



NOTICE OF MEETING

A meeting of the Nebraska Real Estate Commission will be held on October 18-19, 2018, in the Lighthouse Room of the Country Inn & Suites, located at 5353 N 27th St in Lincoln, Nebraska. The meeting will be convened at 9:00 a.m. on October 18, and will continue on that date until recessed or adjourned, whichever shall occur first. If recessed, the meeting will reconvene in the Omaha Room of the Country Inn & Suites at 9:00 a.m. on October 19.

At 9:30 a.m., October 18, 2018, the Commission will conduct a public hearing on the adoption of proposed amendments to Nebraska Administrative Code, Title 299, Chapters 1, and 7, relating to real estate licensee pre-license education, and continuing education and training. The regulatory change will have no fiscal impact to the general public and may minimally decrease expenditures by Nebraska Real Estate Commission and regulated persons.

At times, the Commission may go into closed session during the meeting, as provided for in Neb. Rev. Stat. 84-1410.

An agenda, kept continually, shall be available for inspection at the Nebraska Real Estate Commission office. Individuals requiring physical or sensory accommodations, including interpreter services, Braille, large print, or recorded matter, please contact Greg Lemon at 301 Centennial Mall South, P.O. Box 94667, Lincoln, Nebraska, 68509, 402-471-2004 (TDD users may utilize the Nebraska Relay System at 800-833-7352), no later than 15 days prior to the meeting.





Greg Lemon - Director
Nebraska Real Estate Commission

FISCAL IMPACT STATEMENT
Preliminary

Agency: NAME – AGENCY #41 Nebraska Real Estate Commission	
Title: 299	Prepared by: Greg Lemon
Chapter(s): 1 & 7	Date prepared: 8/30/2018
Subject: Adopt amendments to Title 299 Relating to Real Estate Licensee Education	Telephone: 402 471-2004

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(X)	(X)	(X)
Increased Costs	()	()	()
Decreased Costs	(X)	()	()
Increased Revenue	()	()	()
Decreased Revenue	()	()	()
Indeterminable	()	()	()

Provide an Estimated Cost & Description of Impact:

State Agency: These amendments which eliminate duplicative annual continuing education reports on items already submitted, and certain forms for broker approve training, will require less paperwork and processing on the part of Real Estate Commission staff, education providers, and real estate licensees. Savings to the Commission will be in staff time, and while appreciable, not enough to affect current staffing levels and costs.

Political Subdivision: No Fiscal Impact

Regulated Public: These amendments which eliminate duplicative annual continuing education reports on items already submitted, and certain forms for broker approve training, will require less paperwork and processing on the part of Real Estate Commission staff, education providers, and real estate licensees. Savings to the regulated public will be in staff time in processing reports and providing them to the Commission. The provisions regarding location of schools on the same building as real estate brokerages is consistent with current industry practice so should not have any fiscal impact to pre-license education providers

If indeterminable, explain why: Not Applicable

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 means, or other methods of examination 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(6) 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.

Good cause for withdrawing approval of courses of study or instructors as provided for in Section 81-885.13 shall include but not be limited to 1) Recruiting applicants for a brokerage firm through classroom or related activities, 2) Offering classes within the same building of any active brokerage firm 3) Obtaining from or providing to applicants actual real estate examination questions.

Notice of withdrawal of approval of any course or instructor and appeal of any such order shall follow the procedures for notice and appeal provided for in Section 81-885.13.

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.~~

0087 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.

0098 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.

0109 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.

0140 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.

0121 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 §7; RS 1943, §81-885.07(5) R.S. Supp., 1974. Effective date September 2, 1973.

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, (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. Continuing education taken on or after January 1, 2017 may be used to meet the requirements of section (c) of this section.

001.01 Continuing education activities approved under this Section are not subject to the duplication provision as set forth in Section 004.07 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 004.07.

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 1/2 by 11 inches, 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.

014 The operative date of the amendments found in sections 001 of this chapter shall be July 1, 2017.

Laws 1973, LB 68, §7; RS 1943, §81-885.07 (5) R. S. Supp., 1974. Effective date September 2, 1973.

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

Laws 2016, LB678, §3: RS 1943, §81-885.56 R.S. Cum. Supp., 2016, Effective Date, October 1, 2016.

Laws 2016, LB678, §4: RS 1943, §81-885.24 R.S. Cum. Supp., 2016, Effective Date, October 1, 2016.