Real Estate Broker.

**003.02** Each broker, when operating under a franchise, shall clearly set forth in all advertising, in addition to the franchise name, the name under which the broker is doing business as recorded with the Commission and, if applicable, registered with the Secretary of State.

**003.03** Each broker who is operating under one or more trade names as registered with the Secretary of State and recorded with the Commission will advertise in the trade name(s) as recorded. The broker is not required to identify all trade names on each advertisement but must advertise, without exception, in the name of one of the trade names as registered with the Secretary of State and as recorded with the Commission. This section applies to independent brokers, sole proprietorships, franchises, corporations, partnerships, limited liability companies, or any other entity authorized by law under which a broker may be operating a real estate business.

**003.04** Each broker who is operating under a corporation will advertise in the name of the corporation as registered with the Secretary of State and recorded with the Commission. If the corporation also registers one or more trade names with the Secretary of State, such trade name(s) shall be recorded with the Commission, and the corporation may advertise in either the corporate name or the trade name(s).

**003.05** Each broker who is operating under a limited liability company will advertise in the name of the limited liability company as registered with the Secretary of State and recorded with the Commission. If the limited liability company also registers one or more trade names with the Secretary of State, such trade name(s) shall be recorded with the Commission, and the limited liability company may advertise in either the limited liability company name or the trade name(s).

**003.06** If registered and recorded names have in their titles, "Co.", "Inc." or the like, such designations may be excluded from advertising, provided that such exclusion is likely to neither deceive nor confuse the public with regard to the identity of the real estate business being advertised.

**003.07 Real estate affiliate and team advertising:**

**003.07a** Team advertising shall always include the team name as recorded with the team's designated broker.

**003.07b** Team advertising shall prominently display the name the broker supervising the team conducts business under as recorded with the Commission adjacent to the team name and similar or greater in size and visibility than the team name.

**003.07b** Advertising featuring the name of an affiliated associate broker or salesperson shall prominently display the name the broker supervising the affiliated salesperson or associate broker conducts business under as recorded with the Commission adjacent to affiliated licensee's name and similar or greater in size and visibility than the affiliated licensee's name.

**003.08 Real estate team names:**

**003.08a** Must always include the word "team" or "group" as part of the team name.

**003.08b** Real estate team names shall not include the words:

- (i) Realtors.
- (ii) Company.
- (iii) Corporation.
- (iv) Corp.,
- (v) Inc.,
- (vi) LLC,
- (vii) Inc.,
- (viii) LP or LLP,
- (ix) LP or LLP,
- (x) or similar words suggesting the team is a separate real estate brokerage or company.

**003.08c** Real estate team names may include the words "real estate" or "realty" only if such terms are immediately followed by the word "team" or "group"

**004** A broker shall not advertise to sell, buy, exchange, rent, or lease real property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such real property is being made by a private party not engaged in the real estate business, and no advertisement shall be inserted in any publication where only a post office box number, telephone number, or street address appears.

**005** Every salesperson, associate broker, and broker is prohibited from advertising under his or her own name the offering for sale, purchase, or exchange of any real property unless he or she is the owner thereof. Every licensee, when advertising his or her own property for sale, purchase, or exchange must disclose in such advertising that he or she is a licensed real estate salesperson, associate broker, or broker.

**006** Every licensee is prohibited from soliciting or attempting to secure listings or to represent a purchaser or tenant without first advising the owner or prospective purchaser or tenant that he or she is a licensee, and that he or she is engaged in the real estate business.

**007** In the event that more than one written offer is made before the owner has accepted an offer and closed on that offer, any other written offer presented to the licensee, whether by a prospective purchaser, an agent of a prospective purchaser, or a cooperating broker, shall be transmitted forthwith to the owner for his or her consideration.

**008** A salesperson or associate broker shall not participate in the closing of any real estate transaction except under the supervision and with the consent of the broker under whom such salesperson or associate broker is licensed. A broker shall not authorize any person who is not licensed as a salesperson or associate broker to conduct the closing of a real estate transaction. This shall not prevent an unlicensed person, such as a closing secretary, from doing the preparatory work for the closing, subject to the approval of the licensee conducting the closing; and does not apply to real estate closing agents authorized under Neb. Rev. Stat. 76-2,121 et seq.

**009** A broker closing a real estate transaction shall be in compliance with Neb. Rev. Stat. Sections 76-2,121 through 76-2,123.

**010** The consent required from the employing broker for an associate broker or salesperson to represent another real estate broker or to accept a commission or other valuable consideration from anyone other than the employing broker as set forth in Neb. Rev. Stat. 81-885.24(7) and (8), respectively, shall be given in writing by the broker in advance of the licensee representing the other broker or the acceptance of the commission or other valuable consideration from the other party. A copy of the consent shall be maintained by the employing broker for five years following the date of such consent.

**011** The word "Placing..." as used in 81-885.24(11) of the Nebraska Real Estate License Act shall also be construed to mean the retention of such sign. Written authorization is required to place and retain a sign, and the sign must be removed within a reasonable period of time after the termination of such written authorization.

**012** A branch office is any location, other than the main office of a real estate business, where: 1) one or more licensees spend a substantial amount of time transacting real estate business requiring a license; and 2) such licensee(s) advertises that they can be contacted for real estate business purposes; and 3) such licensee(s) maintains what would, in the normal business context, be considered a business office. Nothing in this Section should be construed to include the advertising of a home phone number and address by a licensee in the alphabetical listing of subscribers section, or white pages, of the telephone directory to come within the branch office definition. A model home utilized as an office on a temporary basis would not be considered a branch office.

**013** A real estate broker, who is not otherwise involved in the real estate transaction before a written agreement has been entered into for the purchase, sale, or exchange of the real estate, may close the real estate transaction as long as the broker complies with all provisions of the Nebraska Real Estate License Act and Rules of the Commission.

**013.01** For the purpose of 013 above, the word "close" refers to services as an independent party to perform the ministerial actions necessary to complete the transaction, which may include the receipt and disbursement of funds. When providing only the above ministerial actions, the broker shall disclose, in writing, to all parties to the transaction, prior to the closing of the transaction, that the broker is only providing this ministerial service and is not acting as an agent for either party. The disclosure shall be signed by both parties and a copy shall be maintained in accordance with 299 NAC 3-001.

**013.02** Whenever a broker participates in a real estate transaction before a written agreement has been entered into for the purchase, sale, or exchange of real estate, the broker must fulfill the applicable obligations of a broker to the seller and the buyer in accordance with the provisions of the Nebraska Real Estate License Act and the Rules of the Commission.

**014** In the event that a team or group leader's license is suspended or revoked, unless dissolved, the team or group must forthwith designate a new leader and provide the name of the new group leader to the team's designated broker. If a team or group member for whom the team or group is named has his or her license suspended or revoked the team must designate a new name for the team or group which does not use or incorporate the revoked or suspended licensee's name. This provision shall not apply to periods when a team or group member for whom the team or group is named is serving his or her suspension on probation.

Laws 1973, LB 68, §10; RS 1943, §81-885.07 (5) R. S. Supp., 1974. Effective date September 2, 1973.

Laws 1994, LB 1275, §3; RS 1943, §76-2,123 R.S. Cum. Supp., 1994. Effective date July 16, 1994.

**Title 299 - NEBRASKA REAL ESTATE COMMISSION**

**Chapter 7 - CONTINUING EDUCATION ACTIVITIES; REQUIRED HOURS; APPROVAL; RESTRICTIONS; DENIAL; REVOCATION; APPEAL PROCESS; RECORD KEEPING.**

**001** Of the twelve hours of continuing education required in Section 81-885.51 of the Nebraska Real Estate License Act, (a) six hours in each two-year period shall be taken in continuing education activities which are derived from material covering ethical decision-making or federal or state laws, rules, or regulations dealing with or pertaining to real estate or real estate transactions, and which are approved and designated by the Commission as meeting this six-hour requirement, and (b) three hours shall be required in each two year period in a property management course or courses approved and designated by the Commission as meeting this requirement for all licensees who provide property management services during such two year period, or who supervise a licensee or licensees who provide property management services during such two year period, and (c) three hours shall be required in courses on teams or team leadership which are approved and so designated by the Commission for all team members, team leaders, and designated brokers who supervise teams within 180 days after being designated a team member or team leader, or in the case of a designated broker within 180 days of the creation of any team under the broker's supervision.

**001.01** Continuing education activities approved under this Section are not subject to the duplication provision as set forth in Section 0034.07 of this Chapter, except that continuing education activities approved under this Section and which are of the same content, or if in the opinion of the Commission so similar as to be indistinguishable in content, cannot be duplicated within the same two-year continuing education period.

**001.02** For purposes of this chapter property management shall mean and include: Acting under a written contract as a third party for a landlord or owner of property in the collection and or holding of rent, deposits, or other monies from tenants for the benefit of the property owner.

**001.03** Continuing education activities required under Section 001(c) of this section shall meet the education requirements for the two year continuing education period in which they are taken and the ensuing two year continuing education period. Team members, team leaders and designated brokers who supervise teams shall complete the required team training a minimum of once every four years.

**002** The six hours of training required in Section 81-885.51 of the Nebraska Real Estate License Act may be fulfilled by satisfactorily completing training activities approved by the licensee's designated broker and recognized by the Commission **OR** by satisfactorily completing Commission approved continuing education activities **OR** by some combination of both. Training activity shall be required to be met and submitted as provided in the License Act and these regulations beginning in calendar year 2012.

**003** Qualifications for approval of continuing education activities shall be as stated herein.

**003.01** A continuing education activity offered in the State of Nebraska shall be qualified for approval if the Real Estate Commission determines that:

**003.01A** The continuing education activity contributes to the maintenance and improvement of the quality of real estate services provided by real estate licensees to the public; and

**003.01B** An in-class continuing education activity must consist of at least three in-class clock hours but no more than eight in-class clock hours in any one day of instruction. In the case of a continuing education activity delivered in a distance education format there must be at least the content equivalent of three in-class clock hours, and certification pursuant to 299 NAC 7-002.02. An in-class clock hour is defined as 50 minutes in length; and

**003.01C** The provider has submitted a complete application as prescribed by the Real Estate Commission at least thirty days prior to the beginning of the continuing education activity; and

**003.01D** All instructors have met the qualification standards as established by the Real Estate Commission; and

**003.01E** The provider has met the provisions of all other applicable state laws:

**003.02** Continuing education activities offered in a distance education format must be certified by the Association of Real Estate License Law Officials, with the exception that such certification will not be required of courses in a correspondence study format that held the certification by the Association of Real Estate License Law Officials and were in good standing as of January 1, 2012, and such courses shall remain exempt from Association of License Law Officials certification through January 1, 2017. A student must complete the distance education activity within one year of the date of enrollment. Distance education as it is used in this chapter shall mean courses in which instruction does not take place in a traditional classroom setting but rather through other media where instructor and student are separated by distance and sometimes by time.

**003.03** Courses taken by salesperson licensees toward meeting the broker pre-license requirements, with the exception of Real Estate Principles and Practices or its equivalent courses, may be used toward meeting the continuing education requirement and also as meeting the pre-license broker requirement.

**003.04** In addition to continuing education activities directly approved by the Real Estate Commission, the Commission shall accept:

**003.04A** Continuing education activities approved to meet the continuing education requirements for renewal of a salesperson or broker license in another real estate jurisdiction and taken outside the State of Nebraska.

**003.04B** Instruction by instructors of approved continuing education activities toward meeting the continuing education requirement. The same restrictions of usage as set forth in Title 299, Chapter 7, Section 003 will apply.

**003.04C** Reviews of continuing education activities that are provided in a distance education format and have been submitted for approval as provided in this Chapter when the appointed reviewer, who must meet the same qualification standards established for continuing education instructors, successfully completes

the activity and provides a report prescribed by the Commission.

**003.04D** The Commission shall have no obligation to accept a continuing education activity otherwise considered acceptable under this subsection if the activity has been identified by the Commission as unacceptable according to Nebraska continuing education criteria.

**003.04E** Written affirmation from non-resident licensees that they have met the current continuing education requirement in their state of residence.

**003.05** Licensees may use appraisal continuing education approved by the Nebraska Real Estate Appraiser Board toward their salesperson or broker continuing education requirement, when taken during the applicable two-year period for their salesperson or broker license.

**004** The following activities shall not be approved as continuing education and cannot be used toward meeting the continuing education requirement:

**004.01** Those which are specifically examination preparation in nature.

**004.02** Those which deal with office or business skills, such as typing, speed reading, memory improvement, body language, motivation and similar activities.

**004.03** Those which are completed by a challenge examination (testing-out of the activity).

**004.04** Sales promotion or sales meetings held in conjunction with a brokerage firm's general business.

**004.05** Orientation courses for licensees held by trade organizations.

**004.06** Continuing education activities taken prior to approval date of the continuing education activity.

**004.07** Continuing education activities of the same content, or if in the opinion of the Commission an activity is so similar as to be indistinguishable in content, cannot be used for a minimum of four years after the activity was taken to be applied toward meeting the continuing education requirement, except that activities meeting the required hours set forth in Section 001 of this Chapter may be repeated but not in the same two-year continuing education period.

**004.08** Broker licensees cannot retake courses taken as part of their pre-license requirement and use them toward meeting their continuing education requirement except as provided in Title 299, Chapter 7, Section 0034.07.

**004.09** Continuing education activities taken to make up a deficiency of the continuing education requirement from a previous continuing education period may not be used toward the current period's continuing education requirement.

**005 Qualifications for recognition of training activities shall be as stated herein.**

**005.01** A training activity offered in the State of Nebraska shall be recognized by the Real Estate Commission pursuant to Section 81-885.51 if the Real Estate Commission determines that:

**005.01A** The training activity directly relates to real estate services provided by real estate licensees to the public; and

**005.01B** The training does not materially misstate elements of the Real Estate License Act or other provisions of the law; and

**005.01C** A training activity must consist of at least one sixty minute hour. In the case of a training activity delivered in a distance education format there must be at least the content equivalent of one sixty-minute hour; and

**005.01D** The provider has submitted a complete application as prescribed by the Real Estate Commission at least thirty days prior to the beginning of the training activity.

**005.02** The Commission shall have the authority to require additional information regarding training content in order to determine eligibility.

**005.03** The Commission may determine that an activity submitted to meet the training requirement would more appropriately be recognized as continuing education because the level of complexity or legal nature of the training requires a more detailed review of the subject matter as provided in these regulations for continuing education.

**006** The following activities cannot be used toward meeting the training requirement:

**006.01** Those which are specifically examination preparation in nature.

**006.02** Those which are completed by a challenge examination (testing-out of the activity).

**006.03** Orientation courses for licensees held by trade organizations.

**006.04** Training activities taken prior to the Commission's recognition date of the training activity.

**007** The Commission shall notify applicants in a timely manner, in writing, whether an application is approved or denied. If an application is denied, the denial notice shall state the reason(s) for denial. This section applies to initial submittals of applications for approval of training activities, and providers, activities, and instructors of Nebraska real estate continuing education; resubmittals of continuing education activities for reapproval every three years; and resubmittals of activities due to substantial changes in the activities.

**008** Approved continuing education activities shall be resubmitted by the provider for approval and reviewed every three years by the Commission unless substantial changes are made in the activity prior to that time.

**009** Training activity recognition will expire three years from the date of original recognition.

**010** If substantial changes are made, the activity shall be submitted by the provider for review and approval, and may not be offered prior to receiving notice that the altered activity has been

approved.

**011** Decisions of the Real Estate Commission to deny approval of training activities or continuing education providers, activities, or instructors may be reviewed by the Commission when such review is requested within twenty days of notification of said decision. The Real Estate Commission may at any time re-evaluate an approved training activity or continuing education provider, activity, or instructor. If a basis for consideration of revocation of approval is found, the Commission shall notify said provider by mail at least twenty business days prior to said hearing on the revocation.

**012** Providers of approved training or continuing education activities shall be governed by the provisions of this Section in addition to any other applicable statutes or rules and regulations.

**012.01** The provider shall submit to the Commission a notice of the scheduling of an approved activity prior to offering the activity. The notice shall be submitted in a form prescribed by the Commission. This subsection shall not apply to distance education activities offered in an independent study format.

**012.02** Successful completion of an approved training or continuing education activity requires full-time attendance at the activity.

**012.03** A completion certificate, not larger than 8 ½ by 11, must be issued to each student upon completion of the activity and shall include such information required by the Commission.

**012.04** In the case of students using a pre-license broker course toward both pre-license and continuing education as set forth in Title 299, Chapter 7, Section 002.03, upon request by the student a separate continuing education completion certificate will be issued by the provider upon completion of the course in addition to the pre-license proof of completion.

**012.05** Records shall be maintained by each provider on each individual student for four years. Said records to include: name and real estate license identification number of the student; residence or business address of the student; the title of the activity completed in full; the number of training or continuing education hours granted the activity; the date the student completed the activity; and, activity content numbers for continuing education activities.

**012.06** A verification listing of the attendees at an approved training or continuing education activity who have met the requirements of completion as established by the Commission pursuant to Section 81-885.52 of the Nebraska Real Estate License Act shall be submitted to the Commission, in the current format specified by the Commission, within ten business days of the conclusion of the activity.

**012.07** By January 31st of each year all approved providers shall submit to the Commission a chronological list to include the title, number of hours granted, date, location, instructor and number of attendees for each training or continuing education activity conducted during the preceding year.

**013** Nothing in this Chapter shall be construed to preclude training or educational offerings sponsored, or conducted, by the Real Estate Commission from being accepted toward meeting the continuing education requirement of the Nebraska Real Estate License Act.

Laws 1985, LB 101, §10; RS 1943, §81-885.54, R.S. Supp., 1985. Effective date March 7, 1985.