

AMENDED NOTICE OF MEETING


A meeting of the Nebraska Real Estate Commission will be held on February 23-24, 2023, in the Lighthouse Room of the Country Inn and Suites, located at 5353 N 27th St, in Lincoln, Nebraska. The meeting will be convened at 9:00 a.m. on February 23 and will continue on that date until recessed or adjourned, whichever shall occur first. If recessed, the meeting will reconvene at the same location at 9:00 a.m. on February 24.

At 10:00 a.m., February 23, 2023, the Commission will conduct a public hearing on the adoption of proposed amendments to Nebraska Administrative Code, Title 299, Chapters 1, 2, 5, & 7, and Title 301, Chapter 1 related to clean up of obsolete language and references, making changes related real estate education and offering equitable interests in real property. The regulatory change will have no fiscal impact to the general public and the Nebraska Real Estate Commission and may regulated persons engaged in real estate education.

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

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 an examination. Examination includes examinations completed by computerized or electronic 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~~8~~) 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.

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 81-885.18.

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.

004.04 Courses of study offered by Proprietary Schools as provided in Section 81-885.13(~~68~~) via electronic means with real time visual and audio interaction between instructor and student shall qualify as classroom education and shall not be considered distance education if the following criteria have been met:

004.04A The instructor or a proctor can continuously view all participating students on their monitor or other viewing device or screen, or otherwise demonstrate to the Commission's satisfaction the capability to track and record the presence and participation of students.

004.04B The instructor has completed and is currently certified under the Certified Distance Education Program offered by the Association of Real Estate License Law Officials or has completed an instructor development workshop offered by the Nebraska Real Estate Commission with specific training in online education within the last three years. The Commission shall offer instructor development workshops that provided training in online education no less than once a calendar year.

004.05 ~~After January 1, 2017, e~~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.

004.06 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.

004.07 Proprietary Schools as provided in Section 81-885.13(~~68~~) of the Nebraska Real Estate License Act shall provide a verification listing of attendees at approved pre-license or Post-license education in the current format specified by the Commission within ten business days of completion of the activity.

004.08 Successful completion of approved pre-license or post-license education at a Proprietary school as provided in Section 81-885.13(~~68~~) requires full-time attendance at the activity. Guidelines for what constitutes full time attendance at pre-license education as developed by the Nebraska Department of Education shall be provided to all students at or prior to the start of any instructional activity by the provider.

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 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.

008 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(4~~2~~) and 81-885.14(3) of the Nebraska Real Estate License Act.

009 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.

010 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.

011 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 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 Each broker doing business as a business entity which is allowed to register with the Secretary of State under the laws of Nebraska, including corporations, limited liability companies, partnerships, and limited partnerships, shall register their business entity with the Secretary of State and provide proof of such registration to the Commission upon application for licensing. Each broker doing business as a business entity as described in this section shall maintain such registration with the Secretary of State in good standing at all times while actively licensed and doing business as such entity.

0034 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 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 0034 to 0067 of these regulations shall constitute misleading or inaccurate advertising under Section 81-885.24(2) of the Nebraska Real Estate License Act.

0034.01 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.

0034.02 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.

0034.03 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.

0034.04 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).

0034.05 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).

0034.06 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.

0034.07 Real estate affiliate and team advertising:

0034.07a Team advertising shall always include the team name as recorded with the team's designated broker.

0034.07b Team advertising shall prominently display the name which 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.

0034.07c Advertising featuring the name of an affiliated associate broker or salesperson shall prominently display the name which 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.

004.07d An associate broker or salesperson shall, if advertising using a name other than their legal name, shall record such name with the Commission. An associate broker or salesperson shall not do business under a surname other than their legal name. An associate broker or salesperson who wishes to advertise under a hyphenated name related to marriage, or a nickname or variation of their given name shall record such name with the Commission. An associate broker or salesperson may not use a name likely to deceive or mislead to the public as to the identity of the affiliated licensee, or which suggests the licensee is operating an independent brokerage or company.

0034.08 Real estate team names:

0034.08a Must always include the word “team” or “group” as part of the team name.

0034.08b 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.

0034.08c 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”

0045 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.

0056 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.

0067 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

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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

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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 forthwith 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.

~~015 The operative date of the amendments found in sections 003 and 014 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 1994, LB 1275, '3; RS 1943, '76-2,123 R.S. Cum. Supp., 1994. Effective date July 16, 1994.

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.

Title 299 - NEBRASKA REAL ESTATE COMMISSION

Chapter 5 - DISCIPLINARY MATTERS; COMMISSION DISPUTES; DISCUSSION BY COMMISSIONERS; ACTIONS DEMONSTRATING NEGLIGENCE, INCOMPETENCY, OR UNWORTHINESS.

001 The Commission will not enter into disputes between licensees over payment or division of commissions.

002 It shall be improper for a Real Estate Commissioner to discuss with a licensee or any other person, except members of the Commission staff, any matter of a disciplinary nature which is set for hearing by the Commission.

003 Actions demonstrating negligence, incompetency, or unworthiness under Section 81-885.24(29) of the Nebraska Real Estate License Act shall include but not be limited to the following:

003.01 Preparing a land contract or trust deed for use in closing a real estate transaction without each separate land contract or trust deed being approved by an attorney.

003.02 Conspiring with an applicant to represent to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon.

003.03 Permitting a salesperson or associate broker to conduct a real estate business under a broker's name or under the name recorded with the Commission in which the broker is doing business when in fact said broker is not operating said real estate business.

003.04 Failure to make known, in writing, to any purchaser or seller any interest the licensee has in the property he or she is buying or selling. If the licensee has any interest in the property for sale, said written disclosure shall take place prior to the buyer becoming obligated to purchase the property. In a situation where a licensee is purchasing property for themselves or for an entity in which they have any interest, said written disclosure by the licensee shall take place prior to the seller becoming obligated to sell such property. Said written disclosure shall be signed and dated by the other party. A copy of the signed and dated disclosure shall be maintained by the licensee for five years from the date of the receipt by the other party. In a case where the subject property is listed by a real estate broker, such disclosure may be maintained in the transaction file, in accordance with 299 NAC 3-0043.

003.05 Failure to timely disclose, in writing, the acceptance, giving, or charging of any commission, rebate, or direct profit on an expenditure made for a principal as set forth in Neb. Rev. Stat. 81-885.24(6). Said written disclosure shall take place no later than at the time the principal agrees to the expenditure resulting in the commission, rebate, or direct profit. A copy of said written disclosure shall be delivered to and signed and dated by the principal. A copy of the signed and dated disclosure shall be maintained in the transaction file in accordance with 299 NAC 3-0043.

003.06 Failure of a licensee, if being compensated by more than one party, to disclose this fact, in writing, to all parties. Said written disclosure shall be signed and dated by all parties prior to either party becoming obligated to complete the transaction. A copy of the signed and dated disclosure shall be maintained in the transaction file in accordance with 299 NAC 3-0043.

003.07 Failure of a licensee to comply with the requirements set forth in Neb. Rev. Stat. Sections 76-2401 - 76-2430.

003.08 Failure to disclose, in writing, in accordance with Neb. Rev. Stat. Sections 76-2401 through 76-2430, the fact that said licensee is acting in the dual capacity of agent and principal in a transaction as set forth in Neb. Rev. Stat. Section 81-885.24(9). Said written disclosure shall be signed and dated by the other principal to the transaction. A copy of the signed and dated disclosure shall be maintained in the transaction file in accordance with 299 NAC 3-0043.

003.09 Failure to obtain the informed written, signed, and dated consent of all parties involved in a transaction prior to a licensee acting for more than one party in the transaction. Informed written consent means that the licensee must obtain the written agreement of said parties, as well as the licensee's employing broker, prior to acting in such a manner. A copy of said informed written consent shall be signed, dated, and maintained in the transaction file in accordance with 299 NAC 3-0043. If no transaction results then the informed written consent shall be maintained by the licensee's employing broker for five years after the date of the agreement.

003.10 Failure of the licensee to identify in writing to the seller-client, or to a seller-customer if offered pursuant to Neb. Rev. Stat. 76-2421 (4) (b), at the time the offer is presented and accepted, those categories of costs the seller will be expected to pay at closing. At the same time, the licensee shall prepare a written estimate of the costs the seller will be expected to pay at closing, to the extent the necessary cost information is reasonably available. Said written information shall be signed and dated by the seller, and a copy of the signed and dated document(s) shall be maintained in the transaction file in accordance with 299 NAC 3-0043. This subsection shall not apply to the sale of new construction; lots; agricultural property; commercial property, including residential property with five or more dwelling units; or to third-party relocation companies acting as sellers. For the purposes of this subsection, the term "agricultural property" shall mean property zoned agricultural by a county in which any part of the property is located, or, if a county does not zone land agricultural, then property any part of which is assessed as agricultural property by a county assessor.

003.11 Failure of the licensee to identify in writing to the prospective purchaser-client, or to a purchaser-customer if offered pursuant to Neb. Rev. Stat. 76-2421 (3) (b), at the time an offer is written by the purchaser or a counter offer is accepted by the purchaser, those categories of costs the purchaser will be expected to pay at closing. At the same time, the licensee shall prepare a written estimate of the costs the purchaser will be expected to pay at closing, to the extent the necessary cost information is reasonably available. Said written information shall be signed and dated by the purchaser. A copy of the signed and dated document shall be given to the purchaser and, when a transaction results, one copy

shall be maintained in the transaction file in accordance with 299 NAC 3-0043. This

subsection shall not apply to the sale of land or a lot or lots to an entity or individual representing itself, himself or herself as a builder or developer; agricultural property; commercial property, including residential property with five or more dwelling units; or to third-party relocation companies acting as purchasers. For the purposes of this subsection, the term "agricultural property" shall mean property zoned agricultural by a county in which any part of the property is located, or, if a county does not zone land agricultural, then property any part of which is assessed as agricultural property by a county assessor.

003.12 Failure without just cause to surrender unto the rightful owner, upon demand, any document or instrument coming into his or her possession.

003.13 Accepting other than cash or an immediately cashable check as earnest money unless such fact is communicated to the owner prior to his or her acceptance of the offer to purchase, and such fact is shown in the earnest money receipt. In the case of a cooperative sale in which the buyer offers a promissory note as an earnest money deposit, the note should be made payable to the listing broker or should be endorsed without recourse by the selling broker to the listing broker. The promissory note shall be delivered to the listing broker with the offer.

003.14 Failure to deposit any funds received as an earnest money deposit within 72 hours or before the end of the next banking day, after an offer is accepted, in writing, unless otherwise provided in the purchase agreement. In the event an offer is not accepted, said earnest money deposit shall be returned forthwith.

003.15 Withholding earnest money when the purchaser or seller is rightfully entitled to the money; provided, a broker may retain funds to cover expenses he or she has prepaid for a purchaser or seller from the broker's funds.

003.16 Advising against the use of the services of an attorney in any real estate transaction.

003.17 Failure to produce any document, book, or record in the licensee's possession, or under his or her control, concerning any real estate transaction under investigation by the Commission.

003.18 Failure to reduce an offer to writing where a prospective purchaser requests such offer be submitted when the licensee is: the limited seller's agent for the property; the prospective purchaser's limited buyer's agent; or the dual agent of the seller and the prospective purchaser.

003.19 Failure by any licensee to supervise persons hired to assist the licensee in his or her licensed real estate activities.

003.20 Failure to disclose, in writing, to a buyer, at or prior to the time the buyer signs an Offer to Purchase, an adverse material fact regarding the condition of a parcel of real estate of which a broker or salesperson has knowledge. Said written disclosure shall be signed and dated by the buyer, and a copy of the signed and dated disclosure shall be

maintained in the transaction file on that parcel of real estate in accordance with 299 NAC 3-0043. An adverse material fact is one which significantly affects the desirability or value of the property, and which is not reasonably ascertainable or known to the buyer.

003.21 Failure by a designated or employing broker to return: (a) a salesperson's or associate broker's license to the Real Estate Commission within fifteen days of the salesperson's or associate broker's request for transfer of his or her license; or (b) his or her broker's license, an associate broker's license, a salesperson's license, or a branch office license to the Real Estate Commission within fifteen days of the Real Estate Commission's request.

003.22 Failure by a designated or employing broker to supervise his or her associate brokers and salespersons.

003.23 Failure by the agent of the seller to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser or to the agent of the purchaser on or before the effective date of any contract which binds the purchaser to purchase the residential real property.

003.24 Failure by the agent of a purchaser to assure that a copy of the Seller Property Disclosure Statement is delivered to the purchaser on or before the effective date of any contract which binds the purchaser to purchase the residential real property, and to obtain the signed receipt of the purchaser.

003.25 Failure by a licensee who knows of an error, inaccuracy, or omission in a Seller Property Condition Disclosure Statement completed pursuant to Neb. Rev. Stat. Section 76-2,120 to disclose the error, inaccuracy, or omission, in writing, to a potential purchaser and the seller. Such disclosure shall be attached to the Seller Property Condition Disclosure Statement.

003.26 Conspiring with any lender, guaranteeing agency, or any other interested party, either verbally or by submitting false documents, to misrepresent the true and actual sale price of the real estate or the terms actually agreed upon.

003.27 Failure by any affiliated licensee, to whom the designated or employing broker has delegated the authority to supervise other affiliated licensees whose licenses are placed with said broker, to supervise said licensees. Nothing in this subsection shall relieve the designated or employing broker of his or her supervisory responsibilities.

003.28 Failure by an agent of a seller or landlord to submit a written offer for purchase or lease in a timely manner. The obligation to present offers in a timely manner is still applicable if there is a pending or accepted offer on a property that has not yet closed.

003.29 Failure by an agent, when marketing an equitable interest in real property, to obtain a written agency disclosure addendum signed by the owner or owners of the real property acknowledging the disclosure of the intent to market the equitable interest by the agent or principle seeking to profit from the sale or assignment of the equitable interest.

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

Laws 2022, LB 992, §1; RS 1943, §81-885.02, R. S. Supp., 1974. Effective date July 21, 2022.

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 nine 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 via electronic means with real time visual and audio interaction between instructor and student shall qualify as classroom education if the instructor or a proctor can continuously view all participating students on their monitor or other viewing device or screen, or otherwise demonstrate to the Commission's satisfaction the capability to track and record the presence and participation of students.

003.03 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 the criteria provided in Sec. 003.02 have not been met.

003.04 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.

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

003.05A 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.

003.05B 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.

003.05C 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.

003.05D 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.

003.05E Written affirmation from non-resident licensees that they have met the current continuing education requirement in their state of residence.

003.06 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.

003.07 Licensees may use continuing education approved as Mandatory Continued Legal Education by the Nebraska Supreme Court if subject matter of such meets the requirements of Title 299, Chapter 7, Section 003.01A.

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 Training activity shall be approved in one-hour increments. A training activity approved for one hour of training credit must consist of at least one sixty minute hour of instruction. A training activity approved for 2 or more hours of training credit must consist of 50 minutes of instruction for each hour of training credit. In the case of a training activity delivered in a distance education format there must be the content equivalent of the time requirements stated in this section 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.

~~**005.04** Approved training 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.~~

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 and training 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.~~ Upon renewal, as provided in sec. 008, above, approved providers shall submit a list of current approved instructors they wish to renew for the education and training activities.

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.~~

012.021 Successful completion of an approved training or continuing education activity requires full-time attendance at the activity. Guidelines for what constitutes full time attendance at a training or continuing education activity shall be developed and published by the Commission and provided to all students at or prior to the start of any instructional activity by the provider.

012.032 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.

012.043 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.

012.054 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.

012.065 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 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.