

AMENDMENTS TO LB596

(Amendments to E and R amendments, ER140)

Introduced by Dover, 19.

1 1. Insert the following new sections:

2 **Sec. 13.** Section 81-885.03, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 81-885.03 (1) Any person who, directly or indirectly for another,
5 with the intention or upon the promise of receiving any form of
6 compensation or consideration, offers, attempts, or agrees to perform or
7 performs any single act described in subdivision (2) of section
8 81-885.01, whether as a part of a transaction, or as an entire
9 transaction, shall be deemed a broker, associate broker, or salesperson
10 within the meaning of the Nebraska Real Estate License Act, and such
11 action shall constitute sufficient contact with the state for the
12 exercise of personal jurisdiction over such person in any action arising
13 out of such action. Committing a single act described in such subdivision
14 by a person required to be licensed under the Nebraska Real Estate
15 License Act and not so licensed shall constitute a violation of the act
16 for which the commission may impose sanctions pursuant to this section
17 for the protection of the public health, safety, or welfare.

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

24 (3) If such person violates a cease and desist order issued pursuant
25 to this section, he or she shall be subject to ~~further~~ proceedings before
26 the commission. If, during such proceedings, the commission makes a

1 finding of guilt, the commission may impose a fine not to exceed (a) one
2 thousand dollars for each day that any action is performed without the
3 appropriate license following the issuance of the order or (b) the amount
4 of all money earned as commission by the violator, whichever is greater.
5 Judgments for the collection of any fine imposed under this section may
6 be filed in the district court of any county in this state.

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

9 **Sec. 14.** Section 81-885.07, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 81-885.07 (1)(a) There is hereby created the State Real Estate
12 Commission which shall consist of the Secretary of State, who shall be
13 chairperson of the commission, and six members appointed by the Governor.

14 (b) Three of the members of the commission appointed by the Governor
15 shall be active and licensed real estate brokers who have engaged in the
16 real estate business as brokers or associate brokers for not less than
17 five years, which members shall be appointed by the Governor, one from
18 each of the three congressional districts. If a boundary of a
19 congressional district changes, a member affected by such change shall
20 continue to serve the balance of the term of appointment for the district
21 for which such member was appointed.

22 (c) The remaining members shall be appointed at large, one of whom
23 shall be representative of the public, one of whom shall be a licensed
24 real estate salesperson who has engaged in the real estate business as a
25 salesperson for not less than three years, and one of whom shall be an
26 active and licensed real estate broker who has engaged in the real estate
27 business as a broker or associate broker for not less than five years.

28 (2) At the expiration of the term of any member of the commission,
29 the Governor shall appoint a successor for a term of six years. Any
30 appointed member shall be limited to one six-year term, in addition to
31 any partial term served. In the event of a vacancy on the commission, the

1 Governor shall fill such vacancy by appointing a member to serve during
2 the unexpired term of the member whose office has become vacant. In the
3 absence of the chairperson, the senior member of the commission in point
4 of service present shall serve as presiding officer. Not less than four
5 members of the commission must be present at any official meeting of the
6 commission. The action of the majority of the members of the commission
7 shall be deemed the action of the commission. No appointed person may act
8 as a member of the commission while holding any other elective or
9 appointive state or federal office.

10 (3) Each member of the commission shall receive as compensation for
11 each day actually spent on official duties at scheduled meetings the sum
12 of one hundred dollars and expenses incurred in the performance of
13 official duties as provided in sections 81-1174 to 81-1177.

14 (4) The commission shall employ a director and deputy director who
15 shall keep a record of all the proceedings, transactions, communications,
16 and official acts of the commission, be custodians ~~eustodian~~ of all the
17 records of the commission, and perform such other duties as the
18 commission may require. The director shall call a meeting of the
19 commission at the discretion of the director or upon the direction of the
20 chairperson or upon a written request of two or more members of the
21 commission. The commission may employ such other employees as may be
22 necessary to properly carry out the Nebraska Real Estate License Act, fix
23 the salaries of such employees, and make such other expenditures as are
24 necessary to properly carry out the act. The office of the commission
25 shall be maintained in Lincoln and all files, records, and property of
26 the commission shall remain in such office. Neither the director, deputy
27 director, nor any employee of the commission may be an officer or paid
28 employee of any real estate association or group of real estate dealers
29 or brokers.

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

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

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

11 **Sec. 15.** Section 81-885.25, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 81-885.25 (1) Before the commission censures a licensee, imposes a
14 civil fine, or revokes or suspends a license, ~~or issues a cease and~~
15 ~~desist order,~~ the commission shall send to the licensee or violator a
16 copy of the complaint by registered mail, certified mail, first-class
17 mail using intelligent mail barcode or another similar tracking method
18 used or approved by the United States Postal Service, or a designated
19 delivery service as provided in section 25-505.01, which contains the
20 charges against the licensee or violator and, unless the licensee or
21 violator waives the right to a hearing and has executed a consent order,
22 give the licensee or violator a hearing on the matter.

23 (2) The licensee or violator shall have full authority to be heard
24 in person or by counsel before the commission in reference to such
25 charges. The commission shall, at least twenty days prior to the date set
26 for hearing, notify the licensee or violator in writing of the date and
27 place of the hearing. Such notice may be served by delivering it
28 personally to the licensee or violator or by sending it by either
29 registered mail, certified mail, first-class mail using intelligent mail
30 barcode or another similar tracking method used or approved by the United
31 States Postal Service, or a designated delivery service as provided in

1 section 25-505.01, to the last-known business address of such licensee or
2 any known address of the violator. If the licensee is an associate broker
3 or a salesperson, the commission shall also notify the broker employing
4 the licensee by mailing a copy of such notice to the broker's last-known
5 business address.

6 2. Renumber the remaining sections and correct the repealer
7 accordingly.