

LEGISLATIVE BILL 204

Approved by the Governor April 5, 1991

Introduced by Conway, 17; Schimek, 27

AN ACT relating to the Nebraska Real Estate License Act; to amend sections 81-885.07, 81-885.14, 81-885.19, and 81-885.20, Revised Statutes Supplement, 1990; to change provisions relating to fees; to authorize the commission to establish fees; and to repeal the original sections.

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

Section 1. That section 81-885.07, Revised Statutes Supplement, 1990, be amended to read as follows:

81-885.07. (1) There is hereby created the State Real Estate Commission which shall consist of the Secretary of State, who shall be chairperson of the commission, and six members appointed by the Governor. Four of the members of the commission appointed by the Governor shall be active and licensed real estate brokers who have engaged in the real estate business as brokers or associate brokers for not less than five years, which members shall be appointed by the Governor, one from each of the four congressional districts as the districts were constituted on January 1, 1961. The remaining members shall be appointed at large, one of whom shall be representative of the public and one of whom shall be a licensed real estate salesperson who has engaged in the real estate business as a salesperson for not less than three years.

(2) At the expiration of the term of any member of the commission, the Governor shall appoint a successor for a term of six years. Any appointed member shall be limited to one six-year term, in addition to any partial term served. In the event of a vacancy on the commission, the Governor shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant. In the absence of the chairperson, the senior member of the commission in point of service present shall serve as presiding officer. Not less than four members of the commission must be present at any official meeting of the commission. The action of the majority of the members of the commission shall be deemed the action of

the commission. No appointed person may act as a member of the commission while holding any other elective or appointive state or federal office.

(3) Each member of the commission shall receive as compensation for each day actually spent on official duties at scheduled meetings the sum of one hundred dollars and actual and necessary expenses incurred in the performance of his or her official duties.

(4) The commission shall employ a director who shall keep a record of all the proceedings, transactions, communications, and official acts of the commission, be custodian of all the records of the commission, and perform such other duties as the commission may require. The director shall call a meeting of the commission at his or her discretion or upon the direction of the chairperson or upon a written request of two or more members of the commission. The commission may employ such other employees as may be necessary to properly carry out the Nebraska Real Estate License Act, fix the salaries of such employees, and make such other expenditures as are necessary to properly carry out the act. The office of the commission shall be maintained in Lincoln and all files, records, and property of the commission shall remain in such office. Neither the director nor any employee of the commission may be an officer or paid employee of any real estate association or group of real estate dealers or brokers.

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

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

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

Sec. 2. That section 81-885.14, Revised Statutes Supplement, 1990, be amended to read as follows:

81-885.14. (1) To pay the expense of the

maintenance and operation of the office of the commission and the enforcement of the Nebraska Real Estate License Act, the commission shall, at the time an application is submitted, collect from an applicant for each broker's or salesperson's examination a fee to be established by the commission of not more than one hundred fifty dollars and an application fee of seventy-five not more than one hundred fifty dollars. The commission shall also collect a reexamination fee to be established by the commission of not more than one hundred fifty dollars for each reexamination. The commission may direct an applicant to pay the examination or reexamination fee to a third party who has contracted with the commission to administer the examination. A nonresident applicant who is duly licensed in the state of residence and who is granted a nonresident license under a reciprocal agreement without being required to take an examination shall not be required to pay the examination and application fees. Prior to the issuance of an original license, each applicant who has passed the examination required by section 81-885.13 or who has received a license under a reciprocal agreement shall pay a license fee in advance as follows to be established by the commission. The license fee established by the commission shall not exceed the following amounts: For a broker's license, sixty-five not more than one hundred fifty dollars for a resident and one hundred thirty not more than three hundred dollars for a nonresident; and for a salesperson's license, forty-five not more than one hundred dollars for a resident and ninety not more than two hundred dollars for a nonresident. After the original issuance of a license, a renewal application and an annual fee of sixty-five to be established by the commission of not more than one hundred fifty dollars for each resident broker, one hundred thirty not more than three hundred dollars for each nonresident broker, forty-five not more than one hundred dollars for each resident salesperson, and ninety not more than two hundred dollars for each nonresident salesperson shall be due and payable on or before the last day of November of each year. Failure to remit annual fees when due shall automatically cancel such license on December 31 of that year, but otherwise the license shall remain in full force and effect continuously from the date of issuance unless suspended or revoked by the commission for just cause. Any licensee who fails to file an application for the renewal of any license and pay the renewal fee as provided in this section may file a late

renewal application and shall pay, in addition to the renewal fee, the sum of ten an amount to be established by the commission of not more than twenty-five dollars for each month or fraction thereof beginning with the first day of December if such late application is filed before July 1 of the ensuing year. Any check presented to the commission as a fee for either an original or renewal license or for examination for license which is returned to the State Treasurer unpaid shall be cause for revocation or denial of license.

(2) An inactive salesperson may renew his or her license by submitting an application before December 1 prior to the ensuing year. Such salesperson shall submit the renewal fee together with the completed renewal application on which he or she has noted his or her present inactive status. Any salesperson whose license has been renewed on such inactive status shall not be permitted to engage in the real estate business until such time as he or she shall secure a new employing broker. Any license which has been inactive for a continuous period of more than three years shall be reinstated only if the licensee has met the examination requirement of an original applicant.

Sec. 3. That section 81-885.19, Revised Statutes Supplement, 1990, be amended to read as follows:

81-885.19. The commission shall prescribe the form of license. Each license shall have placed thereon the seal of the commission. The license of each salesperson and associate broker shall be delivered or mailed to the broker by whom the salesperson or associate broker is employed and shall be kept in the custody and control of such broker. It shall be the duty of each broker to display his or her own license and those of his or her associate brokers and salespersons conspicuously in his or her place of business. The commission shall annually prepare and deliver a pocket card certifying that the person whose name appears thereon is a licensed real estate broker or a licensed real estate associate broker or salesperson, as the case may be, stating the period of time for which fees have been paid and including, on salesperson's and associate broker's cards only, the name and address of the broker employing such salesperson or associate broker. If a broker maintains more than one place of business within the state, a branch office license shall be issued to such broker for each branch office so maintained by him or her upon the payment of an annual fee of thirty to be established by the commission of not

more than fifty dollars and the branch office license shall be displayed conspicuously in each branch office. The manager of a branch office must be an associate broker, and he or she shall manage no more than one branch office.

Sec. 4. That section 81-885.20, Revised Statutes Supplement, 1990, be amended to read as follows:

81-885.20. (1) Should the broker change his or her place of business, he or she shall forthwith notify the commission in writing of such change and thereupon a new pocket card shall be granted to the broker and to his or her associate brokers and salespersons.

(2) When a salesperson or associate broker leaves the employ of a broker, the employing broker shall immediately forward the license of such employee to the commission and shall furnish such information regarding the termination of employment as the commission may require and the employee shall immediately forward his or her pocket card to the commission.

(3) When a salesperson or associate broker transfers from one employing broker to another, when an associate broker changes his or her status from associate broker to that of broker, or when a broker changes his or her status to that of associate broker, a transfer fee of twenty to be established by the commission of not more than fifty dollars shall be paid to the commission.

Sec. 5. That original sections 81-885.07, 81-885.14, 81-885.19, and 81-885.20, Revised Statutes Supplement, 1990, are repealed.