

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 892**

FINAL READING

Introduced by Walz, 15.

Read first time January 07, 2022

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to
- 2 amend section 81-885.02, Reissue Revised Statutes of Nebraska, and
- 3 sections 81-885.04 and 81-885.13, Revised Statutes Cumulative
- 4 Supplement, 2020; to change provisions relating to restrictions on
- 5 unlicensed persons, applicability of the act, and broker's license
- 6 applications; to harmonize provisions; and to repeal the original
- 7 sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-885.02, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 81-885.02 After September 2, 1973, it shall be unlawful for any  
4 person, directly or indirectly, to engage in or conduct, or to advertise  
5 or hold himself or herself out as engaging in or conducting the business,  
6 or acting in the capacity, of a real estate broker, associate broker, or  
7 real estate salesperson within this state without first obtaining a  
8 license as such broker, associate broker, or salesperson, as provided in  
9 the Nebraska Real Estate License Act, unless he or she is exempted from  
10 obtaining a license under section 81-885.04.

11 For purposes of this section, acting as a real estate broker,  
12 associate broker, or real estate salesperson includes publicly marketing  
13 for sale an equitable interest in a contract for the purchase of real  
14 property between a property owner and a prospective purchaser.

15 Sec. 2. Section 81-885.04, Revised Statutes Cumulative Supplement,  
16 2020, is amended to read:

17 81-885.04 Except as to the requirements with respect to the  
18 subdivision of land, the Nebraska Real Estate License Act shall not apply  
19 to:

20 (1) Any person, partnership, limited liability company, or  
21 corporation who as owner or lessor shall perform any of the acts  
22 described in subdivision (2) of section 81-885.01 with reference to  
23 property owned or leased by him, her, or it or to the regular employees  
24 thereof, with respect to the property so owned or leased, when such acts  
25 are performed in the regular course of or as an incident to the  
26 management, sale, or other disposition of such property and the  
27 investment therein, except that such regular employees shall not perform  
28 any of the acts described in such subdivision in connection with a  
29 vocation of selling or leasing any real estate or the improvements  
30 thereon. An equitable interest in real property shall not be considered  
31 an ownership interest for purposes of this subdivision;

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

5           (3) Any person acting as receiver, trustee in bankruptcy, personal  
6 representative, conservator, or guardian or while acting under a court  
7 order or under the authority of a will or of a trust instrument or as a  
8 witness in any judicial proceeding or other proceeding conducted by the  
9 state or any governmental subdivision or agency;

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

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

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

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

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

29          (9) Any person not required to be licensed under the act who  
30 provides a list or lists of potential purchasers to a broker or  
31 salesperson or who makes calls or facilitates the initial contact between

1 a potential client or customer as defined in sections 76-2407 and  
2 76-2409, respectively, and a broker or salesperson. The unlicensed person  
3 may only provide information regarding the broker or salesperson and the  
4 broker's or salesperson's services in written information created by the  
5 broker or salesperson that identifies the broker or salesperson and the  
6 broker's or salesperson's place of business and which is sent by email,  
7 United States mail, or by link to a website created by the broker or  
8 salesperson. The unlicensed person is not permitted to discuss with such  
9 potential client or customer the services offered or to be offered by the  
10 broker or salesperson. The unlicensed person acting under this exemption  
11 may not discuss with such potential client or customer the client's or  
12 customer's motivation, motivating factors, or price such potential client  
13 or customer is willing to offer or accept. The unlicensed person does not  
14 have the authority and shall not purport to have the authority to  
15 obligate any such potential client or customer to work with a particular  
16 broker or salesperson or particular broker's or salesperson's place of  
17 business. The unlicensed person shall, at the beginning of any contact  
18 with such potential client or customer, identify who the unlicensed  
19 person is, the name of the entity that employs the unlicensed person, the  
20 name of the broker or salesperson, and the name of the broker's or  
21 salesperson's real estate business on whose behalf the contact is being  
22 made. The unlicensed person shall not perform any other activity of a  
23 broker or salesperson described in section 81-885.01, except those acts  
24 specifically provided for in this subdivision.

25 Sec. 3. Section 81-885.13, Revised Statutes Cumulative Supplement,  
26 2020, is amended to read:

27 81-885.13 (1)(a) No broker's or salesperson's license shall be  
28 issued to any person who has not attained the age of nineteen years.

29 (b) No broker's or salesperson's license shall be issued to any  
30 person who is not a graduate of a public or private high school or the  
31 holder of a certificate of high school equivalency. This subdivision does

1 not apply to: (i) A person who is a graduate of a school exempt from the  
2 State Department of Education requirements under section 79-1601 or an  
3 equivalent exempt school or home school program from another  
4 jurisdiction; or (ii) a person who has completed a program of education  
5 acceptable to the commission.

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

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

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

18 (b) Upon special application and hearing before the commission,  
19 provide satisfactory evidence of ~~(i) equivalent or sufficiently relevant~~  
20 ~~experience in a real estate related industry or (ii) hardship due to an~~  
21 existing brokerage being unable to retain the services of a licensee to  
22 act as its designated broker who has the two years' experience required  
23 in this subsection. Any applicant so approved must furnish a certificate  
24 that he or she has passed a course of at least eighteen credit hours in  
25 subjects related to real estate at an accredited university or college,  
26 or completed six courses in real estate subjects composed of not less  
27 than one hundred eighty class hours in a course of study approved by the  
28 commission or, in lieu thereof, courses delivered in a distance education  
29 format approved by the commission.

30 (4) No person issued a broker's license may act as a designated  
31 broker for any other licensee until such person has taken additional

1 courses of postlicensure education in the subjects of real estate trust  
2 accounting, brokerage finance, business ethics, and risk management,  
3 except that the commission may extend, for up to six months, the  
4 postlicensure course work requirement under the hardship provision of  
5 subdivision ~~(3)(b)~~ ~~(3)(b)(ii)~~ of this section.

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

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

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

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

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

12 (9) All licensees shall, within one hundred eighty days after  
13 license issuance, furnish satisfactory evidence of completion of twelve  
14 hours of class study in a commission-approved class related to required  
15 knowledge and skills for real estate practice, including, but not limited  
16 to, completing contracts and listing agreements and handling of client  
17 funds. If a licensee fails to do so, the commission shall place his or  
18 her license on inactive status until the commission receives such  
19 satisfactory evidence. Transfer to active status pursuant to this  
20 subsection shall be subject to the fee provided for in section 81-885.20.

21 Sec. 4. Original section 81-885.02, Reissue Revised Statutes of  
22 Nebraska, and sections 81-885.04 and 81-885.13, Revised Statutes  
23 Cumulative Supplement, 2020, are repealed.