

E AND R AMENDMENTS TO LB 808

Introduced by Slama, 1, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 1-116, Revised Statutes Cumulative Supplement,
4 2018, is amended to read:

5 1-116 ~~Prior to January 1, 1998, a person shall be eligible to take~~
6 ~~the examination described in section 1-114 if he or she meets the~~
7 ~~requirements of subdivision (1)(a) of section 1-114.~~

8 Any person making initial application ~~on or after January 1, 1998,~~
9 to take the examination described in section 1-114 shall be eligible to
10 take the examination if he or she has completed at least one hundred
11 fifty semester hours or two hundred twenty-five quarter hours of
12 postsecondary academic credit and has earned a baccalaureate or higher
13 degree from a college or university accredited by a regional accrediting
14 agency recognized by the United States Department of Education or a
15 similar agency as determined to be acceptable by the board. The person
16 shall demonstrate that accounting, auditing, business, and other subjects
17 at the appropriate academic level as required by the board are included
18 within the required hours of postsecondary academic credit. A person who
19 expects to complete the postsecondary academic credit and earn the degree
20 as required by this section may take test sections of the examination
21 within one hundred twenty days prior to completing the postsecondary
22 academic credit and earning the degree within sixty days following when
23 ~~the examination is held shall be eligible to take such examination, but~~
24 such person shall not receive any credit for such test sections
25 ~~examination~~ unless evidence satisfactory to the board showing that such
26 person has completed the postsecondary academic credit and earned the
27 degree as required by this section is received by the board within one

1 hundred fifty ninety days following when the first test section of the
2 examination is taken held. The board shall not prescribe the specific
3 curricula of colleges or universities. If the applicant is an individual,
4 the application shall include the applicant's social security number.

5 Sec. 2. Section 21-201, Revised Statutes Cumulative Supplement,
6 2018, is amended to read:

7 21-201 (MBCA 1.01) Sections 21-201 to 21-2,232 and sections 3 to 10
8 of this act shall be known and may be cited as the Nebraska Model
9 Business Corporation Act.

10 Sec. 3. (MBCA 1.45) In sections 3 to 10 of this act:

11 (1) Corporate action means any action taken by or on behalf of the
12 corporation, including any action taken by the incorporator, the board of
13 directors, a committee of the board of directors, an officer or agent of
14 the corporation, or the shareholders.

15 (2) Date of the defective corporate action means the date, or the
16 approximate date, if the exact date is unknown, the defective corporate
17 action was purported to have been taken.

18 (3) Defective corporate action means (i) any corporate action
19 purportedly taken that is, and at the time such corporate action was
20 purportedly taken would have been, within the power of the corporation,
21 but is void or voidable due to a failure of authorization, and (ii) an
22 overissue.

23 (4) Failure of authorization means the failure to authorize,
24 approve, or otherwise effect a corporate action in compliance with the
25 provisions of the Nebraska Model Business Corporation Act, the articles
26 of incorporation or bylaws, a corporate resolution or any plan or
27 agreement to which the corporation is a party, if and to the extent such
28 failure would render such corporate action void or voidable.

29 (5) Overissue means the purported issuance of:

30 (i) Shares of a class or series in excess of the number of shares of
31 a class or series the corporation has the power to issue under section

1 21-237 at the time of such issuance; or

2 (ii) Shares of any class or series that is not then authorized for
3 issuance by the articles of incorporation.

4 (6) Putative shares means the shares of any class or series,
5 including shares issued upon exercise of rights, options, warrants, or
6 other securities convertible into shares of the corporation, or interests
7 with respect to such shares, that were created or issued as a result of a
8 defective corporate action, that (i) but for any failure of authorization
9 would constitute valid shares, or (ii) cannot be determined by the board
10 of directors to be valid shares.

11 (7) Valid shares means the shares of any class or series that have
12 been duly authorized and validly issued in accordance with the act,
13 including as a result of ratification or validation under sections 3 to
14 10 of this act.

15 (8) Validation effective time with respect to any defective
16 corporate action ratified under sections 3 to 10 of this act means the
17 later of:

18 (i) The time at which the ratification of the defective corporate
19 action is approved by the shareholders, or if approval of shareholders is
20 not required, the time at which the notice required by section 7 of this
21 act becomes effective in accordance with section 21-215; and

22 (ii) The time at which any articles of validation filed in
23 accordance with section 9 of this act become effective.

24 The validation effective time shall not be affected by the filing or
25 pendency of a judicial proceeding under section 10 of this act or
26 otherwise, unless otherwise ordered by the court.

27 Sec. 4. (MBCA 1.46) (a) A defective corporate action shall not be
28 void or voidable if ratified in accordance with section 5 of this act or
29 validated in accordance with section 10 of this act.

30 (b) Ratification under section 5 of this act or validation under
31 section 10 of this act shall not be deemed to be the exclusive means of

1 ratifying or validating any defective corporate action, and the absence
2 or failure of ratification in accordance with sections 3 to 10 of this
3 act shall not, of itself, affect the validity or effectiveness of any
4 corporate action properly ratified under common law or otherwise, nor
5 shall it create a presumption that any such corporate action is or was a
6 defective corporate action or void or voidable.

7 (c) In the case of an overissue, putative shares shall be valid
8 shares effective as of the date originally issued or purportedly issued
9 upon:

10 (1) The effectiveness under sections 3 to 10 of this act and under
11 sections 21-2,150 to 21-2,160 of an amendment to the articles of
12 incorporation authorizing, designating, or creating such shares; or

13 (2) The effectiveness of any other corporate action under sections 3
14 to 10 of this act ratifying the authorization, designation, or creation
15 of such shares.

16 Sec. 5. (MBCA 1.47) (a) To ratify a defective corporate action
17 under this section, other than the ratification of an election of the
18 initial board of directors under subsection (b) of this section, the
19 board of directors shall take action ratifying the action in accordance
20 with section 6 of this act, stating:

21 (1) The defective corporate action to be ratified and, if the
22 defective corporate action involved the issuance of putative shares, the
23 number and type of putative shares purportedly issued;

24 (2) The date of the defective corporate action;

25 (3) The nature of the failure of authorization with respect to the
26 defective corporate action to be ratified; and

27 (4) That the board of directors approves the ratification of the
28 defective corporate action.

29 (b) In the event that a defective corporate action to be ratified
30 relates to the election of the initial board of directors of the
31 corporation under subdivision (a)(2) of section 21-223, a majority of the

1 persons who, at the time of the ratification, are exercising the powers
2 of directors may take an action stating:

3 (1) The name of the person or persons who first took action in the
4 name of the corporation as the initial board of directors of the
5 corporation;

6 (2) The earlier of the date on which such persons first took such
7 action or were purported to have been elected as the initial board of
8 directors; and

9 (3) That the ratification of the election of such person or persons
10 as the initial board of directors is approved.

11 (c) If any provision of the Nebraska Model Business Corporation Act,
12 the articles of incorporation or bylaws, any corporate resolution, or any
13 plan or agreement to which the corporation is a party in effect at the
14 time action under subsection (a) of this section is taken requires
15 shareholder approval or would have required shareholder approval at the
16 date of the occurrence of the defective corporate action, the
17 ratification of the defective corporate action approved in the action
18 taken by the directors under subsection (a) of this section shall be
19 submitted to the shareholders for approval in accordance with section 6
20 of this act.

21 (d) Unless otherwise provided in the action taken by the board of
22 directors under subsection (a) of this section, after the action by the
23 board of directors has been taken and, if required, approved by the
24 shareholders, the board of directors may abandon the ratification at any
25 time before the validation effective time without further action of the
26 shareholders.

27 Sec. 6. (MBCA 1.48) (a) The quorum and voting requirements
28 applicable to a ratifying action by the board of directors under
29 subsection (a) of section 5 of this act shall be the quorum and voting
30 requirements applicable to the corporate action proposed to be ratified
31 at the time such ratifying action is taken.

1 (b) If the ratification of the defective corporate action requires
2 approval by the shareholders under subsection (c) of section 5 of this
3 act, and if the approval is to be given at a meeting, the corporation
4 shall notify each holder of valid and putative shares, regardless of
5 whether entitled to vote, as of the record date for notice of the meeting
6 and as of the date of the occurrence of defective corporate action,
7 provided that notice shall not be required to be given to holders of
8 valid or putative shares whose identities or addresses for notice cannot
9 be determined from the records of the corporation. The notice must state
10 that the purpose, or one of the purposes, of the meeting, is to consider
11 ratification of a defective corporate action and must be accompanied by
12 (i) either a copy of the action taken by the board of directors in
13 accordance with subsection (c) of section 5 of this act or the
14 information required by subdivisions (a)(1) through (4) of section 5 of
15 this act, and (ii) a statement that any claim that the ratification of
16 such defective corporate action and any putative shares issued as a
17 result of such defective corporate action should not be effective, or
18 should be effective only on certain conditions, must be brought within
19 one hundred twenty days from the applicable validation effective time.

20 (c) Except as provided in subsection (d) of this section with
21 respect to the voting requirements to ratify the election of a director,
22 the quorum and voting requirements applicable to the approval by the
23 shareholders required by subsection (c) of section 5 of this act shall be
24 the quorum and voting requirements applicable to the corporate action
25 proposed to be ratified at the time of such shareholder approval.

26 (d) The approval by shareholders to ratify the election of a
27 director requires that the votes cast within the voting group favoring
28 such ratification exceed the votes cast opposing such ratification of the
29 election at a meeting at which a quorum is present.

30 (e) Putative shares on the record date for determining the
31 shareholders entitled to vote on any matter submitted to shareholders

1 under subsection (c) of section 5 of this act, and without giving effect
2 to any ratification of putative shares that becomes effective as a result
3 of such vote, shall neither be entitled to vote nor counted for quorum
4 purposes in any vote to approve the ratification of any defective
5 corporate action.

6 (f) If the approval under this section of putative shares would
7 result in an overissue, in addition to the approval required by section 5
8 of this act, approval of an amendment to the articles of incorporation
9 under sections 21-2,150 to 21-2,160 to increase the number of shares of
10 an authorized class or series or to authorize the creation of a class or
11 series of shares so there would be no overissue shall also be required.

12 Sec. 7. (MBCA 1.49) (a) Unless shareholder approval is required
13 under subsection (c) of section 5 of this act, prompt notice of an action
14 taken under section 5 of this act shall be given to each holder of valid
15 and putative shares, regardless of whether entitled to vote, as of (i)
16 the date of such action by the board of directors and (ii) the date of
17 the defective corporate action ratified, provided that notice shall not
18 be required to be given to holders of valid and putative shares whose
19 identities or addresses for notice cannot be determined from the records
20 of the corporation.

21 (b) The notice must contain (i) either a copy of the action taken by
22 the board of directors in accordance with subsection (a) or (b) of
23 section 5 of this act or the information required by subdivisions (a)(1)
24 through (4) or (b)(1) through (3) of section 5 of this act, as
25 applicable, and (ii) a statement that any claim that the ratification of
26 the defective corporate action and any putative shares issued as a result
27 of such defective corporate action should not be effective, or should be
28 effective only on certain conditions, must be brought within one hundred
29 twenty days from the applicable validation effective time.

30 (c) No notice under this section is required with respect to any
31 action required to be submitted to shareholders for approval under

1 subsection (c) of section 5 of this act if notice is given in accordance
2 with subsection (b) of section 6 of this act.

3 (d) A notice required by this section may be given in any manner
4 permitted by section 21-215 and, for any corporation subject to the
5 reporting requirements of section 13 or 15(d) of the Securities Exchange
6 Act of 1934, may be given by means of a filing or furnishing of such
7 notice with the United States Securities and Exchange Commission.

8 Sec. 8. (MBCA 1.50) From and after the validation effective time,
9 and without regard to the one-hundred-twenty-day period during which a
10 claim may be brought under section 10 of this act:

11 (a) Each defective corporate action ratified in accordance with
12 section 5 of this act shall not be void or voidable as a result of the
13 failure of authorization identified in the action taken under subsection
14 (a) or (b) of section 5 of this act and shall be deemed a valid corporate
15 action effective as of the date of the defective corporate action;

16 (b) The issuance of each putative share or fraction of a putative
17 share purportedly issued pursuant to a defective corporate action
18 identified in the action taken under section 5 of this act shall not be
19 void or voidable, and each such putative share or fraction of a putative
20 share shall be deemed to be an identical share or fraction of a valid
21 share as of the time it was purportedly issued; and

22 (c) Any corporate action taken subsequent to the defective corporate
23 action ratified in accordance with sections 3 to 10 of this act in
24 reliance on such defective corporate action having been validly effected
25 and any subsequent defective corporate action resulting directly or
26 indirectly from such original defective corporate action shall be valid
27 as of the time taken.

28 Sec. 9. (MBCA 1.51) (a) If the defective corporate action ratified
29 under sections 3 to 10 of this act would have required under any other
30 section of the Nebraska Model Business Corporation Act a filing in
31 accordance with the act, then, regardless of whether a filing was

1 previously made in respect of such defective corporate action and in lieu
2 of a filing otherwise required by the act, the corporation shall file
3 articles of validation in accordance with this section, and such articles
4 of validation shall serve to amend or substitute for any other filing
5 with respect to such defective corporate action required by the act.

6 (b) The articles of validation must set forth:

7 (1) The defective corporate action that is the subject of the
8 articles of validation, including, in the case of any defective corporate
9 action involving the issuance of putative shares, the number and type of
10 putative shares issued and the date or dates upon which such putative
11 shares were purported to have been issued;

12 (2) The date of the defective corporate action;

13 (3) The nature of the failure of authorization in respect of the
14 defective corporate action;

15 (4) A statement that the defective corporate action was ratified in
16 accordance with section 5 of this act, including the date on which the
17 board of directors ratified such defective corporate action and the date,
18 if any, on which the shareholders approved the ratification of such
19 defective corporate action; and

20 (5) The information required by subsection (c) of this section.

21 (c) The articles of validation must also contain the following
22 information:

23 (1) If a filing was previously made in respect of the defective
24 corporate action and no changes to such filing are required to give
25 effect to the ratification of such defective corporate action in
26 accordance with section 5 of this act, the articles of validation must
27 set forth (i) the name, title, and filing date of the filing previously
28 made and any articles of correction to that filing and (ii) a statement
29 that a copy of the filing previously made, together with any articles of
30 correction to that filing, is attached as an exhibit to the articles of
31 validation;

1 (2) If a filing was previously made in respect of the defective
2 corporate action and such filing requires any change to give effect to
3 the ratification of such defective corporate action in accordance with
4 section 5 of this act, the articles of validation must set forth (i) the
5 name, title, and filing date of the filing previously made and any
6 articles of correction to that filing and (ii) a statement that a filing
7 containing all of the information required to be included under the
8 applicable section or sections of the act to give effect to such
9 defective corporate action is attached as an exhibit to the articles of
10 validation, and (iii) the date and time that such filing is deemed to
11 have become effective; or

12 (3) If a filing was not previously made in respect of the defective
13 corporate action and the defective corporate action ratified under
14 section 5 of this act would have required a filing under any other
15 section of the act, the articles of validation must set forth (i) a
16 statement that a filing containing all of the information required to be
17 included under the applicable section or sections of the act to give
18 effect to such defective corporate action is attached as an exhibit to
19 the articles of validation, and (ii) the date and time that such filing
20 is deemed to have become effective.

21 Sec. 10. (MBCA 1.52) (a) Upon application by the corporation, any
22 successor entity to the corporation, a director of the corporation, any
23 shareholder, beneficial shareholder, or unrestricted voting trust
24 beneficial owner of the corporation, including any such shareholder,
25 beneficial shareholder, or unrestricted voting trust beneficial owner as
26 of the date of the defective corporate action ratified under section 5 of
27 this act, or any other person claiming to be substantially and adversely
28 affected by a ratification under section 5 of this act, the court may:

29 (1) Determine the validity and effectiveness of any corporate action
30 or defective corporate action;

31 (2) Determine the validity and effectiveness of any ratification

1 under section 5 of this act;

2 (3) Determine the validity of any putative shares; and

3 (4) Modify or waive any of the procedures specified in section 5 or
4 6 of this act to ratify a defective corporate action.

5 (b) In connection with an action under this section, the court may
6 make such findings or orders, and take into account any factors or
7 considerations, regarding such matters as it deems proper under the
8 circumstances.

9 (c) Service of process of the application under subsection (a) of
10 this section on the corporation may be made in any manner provided by
11 statute of this state or by rule of the applicable court for service on
12 the corporation, and no other party need be joined in order for the court
13 to adjudicate the matter. In an action filed by the corporation, the
14 court may require notice of the action be provided to other persons
15 specified by the court and permit such other persons to intervene in the
16 action.

17 (d) Notwithstanding any other provision of this section or otherwise
18 under applicable law, any action asserting that the ratification of any
19 defective corporate action and any putative shares issued as a result of
20 such defective corporate action should not be effective, or should be
21 effective only on certain conditions, shall be brought within one hundred
22 twenty days of the validation effective time.

23 Sec. 11. Sections 11 to 39 of this act shall be known and may be
24 cited as the Uniform Trust Decanting Act.

25 Sec. 12. In the Uniform Trust Decanting Act:

26 (1) Appointive property means the property or property interest
27 subject to a power of appointment.

28 (2) Ascertainable standard has the same meaning as in section
29 30-3803.

30 (3) Authorized fiduciary means:

31 (A) a trustee or other fiduciary, other than a settlor, that has

1 discretion to distribute or direct a trustee to distribute part or all of
2 the principal of the first trust to one or more current beneficiaries;

3 (B) a special fiduciary appointed under section 19 of this act; or

4 (C) a special-needs fiduciary under section 23 of this act.

5 (4) Beneficiary means a person that:

6 (A) has a present or future, vested or contingent, beneficial
7 interest in a trust;

8 (B) holds a power of appointment over trust property; or

9 (C) is an identified charitable organization that will or may
10 receive distributions under the terms of the trust.

11 (5) Charitable interest means an interest in a trust which:

12 (A) is held by an identified charitable organization and makes the
13 organization a qualified beneficiary;

14 (B) benefits only charitable organizations and, if the interest were
15 held by an identified charitable organization, would make the
16 organization a qualified beneficiary; or

17 (C) is held solely for charitable purposes and, if the interest were
18 held by an identified charitable organization, would make the
19 organization a qualified beneficiary.

20 (6) Charitable organization means:

21 (A) a person, other than an individual, organized and operated
22 exclusively for charitable purposes; or

23 (B) a government or governmental subdivision, agency, or
24 instrumentality, to the extent it holds funds exclusively for a
25 charitable purpose.

26 (7) Charitable purpose has the same meaning as the description of a
27 charitable trust in section 30-3831.

28 (8) Court means the court in this state having jurisdiction in
29 matters relating to trusts.

30 (9) Current beneficiary means a beneficiary that on the date the
31 beneficiary's qualification is determined is a distributee or permissible

1 distributee of trust income or principal. The term includes the holder of
2 a presently exercisable general power of appointment but does not include
3 a person that is a beneficiary only because the person holds any other
4 power of appointment.

5 (10) Decanting power or the decanting power means the power of an
6 authorized fiduciary under the act to distribute property of a first
7 trust to one or more second trusts or to modify the terms of the first
8 trust.

9 (11) Expanded distributive discretion means a discretionary power of
10 distribution that is not limited to an ascertainable standard or a
11 reasonably definite standard.

12 (12) First trust means a trust over which an authorized fiduciary
13 may exercise the decanting power.

14 (13) First-trust instrument means the trust instrument for a first
15 trust.

16 (14) General power of appointment means a power of appointment
17 exercisable in favor of a powerholder, the powerholder's estate, a
18 creditor of the powerholder, or a creditor of the powerholder's estate.

19 (15) Jurisdiction has the same meaning as in section 30-3803.

20 (16) Person means an individual, estate, business or nonprofit
21 entity, public corporation, government or governmental subdivision,
22 agency, or instrumentality, or other legal entity.

23 (17) Power of appointment means a power that enables a powerholder
24 acting in a nonfiduciary capacity to designate a recipient of an
25 ownership interest in or another power of appointment over the appointive
26 property. The term does not include a power of attorney.

27 (18) Powerholder means a person in which a donor creates a power of
28 appointment.

29 (19) Presently exercisable power of appointment means a power of
30 appointment exercisable by the powerholder at the relevant time. The
31 term:

1 (A) includes a power of appointment exercisable only after the
2 occurrence of a specified event, the satisfaction of an ascertainable
3 standard, or the passage of a specified time only after:

- 4 (i) the occurrence of the specified event;
5 (ii) the satisfaction of the ascertainable standard; or
6 (iii) the passage of the specified time; and

7 (B) does not include a power exercisable only at the powerholder's
8 death.

9 (20) Qualified beneficiary has the same meaning as in section
10 30-3803.

11 (21) Reasonably definite standard means a clearly measurable
12 standard under which a holder of a power of distribution is legally
13 accountable within the meaning of 26 U.S.C. 674(b)(5)(A), as such section
14 existed on the operative date of this section, and any applicable
15 regulations.

16 (22) Record means information that is inscribed on a tangible medium
17 or that is stored in an electronic or other medium and is retrievable in
18 perceivable form.

19 (23) Second trust means:

20 (A) a first trust after modification under the Uniform Trust
21 Decanting Act; or

22 (B) a trust to which a distribution of property from a first trust
23 is or may be made under the act.

24 (24) Second-trust instrument means the trust instrument for a second
25 trust.

26 (25) Settlor, except as otherwise provided in section 35 of this
27 act, has the same meaning as in section 30-3803.

28 (26) Sign means, with present intent to authenticate or adopt a
29 record:

30 (A) to execute or adopt a tangible symbol; or

31 (B) to attach to or logically associate with the record an

1 electronic symbol, sound, or process.

2 (27) State has the same meaning as in section 30-3803.

3 (28) Terms of the trust means:

4 (A) Except as otherwise provided in subdivision (B) of this
5 subdivision, the manifestation of the settlor's intent regarding a
6 trust's provisions as:

7 (i) expressed in the trust instrument; or

8 (ii) established by other evidence that would be admissible in a
9 judicial proceeding; or

10 (B) the trust's provisions as established, determined, or amended
11 by:

12 (i) a trustee or other person in accordance with applicable law;

13 (ii) a court order; or

14 (iii) a nonjudicial settlement agreement under section 30-3811.

15 (29) Trust instrument means a record executed by the settlor to
16 create a trust or by any person to create a second trust which contains
17 some or all of the terms of the trust, including any amendments.

18 Sec. 13. (a) Except as otherwise provided in subsections (b) and
19 (c) of this section, the Uniform Trust Decanting Act applies to an
20 express trust that is irrevocable or revocable by the settlor only with
21 the consent of the trustee or a person holding an adverse interest.

22 (b) The act does not apply to a trust held solely for charitable
23 purposes.

24 (c) Subject to section 25 of this act, a trust instrument may
25 restrict or prohibit exercise of the decanting power.

26 (d) The act does not limit the power of a trustee, powerholder, or
27 other person to distribute or appoint property in further trust or to
28 modify a trust under the trust instrument, law of this state other than
29 the act, common law, a court order, or a nonjudicial settlement
30 agreement.

31 (e) The act does not affect the ability of a settlor to provide in a

1 trust instrument for the distribution of the trust property or
2 appointment in further trust of the trust property or for modification of
3 the trust instrument.

4 Sec. 14. (a) In exercising the decanting power, an authorized
5 fiduciary shall act in accordance with its fiduciary duties, including
6 the duty to act in accordance with the purposes of the first trust.

7 (b) The Uniform Trust Decanting Act does not create or imply a duty
8 to exercise the decanting power or to inform beneficiaries about the
9 applicability of the act.

10 (c) Except as otherwise provided in a first-trust instrument, for
11 purposes of the act and section 30-3866 and subsection (a) of section
12 38-3867, the terms of the first trust are deemed to include the decanting
13 power.

14 Sec. 15. The Uniform Trust Decanting Act applies to a trust created
15 before, on, or after the operative date of this section which:

16 (1) has its principal place of administration in this state,
17 including a trust whose principal place of administration has been
18 changed to this state; or

19 (2) provides by its trust instrument that it is governed by the law
20 of this state or is governed by the law of this state for the purpose of:

21 (A) administration, including administration of a trust whose
22 governing law for purposes of administration has been changed to the law
23 of this state;

24 (B) construction of terms of the trust; or

25 (C) determining the meaning or effect of terms of the trust.

26 Sec. 16. A trustee or other person that reasonably relies on the
27 validity of a distribution of part or all of the property of a trust to
28 another trust, or a modification of a trust, under the Uniform Trust
29 Decanting Act, law of this state other than the act, or the law of
30 another jurisdiction is not liable to any person for any action or
31 failure to act as a result of the reliance.

1 Sec. 17. (a) In this section, a notice period begins on the day
2 notice is given under subsection (c) of this section and ends fifty-nine
3 days after the day notice is given.

4 (b) Except as otherwise provided in the Uniform Trust Decanting Act,
5 an authorized fiduciary may exercise the decanting power without the
6 consent of any person and without court approval.

7 (c) Except as otherwise provided in subsection (f) of this section,
8 an authorized fiduciary shall give notice in a record of the intended
9 exercise of the decanting power not later than sixty days before the
10 exercise to:

11 (1) each settlor of the first trust, if living or then in existence;

12 (2) each qualified beneficiary of the first trust;

13 (3) each holder of a presently exercisable power of appointment over
14 any part or all of the first trust;

15 (4) each person that currently has the right to remove or replace
16 the authorized fiduciary;

17 (5) each other fiduciary of the first trust;

18 (6) each fiduciary of the second trust;

19 (7) each person acting as an advisor or protector of the first
20 trust;

21 (8) each person holding an adverse interest who has the power to
22 consent to the revocation of the first trust; and

23 (9) the Attorney General, if subsection (b) of section 24 of this
24 act applies.

25 (d) An authorized fiduciary is not required to give notice under
26 subsection (c) of this section to a person that is not known to the
27 fiduciary or is known to the fiduciary but cannot be located by the
28 fiduciary after reasonable diligence.

29 (e) A notice under subsection (c) of this section must:

30 (1) specify the manner in which the authorized fiduciary intends to
31 exercise the decanting power;

1 (2) specify the proposed effective date for exercise of the power;

2 (3) include a copy of the first-trust instrument; and

3 (4) include a copy of all second-trust instruments.

4 (f) The decanting power may be exercised before expiration of the
5 notice period under subsection (a) of this section if all persons
6 entitled to receive notice waive the period in a signed record.

7 (g) The receipt of notice, waiver of the notice period, or
8 expiration of the notice period does not affect the right of a person to
9 file an application under section 19 of this act asserting that:

10 (1) an attempted exercise of the decanting power is ineffective
11 because it did not comply with the act or was an abuse of discretion or
12 breach of fiduciary duty; or

13 (2) section 32 of this act applies to the exercise of the decanting
14 power.

15 (h) An exercise of the decanting power is not ineffective because of
16 the failure to give notice to one or more persons under subsection (c) of
17 this section if the authorized fiduciary acted with reasonable care to
18 comply with subsection (c) of this section.

19 Sec. 18. (a) Notice to a person with authority to represent and
20 bind another person under a first-trust instrument or sections 30-3822 to
21 30-3826 has the same effect as notice given directly to the person
22 represented.

23 (b) Consent of or waiver by a person with authority to represent and
24 bind another person under a first-trust instrument or sections 30-3822 to
25 30-3826 is binding on the person represented unless the person
26 represented objects to the representation before the consent or waiver
27 otherwise would become effective.

28 (c) A person with authority to represent and bind another person
29 under a first-trust instrument or sections 30-3822 to 30-3826 may file an
30 application under section 19 of this act on behalf of the person
31 represented.

1 (d) A settlor may not represent or bind a beneficiary for purposes
2 of the Uniform Trust Decanting Act.

3 Sec. 19. (a) On application of an authorized fiduciary, a person
4 entitled to notice under subsection (c) of section 17 of this act, a
5 beneficiary, or with respect to a charitable interest the Attorney
6 General or other person that has standing to enforce the charitable
7 interest, the court may:

8 (1) provide instructions to the authorized fiduciary regarding
9 whether a proposed exercise of the decanting power is permitted under the
10 Uniform Trust Decanting Act and consistent with the fiduciary duties of
11 the authorized fiduciary;

12 (2) appoint a special fiduciary and authorize the special fiduciary
13 to determine whether the decanting power should be exercised under the
14 act and to exercise the decanting power;

15 (3) approve an exercise of the decanting power;

16 (4) determine that a proposed or attempted exercise of the decanting
17 power is ineffective because:

18 (A) after applying section 32 of this act, the proposed or attempted
19 exercise does not or did not comply with the act; or

20 (B) the proposed or attempted exercise would be or was an abuse of
21 the fiduciary's discretion or a breach of fiduciary duty;

22 (5) determine the extent to which section 32 of this act applies to
23 a prior exercise of the decanting power;

24 (6) provide instructions to the trustee regarding the application of
25 section 32 of this act to a prior exercise of the decanting power; or

26 (7) order other relief to carry out the purposes of the act.

27 (b) On application of an authorized fiduciary, the court may
28 approve:

29 (1) an increase in the fiduciary's compensation under section 26 of
30 this act; or

31 (2) a modification under section 28 of this act of a provision

1 granting a person the right to remove or replace the fiduciary.

2 Sec. 20. An exercise of the decanting power must be made in a
3 record signed by an authorized fiduciary. The signed record must,
4 directly or by reference to the notice required by section 17 of this
5 act, identify the first trust and the second trust or trusts and state
6 the property of the first trust being distributed to each second trust
7 and the property, if any, that remains in the first trust.

8 Sec. 21. (a) In this section:

9 (1) Noncontingent right means a right that is not subject to the
10 exercise of discretion or the occurrence of a specified event that is not
11 certain to occur. The term does not include a right held by a beneficiary
12 if any person has discretion to distribute property subject to the right
13 to any person other than the beneficiary or the beneficiary's estate.

14 (2) Presumptive remainder beneficiary means a qualified beneficiary
15 other than a current beneficiary.

16 (3) Successor beneficiary means a beneficiary that is not a
17 qualified beneficiary on the date the beneficiary's qualification is
18 determined. The term does not include a person that is a beneficiary only
19 because the person holds a nongeneral power of appointment.

20 (4) Vested interest means:

21 (A) a right to a mandatory distribution that is a noncontingent
22 right as of the date of the exercise of the decanting power;

23 (B) a current and noncontingent right, annually or more frequently,
24 to a mandatory distribution of income, a specified dollar amount, or a
25 percentage of value of some or all of the trust property;

26 (C) a current and noncontingent right, annually or more frequently,
27 to withdraw income, a specified dollar amount, or a percentage of value
28 of some or all of the trust property;

29 (D) a presently exercisable general power of appointment; or

30 (E) a right to receive an ascertainable part of the trust property
31 on the trust's termination which is not subject to the exercise of

1 discretion or to the occurrence of a specified event that is not certain
2 to occur.

3 (b) Subject to subsection (c) of this section and section 24 of this
4 act, an authorized fiduciary that has expanded distributive discretion
5 over the principal of a first trust for the benefit of one or more
6 current beneficiaries may exercise the decanting power over the principal
7 of the first trust.

8 (c) Subject to section 23 of this act, in an exercise of the
9 decanting power under this section, a second trust may not:

10 (1) include as a current beneficiary a person that is not a current
11 beneficiary of the first trust, except as otherwise provided in
12 subsection (d) of this section;

13 (2) include as a presumptive remainder beneficiary or successor
14 beneficiary a person that is not a current beneficiary, presumptive
15 remainder beneficiary, or successor beneficiary of the first trust,
16 except as otherwise provided in subsection (d) of this section; or

17 (3) reduce or eliminate a vested interest.

18 (d) Subject to subdivision (3) of subsection (c) of this section and
19 section 24 of this act, in an exercise of the decanting power under this
20 section, a second trust may be a trust created or administered under the
21 law of any jurisdiction and may:

22 (1) retain a power of appointment granted in the first trust;

23 (2) omit a power of appointment granted in the first trust, other
24 than a presently exercisable general power of appointment;

25 (3) create or modify a power of appointment if the powerholder is a
26 current beneficiary of the first trust and the authorized fiduciary has
27 expanded distributive discretion to distribute principal to the
28 beneficiary; and

29 (4) create or modify a power of appointment if the powerholder is a
30 presumptive remainder beneficiary or successor beneficiary of the first
31 trust, but the exercise of the power may take effect only after the

1 powerholder becomes, or would have become if then living, a current
2 beneficiary.

3 (e) A power of appointment described in subdivisions (1) through (4)
4 of subsection (d) of this section may be general or nongeneral. The class
5 of permissible appointees in favor of which the power may be exercised
6 may be broader than or different from the beneficiaries of the first
7 trust.

8 (f) If an authorized fiduciary has expanded distributive discretion
9 over part but not all of the principal of a first trust, the fiduciary
10 may exercise the decanting power under this section over that part of the
11 principal over which the authorized fiduciary has expanded distributive
12 discretion.

13 Sec. 22. (a) In this section, limited distributive discretion means
14 a discretionary power of distribution that is limited to an ascertainable
15 standard or a reasonably definite standard.

16 (b) An authorized fiduciary that has limited distributive discretion
17 over the principal of the first trust for benefit of one or more current
18 beneficiaries may exercise the decanting power over the principal of the
19 first trust.

20 (c) Under this section and subject to section 24 of this act, a
21 second trust may be created or administered under the law of any
22 jurisdiction. Under this section, the second trusts, in the aggregate,
23 must grant each beneficiary of the first trust beneficial interests which
24 are substantially similar to the beneficial interests of the beneficiary
25 in the first trust.

26 (d) A power to make a distribution under a second trust for the
27 benefit of a beneficiary who is an individual is substantially similar to
28 a power under the first trust to make a distribution directly to the
29 beneficiary. A distribution is for the benefit of a beneficiary if:

30 (1) the distribution is applied for the benefit of the beneficiary;

31 (2) the beneficiary is under a legal disability or the trustee

1 reasonably believes the beneficiary is incapacitated, and the
2 distribution is made as permitted under the Nebraska Uniform Trust Code;
3 or

4 (3) the distribution is made as permitted under the terms of the
5 first-trust instrument and the second-trust instrument for the benefit of
6 the beneficiary.

7 (e) If an authorized fiduciary has limited distributive discretion
8 over part but not all of the principal of a first trust, the fiduciary
9 may exercise the decanting power under this section over that part of the
10 principal over which the authorized fiduciary has limited distributive
11 discretion.

12 Sec. 23. (a) In this section:

13 (1) Beneficiary with a disability means a beneficiary of a first
14 trust who the special-needs fiduciary believes may qualify for
15 governmental benefits based on disability, whether or not the beneficiary
16 currently receives those benefits or is an individual who has been
17 adjudicated incapacitated.

18 (2) Governmental benefits means financial aid or services from a
19 state, federal, or other public agency.

20 (3) Special-needs fiduciary means, with respect to a trust that has
21 a beneficiary with a disability:

22 (A) a trustee or other fiduciary, other than a settlor, that has
23 discretion to distribute part or all of the principal of a first trust to
24 one or more current beneficiaries;

25 (B) if no trustee or fiduciary has discretion under subdivision (3)
26 (A) of this subsection, a trustee or other fiduciary, other than a
27 settlor, that has discretion to distribute part or all of the income of
28 the first trust to one or more current beneficiaries; or

29 (C) if no trustee or fiduciary has discretion under subdivisions (3)
30 (A) and (B) of this subsection, a trustee or other fiduciary, other than
31 a settlor, that is required to distribute part or all of the income or

1 principal of the first trust to one or more current beneficiaries.

2 (4) Special-needs trust means a trust the trustee believes would not
3 be considered a resource for purposes of determining whether a
4 beneficiary with a disability is eligible for governmental benefits.

5 (b) A special-needs fiduciary may exercise the decanting power under
6 section 21 of this act over the principal of a first trust as if the
7 fiduciary had authority to distribute principal to a beneficiary with a
8 disability subject to expanded distributive discretion if:

9 (1) a second trust is a special-needs trust that benefits the
10 beneficiary with a disability; and

11 (2) the special-needs fiduciary determines that exercise of the
12 decanting power will further the purposes of the first trust.

13 (c) In an exercise of the decanting power under this section, the
14 following rules apply:

15 (1) Notwithstanding subdivision (c)(2) of section 21 of this act,
16 the interest in the second trust of a beneficiary with a disability may:

17 (A) be a pooled trust as defined by medicaid law for the benefit of
18 the beneficiary with a disability under 42 U.S.C. 1396p(d)(4)(C), as such
19 section existed on the operative date of this section; or

20 (B) contain payback provisions complying with reimbursement
21 requirements of medicaid law under 42 U.S.C. 1396p(d)(4)(A), as such
22 section existed on the operative date of this section.

23 (2) Subdivision (c)(3) of section 21 of this act does not apply to
24 the interests of the beneficiary with a disability.

25 (3) Except as affected by any change to the interests of the
26 beneficiary with a disability, the second trust, or if there are two or
27 more second trusts, the second trusts in the aggregate, must grant each
28 other beneficiary of the first trust beneficial interests in the second
29 trusts which are substantially similar to the beneficiary's beneficial
30 interests in the first trust.

31 Sec. 24. (a) In this section:

1 (1) Determinable charitable interest means a charitable interest
2 that is a right to a mandatory distribution currently, periodically, on
3 the occurrence of a specified event, or after the passage of a specified
4 time and which is unconditional or will be held solely for charitable
5 purposes.

6 (2) Unconditional means not subject to the occurrence of a specified
7 event that is not certain to occur, other than a requirement in a trust
8 instrument that a charitable organization be in existence or qualify
9 under a particular provision of the Internal Revenue Code of 1986, as
10 amended, on the date of the distribution, if the charitable organization
11 meets the requirement on the date of determination.

12 (b) If a first trust contains a determinable charitable interest,
13 the Attorney General has the rights of a qualified beneficiary and may
14 represent and bind the charitable interest.

15 (c) If a first trust contains a charitable interest, the second
16 trust or trusts may not:

17 (1) diminish the charitable interest;

18 (2) diminish the interest of an identified charitable organization
19 that holds the charitable interest;

20 (3) alter any charitable purpose stated in the first-trust
21 instrument; or

22 (4) alter any condition or restriction related to the charitable
23 interest.

24 (d) If there are two or more second trusts, the second trusts shall
25 be treated as one trust for purposes of determining whether the exercise
26 of the decanting power diminishes the charitable interest or diminishes
27 the interest of an identified charitable organization for purposes of
28 subsection (c) of this section.

29 (e) If a first trust contains a determinable charitable interest,
30 the second trust or trusts that include a charitable interest pursuant to
31 subsection (c) of this section must be administered under the law of this

1 state unless:

2 (1) the Attorney General, after receiving notice under section 17 of
3 this act, fails to object in a signed record delivered to the authorized
4 fiduciary within the notice period;

5 (2) the Attorney General consents in a signed record to the second
6 trust or trusts being administered under the law of another jurisdiction;
7 or

8 (3) the court approves the exercise of the decanting power.

9 (f) The Uniform Trust Decanting Act does not limit the powers and
10 duties of the Attorney General under law of this state other than the
11 act.

12 Sec. 25. (a) An authorized fiduciary may not exercise the decanting
13 power to the extent the first-trust instrument expressly prohibits
14 exercise of:

15 (1) the decanting power; or

16 (2) a power granted by state law to the fiduciary to distribute part
17 or all of the principal of the trust to another trust or to modify the
18 trust.

19 (b) Exercise of the decanting power is subject to any restriction in
20 the first-trust instrument that expressly applies to exercise of:

21 (1) the decanting power; or

22 (2) a power granted by state law to a fiduciary to distribute part
23 or all of the principal of the trust to another trust or to modify the
24 trust.

25 (c)(1) An authorized fiduciary who is a current beneficiary of the
26 first trust or a beneficiary to which the net income or principal of the
27 first trust would be distributed if the first trust were terminated may
28 not exercise the decanting power under the Uniform Trust Decanting Act in
29 a manner to eliminate or restrict a spendthrift clause or a clause
30 restraining the voluntary or involuntary transfer of a beneficiary's
31 interest in the first trust.

1 (2) Subject to subdivision (c)(1) of this section, a general
2 prohibition of the amendment or revocation of a first trust, a
3 spendthrift clause, or a clause restraining the voluntary or involuntary
4 transfer of a beneficiary's interest does not preclude exercise of the
5 decanting power.

6 (d) Subject to subsections (a) and (b) of this section, an
7 authorized fiduciary may exercise the decanting power under the Uniform
8 Trust Decanting Act even if the first-trust instrument permits the
9 authorized fiduciary or another person to modify the first-trust
10 instrument or to distribute part or all of the principal of the first
11 trust to another trust.

12 (e) If a first-trust instrument contains an express prohibition
13 described in subsection (a) of this section or an express restriction
14 described in subsection (b) of this section, the provision must be
15 included in the second-trust instrument.

16 Sec. 26. (a) If a first-trust instrument specifies an authorized
17 fiduciary's compensation, the fiduciary may not exercise the decanting
18 power to increase the fiduciary's compensation above the specified
19 compensation unless:

20 (1) all qualified beneficiaries of the second trust consent to the
21 increase in a signed record; or

22 (2) the increase is approved by the court.

23 (b) If a first-trust instrument does not specify an authorized
24 fiduciary's compensation, the fiduciary may not exercise the decanting
25 power to increase the fiduciary's compensation above the compensation
26 permitted by the Nebraska Uniform Trust Code unless:

27 (1) all qualified beneficiaries of the second trust consent to the
28 increase in a signed record; or

29 (2) the increase is approved by the court.

30 (c) A change in an authorized fiduciary's compensation which is
31 incidental to other changes made by the exercise of the decanting power

1 is not an increase in the fiduciary's compensation for purposes of
2 subsections (a) and (b) of this section.

3 Sec. 27. (a) Except as otherwise provided in this section, a
4 second-trust instrument may not relieve an authorized fiduciary from
5 liability for breach of trust to a greater extent than the first-trust
6 instrument.

7 (b) A second-trust instrument may provide for indemnification of an
8 authorized fiduciary of the first trust or another person acting in a
9 fiduciary capacity under the first trust for any liability or claim that
10 would have been payable from the first trust if the decanting power had
11 not been exercised.

12 (c) A second-trust instrument may not reduce fiduciary liability in
13 the aggregate.

14 (d) Subject to subsection (c) of this section, a second-trust
15 instrument may divide and reallocate fiduciary powers among fiduciaries,
16 including one or more trustees, distribution advisors, investment
17 advisors, trust protectors, or other persons, and relieve a fiduciary
18 from liability for an act or failure to act of another fiduciary as
19 permitted by law of this state other than the Uniform Trust Decanting
20 Act.

21 Sec. 28. An authorized fiduciary may not exercise the decanting
22 power to modify a provision in a first-trust instrument granting another
23 person power to remove or replace the fiduciary unless:

24 (1) the person holding the power consents to the modification in a
25 signed record and the modification applies only to the person;

26 (2) the person holding the power and the qualified beneficiaries of
27 the second trust consent to the modification in a signed record and the
28 modification grants a substantially similar power to another person; or

29 (3) the court approves the modification and the modification grants
30 a substantially similar power to another person.

31 Sec. 29. (a) In this section:

1 (1) Grantor trust means a trust as to which a settlor of a first
2 trust is considered the owner under 26 U.S.C. 671 to 677 or 26 U.S.C.
3 679, as such sections existed on the operative date of this section.

4 (2) Internal Revenue Code means the Internal Revenue Code of 1986,
5 as amended.

6 (3) Nongrantor trust means a trust that is not a grantor trust.

7 (4) Qualified benefits property means property subject to the
8 minimum distribution requirements of 26 U.S.C. 401(a)(9) and any
9 applicable regulations, or to any similar requirements that refer to 26
10 U.S.C. 401(a)(9) or the regulations, as such section and regulations
11 existed on the operative date of this section.

12 (b) An exercise of the decanting power is subject to the following
13 limitations:

14 (1) If a first trust contains property that qualified, or would have
15 qualified but for provisions of the Uniform Trust Decanting Act other
16 than this section, for a marital deduction for purposes of the gift or
17 estate tax under the Internal Revenue Code or a state gift, estate, or
18 inheritance tax, the second-trust instrument must not include or omit any
19 term that, if included in or omitted from the trust instrument for the
20 trust to which the property was transferred, would have prevented the
21 transfer from qualifying for the deduction, or would have reduced the
22 amount of the deduction, under the same provisions of the Internal
23 Revenue Code or state law under which the transfer qualified.

24 (2) If the first trust contains property that qualified, or would
25 have qualified but for provisions of the Uniform Trust Decanting Act
26 other than this section, for a charitable deduction for purposes of the
27 income, gift, or estate tax under the Internal Revenue Code or a state
28 income, gift, estate, or inheritance tax, the second-trust instrument
29 must not include or omit any term that, if included in or omitted from
30 the trust instrument for the trust to which the property was transferred,
31 would have prevented the transfer from qualifying for the deduction, or

1 would have reduced the amount of the deduction, under the same provisions
2 of the Internal Revenue Code or state law under which the transfer
3 qualified.

4 (3) If the first trust contains property that qualified, or would
5 have qualified but for provisions of the Uniform Trust Decanting Act
6 other than this section, for the exclusion from the gift tax described in
7 26 U.S.C. 2503(b), as such section existed on the operative date of this
8 section, the second-trust instrument must not include or omit a term
9 that, if included in or omitted from the trust instrument for the trust
10 to which the property was transferred, would have prevented the transfer
11 from qualifying under 26 U.S.C. 2503(b), as such section existed on the
12 operative date of this section. If the first trust contains property that
13 qualified, or would have qualified but for provisions of the Uniform
14 Trust Decanting Act other than this section, for the exclusion from the
15 gift tax described in 26 U.S.C. 2503(b), as such section existed on the
16 operative date of this section, by application of 26 U.S.C. 2503(c), as
17 such section existed on the operative date of this section, the second-
18 trust instrument must not include or omit a term that, if included or
19 omitted from the trust instrument for the trust to which the property was
20 transferred, would have prevented the transfer from qualifying under 26
21 U.S.C. 2503(c), as such section existed on the operative date of this
22 section.

23 (4) If the property of the first trust includes shares of stock in
24 an S corporation, as defined in 26 U.S.C. 1361, as such section existed
25 on the operative date of this section, and the first trust is, or but for
26 provisions of the Uniform Trust Decanting Act other than this section
27 would be, a permitted shareholder under any provision of 26 U.S.C. 1361,
28 as such section existed on the operative date of this section, an
29 authorized fiduciary may exercise the power with respect to part or all
30 of the S-corporation stock only if any second trust receiving the stock
31 is a permitted shareholder under 26 U.S.C. 1361(c)(2), as such section

1 existed on the operative date of this section. If the property of the
2 first trust includes shares of stock in an S corporation and the first
3 trust is, or but for provisions of this act other than this section would
4 be, a qualified subchapter-S trust within the meaning of 26 U.S.C.
5 1361(d), as such section existed on the operative date of this section,
6 the second-trust instrument must not include or omit a term that prevents
7 the second trust from qualifying as a qualified subchapter-S trust.

8 (5) If the first trust contains property that qualified, or would
9 have qualified but for provisions of the Uniform Trust Decanting Act
10 other than this section, for a zero inclusion ratio for purposes of the
11 generation-skipping transfer tax under 26 U.S.C. 2642(c), as such section
12 existed on the operative date of this section, the second-trust
13 instrument must not include or omit a term that, if included in or
14 omitted from the first-trust instrument, would have prevented the
15 transfer to the first trust from qualifying for a zero inclusion ratio
16 under 26 U.S.C. 2642(c), as such section existed on the operative date of
17 this section.

18 (6) If the first trust is directly or indirectly the beneficiary of
19 qualified benefits property, the second-trust instrument may not include
20 or omit any term that, if included in or omitted from the first-trust
21 instrument, would have increased the minimum distributions required with
22 respect to the qualified benefits property under 26 U.S.C. 401(a)(9), as
23 such section existed on the operative date of this section, and any
24 applicable regulations, or any similar requirements that refer to 26
25 U.S.C. 401(a)(9), as such section existed on the operative date of this
26 section, or the regulations. If an attempted exercise of the decanting
27 power violates the preceding sentence, the trustee is deemed to have held
28 the qualified benefits property and any reinvested distributions of the
29 property as a separate share from the date of the exercise of the power
30 and section 32 of this act applies to the separate share.

31 (7) If the first trust qualifies as a grantor trust because of the

1 application of 26 U.S.C. 672(f)(2)(A), as such section existed on the
2 operative date of this section, the second trust may not include or omit
3 a term that, if included in or omitted from the first-trust instrument,
4 would have prevented the first trust from qualifying under 26 U.S.C.
5 672(f)(2)(A), as such section existed on the operative date of this
6 section.

7 (8) In this subdivision, tax benefit means a federal or state tax
8 deduction, exemption, exclusion, or other benefit not otherwise listed in
9 this section, except for a benefit arising from being a grantor trust.
10 Subject to subdivision (9) of this subsection, a second-trust instrument
11 may not include or omit a term that, if included in or omitted from the
12 first-trust instrument, would have prevented qualification for a tax
13 benefit if:

14 (A) the first-trust instrument expressly indicates an intent to
15 qualify for the benefit or the first-trust instrument clearly is designed
16 to enable the first trust to qualify for the benefit; and

17 (B) the transfer of property held by the first trust or the first
18 trust qualified, or but for provisions of the Uniform Trust Decanting Act
19 other than this section, would have qualified for the tax benefit.

20 (9) Subject to subdivision (4) of this subsection:

21 (A) except as otherwise provided in subdivision (7) of this
22 subsection, the second trust may be a nongrantor trust, even if the first
23 trust is a grantor trust; and

24 (B) except as otherwise provided in subdivision (10) of this
25 subsection, the second trust may be a grantor trust, even if the first
26 trust is a nongrantor trust.

27 (10) An authorized fiduciary may not exercise the decanting power if
28 a settlor objects in a signed record delivered to the fiduciary within
29 the notice period and:

30 (A) the first trust and a second trust are both grantor trusts, in
31 whole or in part, the first trust grants the settlor or another person

1 the power to cause the first trust to cease to be a grantor trust, and
2 the second trust does not grant an equivalent power to the settlor or
3 other person; or

4 (B) the first trust is a nongrantor trust and a second trust is a
5 grantor trust, in whole or in part, with respect to the settlor, unless:

6 (i) the settlor has the power at all times to cause the second trust
7 to cease to be a grantor trust; or

8 (ii) the first-trust instrument contains a provision granting the
9 settlor or another person a power that would cause the first trust to
10 cease to be a grantor trust and the second-trust instrument contains the
11 same provision.

12 Sec. 30. (a) Subject to subsection (b) of this section, a second
13 trust may have a duration that is the same as or different from the
14 duration of the first trust.

15 (b) To the extent that property of a second trust is attributable to
16 property of the first trust, the property of the second trust is subject
17 to any rules governing maximum perpetuity, accumulation, or suspension of
18 the power of alienation which apply to property of the first trust.

19 Sec. 31. An authorized fiduciary may exercise the decanting power
20 whether or not under the first trust's discretionary distribution
21 standard the fiduciary would have made or could have been compelled to
22 make a discretionary distribution of principal at the time of the
23 exercise.

24 Sec. 32. (a) If exercise of the decanting power would be effective
25 under the Uniform Trust Decanting Act except that the second-trust
26 instrument in part does not comply with the act, the exercise of the
27 power is effective and the following rules apply with respect to the
28 principal of the second trust attributable to the exercise of the power:

29 (1) A provision in the second-trust instrument which is not
30 permitted under the act is void to the extent necessary to comply with
31 the act.

1 (2) A provision required by the act to be in the second-trust
2 instrument which is not contained in the instrument is deemed to be
3 included in the instrument to the extent necessary to comply with the
4 act.

5 (b) If a trustee or other fiduciary of a second trust determines
6 that subsection (a) of this section applies to a prior exercise of the
7 decanting power, the fiduciary shall take corrective action consistent
8 with the fiduciary's duties.

9 Sec. 33. (a) In this section:

10 (1) Animal trust means a trust or an interest in a trust created to
11 provide for the care of one or more animals.

12 (2) Protector means a person appointed in an animal trust to enforce
13 the trust on behalf of the animal or, if no such person is appointed in
14 the trust, a person appointed by the court for that purpose.

15 (b) The decanting power may be exercised over an animal trust that
16 has a protector to the extent the trust could be decanted under the
17 Uniform Trust Decanting Act if each animal that benefits from the trust
18 were an individual, if the protector consents in a signed record to the
19 exercise of the power.

20 (c) A protector for an animal has the rights under the act of a
21 qualified beneficiary.

22 (d) Notwithstanding any other provision of the act, if a first trust
23 is an animal trust, in an exercise of the decanting power, the second
24 trust must provide that trust property may be applied only to its
25 intended purpose for the period the first trust benefitted the animal.

26 Sec. 34. A reference in the Nebraska Uniform Trust Code to a trust
27 instrument or terms of the trust includes a second-trust instrument and
28 the terms of the second trust.

29 Sec. 35. (a) For purposes of law of this state other than the
30 Uniform Trust Decanting Act and subject to subsection (b) of this
31 section, a settlor of a first trust is deemed to be the settlor of the

1 second trust with respect to the portion of the principal of the first
2 trust subject to the exercise of the decanting power.

3 (b) In determining settlor intent with respect to a second trust,
4 the intent of a settlor of the first trust, a settlor of the second
5 trust, and the authorized fiduciary may be considered.

6 Sec. 36. (a) Except as otherwise provided in subsection (c) of this
7 section, if exercise of the decanting power was intended to distribute
8 all the principal of the first trust to one or more second trusts, later-
9 discovered property belonging to the first trust and property paid to or
10 acquired by the first trust after the exercise of the power is part of
11 the trust estate of the second trust or trusts.

12 (b) Except as otherwise provided in subsection (c) of this section,
13 if exercise of the decanting power was intended to distribute less than
14 all the principal of the first trust to one or more second trusts, later-
15 discovered property belonging to the first trust or property paid to or
16 acquired by the first trust after exercise of the power remains part of
17 the trust estate of the first trust.

18 (c) An authorized fiduciary may provide in an exercise of the
19 decanting power or by the terms of a second trust for disposition of
20 later-discovered property belonging to the first trust or property paid
21 to or acquired by the first trust after exercise of the power.

22 Sec. 37. A debt, liability, or other obligation enforceable against
23 property of a first trust is enforceable to the same extent against the
24 property when held by the second trust after exercise of the decanting
25 power.

26 Sec. 38. In applying and construing the Uniform Trust Decanting
27 Act, consideration must be given to the need to promote uniformity of the
28 law with respect to its subject matter among states that enact it.

29 Sec. 39. This act modifies, limits, or supersedes the federal
30 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001
31 et seq., but does not modify, limit, or supersede section 101(c) of that

1 act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the
2 notices described in section 103(b) of that act, 15 U.S.C. 7003(b), as
3 such sections existed on the operative date of this section.

4 Sec. 40. Section 25-223, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 25-223 (1) Any action to recover damages based on any alleged
7 breach of warranty on improvements to real property or based on any
8 alleged deficiency in the design, planning, supervision, or observation
9 of construction, or construction of an improvement to real property,
10 except improvements to real property subject to the Nebraska Condominium
11 Act, shall be commenced within four years after any alleged act or
12 omission constituting such breach of warranty or deficiency. If such
13 cause of action is not discovered and could not be reasonably discovered
14 within such four-year period, or within one year preceding the expiration
15 of such four-year period, then the cause of action may be commenced
16 within two years from the date of such discovery or from the date of
17 discovery of facts which would reasonably lead to such discovery,
18 whichever is earlier. In no event may any action be commenced to recover
19 damages for an alleged breach of warranty on improvements to real
20 property or deficiency in the design, planning, supervision, or
21 observation of construction, or construction of an improvement to real
22 property more than ten years beyond the time of the act giving rise to
23 the cause of action.

24 (2)(a) Any action to recover damages based on any alleged breach of
25 warranty on improvements to real property or based on any alleged
26 deficiency in the design, planning, supervision, or observation of
27 construction, or construction of an improvement to real property that is
28 a condominium or part of a condominium project subject to the Nebraska
29 Condominium Act shall be commenced within two years after any alleged act
30 or omission constituting such breach of warranty or deficiency. If such
31 cause of action is not discovered and could not be reasonably discovered

1 within such two-year period, or within one year preceding the expiration
2 of such two-year period, then the cause of action may be commenced within
3 one year from the date of such discovery or from the date of discovery of
4 facts which would reasonably lead to such discovery, whichever is
5 earlier. In no event may any action be commenced to recover damages for
6 an alleged breach of warranty on improvements to real property or
7 deficiency in the design, planning, supervision, or observation of
8 construction, or construction of an improvement to real property more
9 than five years beyond the time of the act giving rise to the cause of
10 action.

11 (b) Any action brought under this section shall also comply with
12 section 76-890.

13 Sec. 41. Section 76-842, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 76-842 (a) The declaration for a condominium must contain:

16 (1) the name of the condominium, which must include the word
17 condominium or be followed by the words a condominium, and the name of
18 the association;

19 (2) the name of every county in which any part of the condominium is
20 situated;

21 (3) a legally sufficient description of the real estate included in
22 the condominium;

23 (4) a statement of the anticipated number of units which the
24 declarant reserves the right to create, subject to an amendment of the
25 declaration to add more units pursuant to the Nebraska Condominium Act;

26 (5) a description of the boundaries of each unit created by the
27 declaration, including the unit's identifying number;

28 (6) a description of any limited common elements, other than those
29 specified in subdivision (b)(8) of section 76-846;

30 (7) a general description of any development rights and other
31 special declarant rights defined in subdivision subsection (23) of

1 section 76-827 reserved by the declarant;

2 (8) an allocation to each unit of the allocated interests in the
3 manner described in section 76-844;

4 (9) any restrictions on use, occupancy, and alienation of the units;
5 and

6 (10) for a condominium project with more than fifteen units,
7 exclusive of common area, a plan prepared by a licensed engineer or
8 architect for the preventive maintenance of the condominium and all
9 common elements therein, including, but not limited to, depreciation
10 studies and reserve analyses, an annually updated five-year capital plan,
11 and minimum financial reserves based on the reserve analyses; and

12 (11) (10) all matters required by sections 76-843 to 76-846, 76-852,
13 and 76-853, and subsection (d) of section 76-861.

14 (b) Except as otherwise provided in section 76-856, the declaration
15 may contain any other matters the declarant deems appropriate.

16 Sec. 42. Section 76-844, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 76-844 (a) The declaration shall allocate a fraction or percentage
19 of undivided interests in the common elements and in the common expenses
20 of the association, and a portion of the votes in the association, to
21 each unit and state the formulas used to establish those allocations.
22 ~~Those allocations may not discriminate in favor of units owned by the~~
23 ~~declarant.~~

24 (b) If units may be added to or withdrawn from the condominium, the
25 declaration must state the formulas to be used to reallocate the
26 allocated interests among all units included in the condominium after the
27 addition or withdrawal.

28 (c) The declaration may provide: (i) that different allocations of
29 votes shall be made to the units on particular matters specified in the
30 declaration; (ii) for cumulative voting only for the purpose of electing
31 members of the executive board; and (iii) for class voting on specified

1 issues affecting the class if necessary to protect valid interests of the
2 class. A declarant may not utilize cumulative or class voting for the
3 purpose of evading any limitation imposed on declarants by the Nebraska
4 Condominium Act ~~sections 76-825 to 76-894~~, nor may units constitute a
5 class because they are owned by a declarant.

6 (d) Except for minor variations due to rounding, the sum of the
7 undivided interests in the common elements and common expense liabilities
8 allocated at any time to all the units must equal one if stated as
9 fractions or one hundred percent if stated as percentages. In the event
10 of discrepancy between an allocated interest and the result derived from
11 application of the pertinent formula, the allocated interest prevails.

12 (e) The common elements are not subject to partition, and any
13 purported conveyance, encumbrance, judicial sale, or other voluntary or
14 involuntary transfer of an undivided interest in the common elements made
15 without the unit to which that interest is allocated, is void.

16 Sec. 43. Section 76-854, Reissue Revised Statutes of Nebraska, is
17 amended to read:

18 76-854 (a) Except in cases of amendments that may be executed by (1)
19 a declarant under subsection (f) of section 76-846 or under section
20 76-847, (2) the association under section 76-831 or 76-850, subsection
21 (d) of section 76-843, subsection (c) of section 76-845, or subsection
22 (a) of section 76-849, or (3) certain unit owners under subsection (b) of
23 section 76-845, subsection (a) of section 76-849, subsection (b) of
24 section 76-850, or subsection (b) of section 76-855, and except as
25 limited by subsection (d) of this section, the declaration, including the
26 plats and plans, may be amended only by vote or agreement of unit owners
27 of units to which at least sixty-seven percent of the votes in the
28 association are allocated or any larger majority the declaration
29 specifies up to eighty percent of the votes in the association exclusive
30 of the declarant. The declaration may specify a smaller number only if
31 all of the units are restricted exclusively to nonresidential use.

1 (b) No action to challenge the validity of an amendment adopted by
2 the association pursuant to this section may be brought more than one
3 year after the amendment is recorded.

4 (c) Every amendment to the declaration must be recorded in every
5 county in which any portion of the condominium is located and is
6 effective only upon recordation.

7 (d) Except to the extent expressly permitted or required by other
8 provisions of the Nebraska Condominium Act, no amendment may create or
9 increase special declarant rights, increase the number of units, or
10 change the boundaries of any unit, the allocated interests of a unit, or
11 the uses to which any unit is restricted in the absence of the unanimous
12 consent of the unit owners. In addition, no amendment may change the
13 boundaries of any unit, increase the allocated interests of any unit, or
14 change the uses to which any unit is restricted, without the consent of
15 the owner of the unit.

16 (e) Amendments to the declaration required by the act to be recorded
17 by the association shall be prepared, executed, recorded, and certified
18 on behalf of the association by any officer of the association designated
19 for that purpose or, in the absence of designation, by the president of
20 the association.

21 Sec. 44. Section 76-857, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 76-857 (a) If the declaration for a condominium provides that any of
24 the powers described in section 76-860 are to be exercised by or may be
25 delegated to a profit or nonprofit corporation, or unincorporated
26 association, which exercises those or other powers on behalf of one or
27 more condominiums or for the benefit of the unit owners of one or more
28 condominiums, all provisions of the Nebraska Condominium Act sections
29 76-825 to 76-894 applicable to unit owners associations apply to any such
30 corporation or unincorporated association, except as modified by this
31 section. However, in no case shall the declaration provide that the power

1 to institute or intervene as a plaintiff in litigation or administrative
2 proceedings, other than litigation or administrative proceedings to
3 enforce covenants, bylaws, or rules against unit owners or the unit
4 owners association, be delegated to or exercised by any party other than
5 the unit owners or the declarant.

6 (b) Unless a master association is acting in the capacity of an
7 association described in section 76-859, it may exercise the powers set
8 forth in subdivision (a)(2) of section 76-860 only to the extent
9 expressly permitted in the declarations of condominiums which are part of
10 the master association or expressly described in the delegations of power
11 from those condominiums to the master association.

12 (c) If the declaration of any condominium provides that the
13 executive board may delegate certain powers to a master association, the
14 members of the executive board have no liability for the acts or
15 omissions of the master association with respect to those powers
16 following delegation.

17 (d) The rights and responsibilities of unit owners with respect to
18 the unit owners association set forth in sections 76-861, 76-866 to
19 76-868, and 76-870 apply in the conduct of the affairs of a master
20 association only to those persons who elect the board of a master
21 association, whether or not those persons are otherwise unit owners
22 within the meaning of the act sections 76-825 to 76-894.

23 (e) Notwithstanding the provisions of subsection (f) of section
24 76-861 with respect to the election of the executive board of an
25 association, by all unit owners after the period of declarant control
26 ends, and even if a master association is also an association described
27 in section 76-859, the articles of incorporation or other instrument
28 creating the master association and the declaration of each condominium
29 the powers of which are assigned by the declaration or delegated to the
30 master association may provide that the executive board of the master
31 association must be elected after the period of declarant control in any

1 of the following ways:

2 (1) All unit owners of all condominiums subject to the master
3 association may elect all members of that executive board.

4 (2) All members of the executive boards of all condominiums subject
5 to the master association may elect all members of that executive board.

6 (3) All unit owners of each condominium subject to the master
7 association may elect specified members of that executive board.

8 (4) All members of the executive board of each condominium subject
9 to the master association may elect specified members of that executive
10 board.

11 Sec. 45. Section 76-859, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 76-859 A unit owners association must be organized no later than the
14 date the units first unit in the condominium equal to one-half of the
15 total number of units plus one are is conveyed. The membership of the
16 association at all times shall consist exclusively of all the unit owners
17 or, following termination of the condominium, of all former unit owners
18 entitled to distributions of proceeds under section 76-855 or their
19 heirs, successors, or assigns. The association shall be organized as a
20 profit or nonprofit corporation or as an unincorporated association.

21 Sec. 46. Section 76-860, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 76-860 (a) Except as provided in subsection (b) of this section and
24 subject to the provisions of the declaration, the association, even if
25 unincorporated, may:

26 (1) Adopt and amend bylaws and rules and regulations;

27 (2) Adopt and amend budgets for revenue, expenditures, and reserves
28 and collect assessments for common expenses from unit owners;

29 (3) Hire and discharge managing agents and other employees, agents,
30 and independent contractors;

31 (4) Institute, ~~defend,~~ or intervene as a plaintiff in litigation or

1 administrative proceedings, other than litigation or administrative
2 proceedings to enforce covenants, bylaws, or rules against unit owners or
3 the unit owners association, in its own name on behalf of itself or two
4 or more unit owners on matters affecting the condominium upon the
5 affirmative vote of at least eighty percent of the votes in the
6 association exclusive of the declarant;

7 (5) Make contracts and incur liabilities;

8 (6) Regulate the use, maintenance, repair, replacement, and
9 modification of common elements;

10 (7) Cause additional improvements to be made as a part of the common
11 elements;

12 (8) Acquire, hold, encumber, and convey in its own name any right,
13 title, or interest to real or personal property, but common elements may
14 be encumbered, conveyed, or subjected to a security interest only
15 pursuant to section 76-870;

16 (9) Grant easements, leases, licenses, and concessions through or
17 over the common elements;

18 (10) Impose and receive any payments, fees, or charges for the use,
19 rental, or operation of the common elements, other than limited common
20 elements described in subdivisions (2) and (4) of section 76-839, and for
21 services provided to unit owners;

22 (11) Impose charges for late payment of assessments and, after
23 notice and opportunity to be heard, levy reasonable fines for violations
24 of the declaration, bylaws, and rules and regulations for the
25 association;

26 (12) Impose reasonable charges for the preparation and recordation
27 of amendments to the declaration, resale statements required by section
28 76-884, or statements of unpaid assessments;

29 (13) Provide for the indemnification of its officers and executive
30 board and maintain directors' and officers' liability insurance;

31 (14) Assign its right to future income, including the right to

1 receive common expense assessments, but only to the extent the
2 declaration expressly so provides;

3 (15) Exercise any other powers conferred by the declaration or
4 bylaws;

5 (16) Exercise all other powers that may be exercised in this state
6 by legal entities of the same type as the association; and

7 (17) Exercise any other powers necessary and proper for the
8 governance and operation of the association.

9 (b) The declaration may not impose limitations on the power of the
10 association to deal with the declarant which are more restrictive than
11 the limitations imposed on the power of the association to deal with
12 other persons.

13 Sec. 47. Section 76-861, Revised Statutes Supplement, 2019, is
14 amended to read:

15 76-861 (a) Except as provided in the declaration, the bylaws,
16 subsection (b) of this section, or other provisions of the Nebraska
17 Condominium Act, the executive board may act in all instances on behalf
18 of the association. In the performance of their duties, the officers and
19 members of the executive board are required to exercise ordinary and
20 reasonable care.

21 (b) The executive board may not act on behalf of the association to
22 commence litigation on behalf of the unit owners or the unit owners
23 association, to amend the declaration pursuant to section 76-854, to
24 terminate the condominium pursuant to section 76-855, or to elect members
25 of the executive board or determine the qualifications, powers and
26 duties, or terms of office of executive board members pursuant to
27 subsection (f) of this section, but the executive board may fill
28 vacancies in its membership for the unexpired portion of any term.

29 (c) Within thirty days after adoption of any proposed budget for the
30 condominium, the executive board shall provide a summary of the budget to
31 all the unit owners, and shall set a date for a meeting of the unit

1 owners to consider ratification of the budget not less than fourteen nor
2 more than thirty days after mailing of the summary. Unless at that
3 meeting a majority of all votes in the association or any larger vote
4 specified in the declaration reject the budget, the budget is ratified,
5 whether or not a quorum is present. In the event the proposed budget is
6 rejected, the periodic budget last ratified by the unit owners shall be
7 continued until such time as the unit owners ratify a subsequent budget
8 proposed by the executive board.

9 (d) Subject to subsection (e) of this section, the declaration may
10 provide for a period of declarant control of the association, during
11 which period a declarant, or persons designated by him or her, may
12 appoint and remove the officers and members of the executive board.
13 Regardless of the period provided in the declaration, a period of
14 declarant control terminates no later than the earlier of: (i) Sixty days
15 after conveyance of ninety percent of the units which may be created to
16 unit owners other than a declarant; or (ii) two years after all
17 declarants have ceased to offer units for sale in the ordinary course of
18 business. A declarant may voluntarily surrender the right to appoint and
19 remove officers and members of the executive board before termination of
20 that period, but in that event he or she may require, for the duration of
21 the period of declarant control, that specified actions of the
22 association or executive board, as described in a recorded instrument
23 executed by the declarant, be approved by the declarant before they
24 become effective. Successor boards following declarant control may not
25 discriminate nor act arbitrarily with respect to units still owned by a
26 declarant or a successor declarant.

27 (e) Not later than sixty days after conveyance of fifty ~~twenty-five~~
28 percent of the units which may be created to unit owners other than a
29 declarant, at least one member and not less than twenty-five percent of
30 the members of the executive board shall be elected exclusively by unit
31 owners other than the declarant. ~~Not later than sixty days after~~

1 ~~conveyance of fifty percent of the units which may be created to unit~~
2 ~~owners other than a declarant, not less than thirty three and one third~~
3 ~~percent of the members of the executive board shall be elected~~
4 ~~exclusively by unit owners other than the declarant.~~

5 (f) Not later than the termination of any period of declarant
6 control, the unit owners shall elect an executive board of at least three
7 members, at least a majority of whom must be unit owners. The executive
8 board shall elect the officers. The executive board members and officers
9 shall take office upon election.

10 (g) Notwithstanding any provision of the declaration or bylaws to
11 the contrary, the unit owners, by a two-thirds vote of all persons
12 present and entitled to vote at any meeting of the unit owners at which a
13 quorum is present, may remove any member of the executive board with or
14 without cause, other than a member appointed by the declarant.

15 (h) The association shall file with the register of deeds of the
16 county in which the condominium is located a condominium statement
17 listing the name of the association and the names and addresses of the
18 current officers of the association. Such filing shall be made every year
19 on or before December 31. The receipt of any legal notice by or service
20 of process on such officer personally or at such officer's filed address
21 shall constitute notice to the association. If the association fails to
22 make the filing required by this subsection, the posting of the legal
23 notice or process at the entrance, main office, or other prominent
24 location in the common area of the condominium shall constitute notice to
25 the association until such filing is made.

26 Sec. 48. Section 76-867, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 76-867 (a) Unless the bylaws provide otherwise, a quorum is present
29 throughout any meeting of the association if persons entitled to cast
30 thirty-five ~~twenty~~ percent of the votes which may be cast for election of
31 the executive board are present in person or by proxy at the beginning of

1 the meeting.

2 (b) Unless the bylaws specify a larger percentage, a quorum is
3 deemed present throughout any meeting of the executive board if persons
4 entitled to cast fifty percent of the votes on that board are present at
5 the beginning of the meeting.

6 Sec. 49. Section 76-869, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 76-869 (a) Neither the association nor any unit owner except the
9 declarant is liable for that declarant's torts in connection with any
10 part of the condominium which that declarant has the responsibility to
11 maintain. Otherwise, an action alleging a wrong done by the association
12 must be brought against the association and not against any unit owner.
13 If the wrong occurred during any period of declarant control and the
14 association gives the declarant reasonable notice of and an opportunity
15 to defend against the action, the declarant who then controlled the
16 association is liable to the association or to any unit owner only ~~:(i)~~
17 ~~For all tort losses not covered by insurance suffered by the association~~
18 ~~or that unit owner, and (ii) for all costs which the association would~~
19 ~~not have incurred but for a breach of contract or other negligent~~
20 ~~wrongful act or omission by the declarant. Whenever the declarant is~~
21 ~~liable to the association under this section, the declarant is also~~
22 ~~liable for all litigation expenses, including reasonable attorney's fees,~~
23 ~~incurred by the association. Any statute of limitation affecting the~~
24 ~~association's right of action under this section is tolled until the~~
25 ~~period of declarant control terminates.~~ A unit owner is not precluded
26 from bringing an action contemplated by this section because he or she is
27 a unit owner or a member or officer of the association. Liens resulting
28 from judgments against the association are governed by section 76-875.

29 (b) The declarant shall not be liable for any action, loss, or cost
30 pursuant to this section if at the time the loss occurred, insurance
31 required by section 76-871 was in place.

1 Sec. 50. Section 76-870, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 76-870 (a) Portions of the common elements may be encumbered or
4 conveyed or otherwise subjected to a security interest by the association
5 if persons entitled to cast at least sixty-seven ~~eighty~~ percent of the
6 votes in the association, including sixty-seven ~~eighty~~ percent of the
7 votes allocated to units not owned by a declarant, or any larger
8 percentage the declaration specifies, agree to that action; but all the
9 owners of units to which any limited common element is allocated must
10 agree ~~in order~~ to encumber or convey that limited common element or
11 subject it to a security interest. The declaration may specify a smaller
12 percentage only if all of the units are restricted exclusively to
13 nonresidential uses. Proceeds of the sale are an asset of the
14 association.

15 (b) An agreement to encumber or convey common elements or subject
16 them to a security interest must be evidenced by the execution of an
17 agreement, or ratifications thereof, in the same manner as a deed, by the
18 requisite number of unit owners. The agreement must specify a date after
19 which the agreement will be void unless recorded before that date. The
20 agreement and all ratifications thereof must be recorded in every county
21 in which a portion of the condominium is situated and is effective only
22 upon recordation.

23 (c) The association, on behalf of the unit owners, may contract to
24 encumber or convey common elements or subject them to a security
25 interest, but the contract is not enforceable against the association
26 until approved pursuant to subsections (a) and (b) of this section.
27 Thereafter, the association has all powers necessary and appropriate to
28 effect the conveyance or encumbrance, including the power to execute
29 deeds or other instruments.

30 (d) Any purported conveyance, encumbrance, judicial sale, or other
31 voluntary transfer of common elements, unless made pursuant to this

1 section, is void.

2 (e) A conveyance or an encumbrance of common elements pursuant to
3 this section does not deprive any unit of its rights of access and
4 support.

5 (f) Unless the declaration otherwise provides, a conveyance or an
6 encumbrance of common elements pursuant to this section does not affect
7 the priority or validity of preexisting encumbrances.

8 Sec. 51. Section 76-884, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 76-884 (a) Except in the case of a sale where delivery of a public-
11 offering statement is required or unless exempt under subsection (b) of
12 section 76-878, the unit owner and any other person in the business of
13 selling real estate who offers a unit to a purchaser shall furnish to a
14 purchaser before conveyance a copy of the declaration other than the
15 plats and plans, the bylaws, the rules or regulations of the association,
16 and the following information:

17 (1) a statement setting forth the amount of the monthly common
18 expense assessment and any unpaid common expense or special assessment
19 currently due and payable from the selling unit owner;

20 (2) any other fees payable by unit owners;

21 (3) the most recent regularly prepared balance sheet and income and
22 expense statement, if any, of the association;

23 (4) the current operating budget of the association, if any;

24 (5) a statement that a copy of any insurance policy provided for the
25 benefit of unit owners is available from the association upon request;

26 ~~and~~

27 (6) a statement of the remaining term of any leasehold estate
28 affecting the condominium and the provisions governing any extension or
29 renewal thereof; and -

30 (7) a disclosure of any threatened or pending litigation involving
31 the unit or the association.

1 (b) The association, within ten days after a request by a unit
2 owner, shall furnish in writing the information necessary to enable the
3 unit owner to comply with this section. A unit owner providing
4 information pursuant to subsection (a) of this section is not liable to
5 the purchaser for any erroneous information provided by the association
6 and included in the certificate.

7 (c) A purchaser is not liable for any unpaid assessment or fee
8 greater than the amount set forth in the information prepared by the
9 association. The unit owner or any other person in the business of
10 selling real estate who offers a unit to a purchaser is not liable to a
11 purchaser for the failure or delay of the association to provide such
12 information in a timely manner.

13 Sec. 52. Section 76-890, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 76-890 (a) A judicial proceeding for breach of any obligation
16 arising under section 76-887 or 76-888 must be commenced within two ~~four~~
17 years after the cause of action accrues, but the parties may agree to
18 reduce the period of limitation to not less than one year ~~two years~~. With
19 respect to a unit that may be occupied for residential use, an agreement
20 to reduce the period of limitation must be evidenced by an instrument
21 executed by the purchaser. Prior to commencing any judicial proceeding
22 under this section, the person seeking to commence the judicial
23 proceeding must (1) provide written notice of the proposed proceeding and
24 the specific alleged defect or defects to the prospective defendant or
25 defendants and (2) give the prospective defendant or defendants at least
26 three months to cure the alleged defect or defects. If the defect or
27 defects are such that they cannot reasonably be cured within three
28 months, the cure period shall extend as long as the prospective defendant
29 has commenced and is diligently proceeding with repairs. Providing the
30 notice in this section in a manner reasonably understood to inform the
31 prospective defendant of the specific alleged defect or defects shall

1 toll any applicable statute of limitations until the alleged defect or
2 defects are cured. Any proceeding commenced without strict compliance
3 with this section is subject to dismissal for such noncompliance.

4 (b) Subject to subsection (c) of this section, a cause of action for
5 breach of warranty, regardless of the purchaser's lack of knowledge of
6 the breach, accrues:

7 (1) as to a unit, at the time the purchaser to whom the warranty is
8 first made enters into possession if a possessory interest was conveyed
9 or at the time of acceptance of the instrument of conveyance if a
10 nonpossessory interest was conveyed; and

11 (2) as to each common element, at the time the common element is
12 completed or, if later, (i) as to a common element that may be added to
13 the condominium or portion thereof, at the time the first unit therein is
14 conveyed to a bona fide purchaser, or (ii) as to a common element within
15 any other portion of the condominium, at the time the first unit in the
16 condominium is conveyed to a bona fide purchaser.

17 (c) If a warranty explicitly extends to future performance or
18 duration of any improvement or component of the condominium, the cause of
19 action accrues at the time the breach is discovered or at the end of the
20 period for which the warranty explicitly extends, whichever is earlier.

21 Sec. 53. Section 76-902, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 76-902 The tax imposed by section 76-901 shall not apply to:

24 (1) Deeds recorded prior to November 18, 1965;

25 (2) Deeds to property transferred by or to the United States of
26 America, the State of Nebraska, or any of their agencies or political
27 subdivisions;

28 (3) Deeds which secure or release a debt or other obligation;

29 (4) Deeds which, without additional consideration, confirm, correct,
30 modify, or supplement a deed previously recorded but which do not extend
31 or limit existing title or interest;

1 (5)(a) Deeds between spouses, between ex-spouses for the purpose of
2 conveying any rights to property acquired or held during the marriage, or
3 between parent and child, without actual consideration therefor, and (b)
4 deeds to or from a family corporation, partnership, or limited liability
5 company when all the shares of stock of the corporation or interest in
6 the partnership or limited liability company are owned by members of a
7 family, or a trust created for the benefit of a member of that family,
8 related to one another within the fourth degree of kindred according to
9 the rules of civil law, and their spouses, for no consideration other
10 than the issuance of stock of the corporation or interest in the
11 partnership or limited liability company to such family members or the
12 return of the stock to the corporation in partial or complete liquidation
13 of the corporation or deeds in dissolution of the interest in the
14 partnership or limited liability company. In order to qualify for the
15 exemption for family corporations, partnerships, or limited liability
16 companies, the property shall be transferred in the name of the
17 corporation or partnership and not in the name of the individual
18 shareholders, partners, or members;

19 (6) Tax deeds;

20 (7) Deeds of partition;

21 (8) Deeds made pursuant to mergers, consolidations, sales, or
22 transfers of the assets of corporations pursuant to plans of merger or
23 consolidation filed with the office of Secretary of State. A copy of such
24 plan filed with the Secretary of State shall be presented to the register
25 of deeds before such exemption is granted;

26 (9) Deeds made by a subsidiary corporation to its parent corporation
27 for no consideration other than the cancellation or surrender of the
28 subsidiary's stock;

29 (10) Cemetery deeds;

30 (11) Mineral deeds;

31 (12) Deeds executed pursuant to court decrees;

1 (13) Land contracts;

2 (14) Deeds which release a reversionary interest, a condition
3 subsequent or precedent, a restriction, or any other contingent interest;

4 (15) Deeds of distribution executed by a personal representative
5 conveying to devisees or heirs property passing by testate or intestate
6 succession;

7 (16) Transfer on death deeds or revocations of transfer on death
8 deeds;

9 (17) Certified or authenticated death certificates;

10 (18) Deeds transferring property located within the boundaries of an
11 Indian reservation if the grantor or grantee is a reservation Indian;

12 (19) Deeds transferring property into a trust if the transfer of the
13 same property would be exempt if the transfer was made directly from the
14 grantor to the beneficiary or beneficiaries under the trust. No such
15 exemption shall be granted unless the register of deeds is presented with
16 a signed statement certifying that the transfer of the property is made
17 under such circumstances as to come within one of the exemptions
18 specified in this section and that evidence supporting the exemption is
19 maintained by the person signing the statement and is available for
20 inspection by the Department of Revenue;

21 (20) Deeds transferring property from a trustee to a beneficiary of
22 a trust;

23 (21) Deeds which convey property held in the name of any partnership
24 or limited liability company not subject to subdivision (5) of this
25 section to any partner in the partnership or member of the limited
26 liability company or to his or her spouse;

27 (22) Leases;

28 (23) Easements;

29 (24) Deeds which transfer title from a trustee to a beneficiary
30 pursuant to a power of sale exercised by a trustee under a trust deed;~~or~~

31 (25) Deeds transferring property, without actual consideration

1 therefor, to a nonprofit organization that is exempt from federal income
2 tax under section 501(c)(3) of the Internal Revenue Code and is not a
3 private foundation as defined in section 509(a) of the Internal Revenue
4 Code; ~~or -~~

5 (26) Deeds transferring property pursuant to the Uniform Trust
6 Decanting Act.

7 Sec. 54. Section 76-2202, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 76-2202 The Legislature finds that as a result of the enactment of
10 the Dodd-Frank Wall Street Reform and Consumer Protection Act and the
11 Financial Institutions Reform, Recovery, and Enforcement Act of 1989,
12 Nebraska's laws providing for regulation of real property appraisers
13 require restructuring and updating in order to comply with such acts.
14 Compliance with the acts is necessary to ensure an adequate number of
15 real property appraisers in Nebraska to conduct appraisals of real estate
16 involved in federally related transactions as defined in such acts.

17 Sec. 55. Section 76-2204, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 76-2204 Appraisal means (1) as a noun, an opinion of value or the
20 act or process of developing an opinion of value or (2) as an adjective,
21 pertaining to appraising and related functions such as real property
22 appraisal practice ~~or real property appraisal activity~~. An appraisal is
23 ~~must be~~ numerically expressed as a specific amount, as a range of
24 numbers, or as a relationship to a previous value opinion or numerical
25 benchmark.

26 Sec. 56. Section 76-2205.02, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 76-2205.02 Appraisal review means (1) as a noun, the act or process
29 of developing an opinion about the quality of a real property appraiser's
30 work that was performed as part of real property appraisal practice a
31 ~~valuation assignment, evaluation assignment, or appraisal review~~

1 ~~assignment~~ or (2) as an adjective, of or pertaining to an opinion about
2 the quality of another real property appraiser's work that was performed
3 as part of real property appraisal practice ~~a valuation assignment,~~
4 ~~evaluation assignment, or appraisal review assignment.~~

5 Sec. 57. Section 76-2207.01, Reissue Revised Statutes of Nebraska,
6 is amended to read:

7 76-2207.01 Assignment means a valuation service that is performed by
8 a real property ~~an~~ appraiser as a consequence of an agreement with a
9 client.

10 Sec. 58. Section 76-2207.17, Reissue Revised Statutes of Nebraska,
11 is amended to read:

12 76-2207.17 Assignment results means the opinions or conclusions, not
13 limited to value, developed by a real property appraiser when performing
14 valuation services specific to real property appraisal practice ~~an~~
15 ~~assignment not limited to value for an appraisal assignment, and not~~
16 ~~limited to an opinion about the quality of another appraiser's work for~~
17 ~~an appraisal review assignment.~~

18 Sec. 59. Section 76-2207.22, Reissue Revised Statutes of Nebraska,
19 is amended to read:

20 76-2207.22 Client means the person or persons who engage a real
21 property appraiser ~~, by employment or contract, a real property appraiser~~
22 in a specific assignment whether ~~. The client may engage and communicate~~
23 ~~with the appraiser~~ directly or through an agent.

24 Sec. 60. Section 76-2207.26, Reissue Revised Statutes of Nebraska,
25 is amended to read:

26 76-2207.26 Credential holder means (1) any person who holds a valid
27 credential as a trainee real property appraiser, licensed real property
28 appraiser, certified residential real property appraiser, or certified
29 general real property appraiser and (2) any person who holds a temporary
30 credential permit ~~to engage in real property appraisal practice activity~~
31 within this state.

1 Sec. 61. Section 76-2207.27, Revised Statutes Supplement, 2019, is
2 amended to read:

3 76-2207.27 Education provider means: Any real property appraisal or
4 real-estate-related organization; proprietary school; accredited degree-
5 awarding community college, college, or university; state or federal
6 agency; or such other provider that may be approved by the board that
7 provides real property appraiser training or education.

8 Sec. 62. Section 76-2207.30, Revised Statutes Supplement, 2019, is
9 amended to read:

10 76-2207.30 Financial Institutions Reform, Recovery, and Enforcement
11 Act of 1989 means the act as it existed on January 1, 2020 ~~2019~~.

12 Sec. 63. Section 76-2212.03, Reissue Revised Statutes of Nebraska,
13 is amended to read:

14 76-2212.03 Jurisdiction of practice means any jurisdiction in which
15 an appraiser devotes his or her time engaged in real property appraisal
16 practice activity.

17 Sec. 64. Section 76-2215, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 76-2215 Real property appraisal practice activity means any act or
20 process performed by a real property appraiser involved in developing and
21 reporting an analysis, opinion, or conclusion relating to the specified
22 interests in or aspects of identified real estate or identified real
23 property or an appraisal review. Real property appraisal practice
24 ~~activity~~ includes, but is not limited to, evaluation assignments,
25 valuation assignments, and appraisal review assignments.

26 Sec. 65. Section 76-2216, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 76-2216 Real property appraiser means a person who is a credential
29 holder. ÷

30 ~~(1) Engages in real property appraisal activity;~~

31 ~~(2) Advertises or holds himself or herself out to the general public~~

1 ~~as a real property appraiser; or~~

2 ~~(3) Offers, attempts, or agrees to perform or performs real property~~
3 ~~appraisal activity.~~

4 Sec. 66. Section 76-2216.02, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 76-2216.02 Report means any communication, written, oral, or by
7 electronic means, of assignment results ~~an appraisal or appraisal review~~
8 ~~that is~~ transmitted to the client or a party authorized by the client
9 upon completion of an assignment. Testimony related to assignment results
10 ~~an appraisal or appraisal review~~ is deemed to be an oral report.

11 Sec. 67. Section 76-2218.02, Reissue Revised Statutes of Nebraska,
12 is amended to read:

13 76-2218.02 Uniform Standards of Professional Appraisal Practice
14 means the standards adopted and promulgated by The Appraisal Foundation
15 as the standards existed on January 1, 2020 ~~2018~~.

16 Sec. 68. Section 76-2219.01, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 76-2219.01 Valuation services means ~~all~~ services pertaining to an
19 aspect ~~aspects~~ of property value, including a service ~~services~~ performed
20 by real property appraisers.

21 Sec. 69. Section 76-2219.02, Reissue Revised Statutes of Nebraska,
22 is amended to read:

23 76-2219.02 Workfile means data, information, and documentation
24 necessary to support a real property appraiser's opinions ~~analyses,~~
25 ~~opinion,~~ and conclusions, and to show compliance with the Uniform
26 Standards of Professional Appraisal Practice as it applies to an
27 assignment.

28 Sec. 70. Section 76-2220, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 76-2220 (1) Except as provided in section 76-2221, it shall be
31 unlawful for anyone to act as a real property appraiser in this state

1 without first obtaining proper credentialing as required under the Real
2 Property Appraiser Act.

3 (2) Except as provided in section 76-2221, any person who, directly
4 or indirectly for another, offers, attempts, ~~or~~ agrees to engage, or
5 engages in real property appraisal practice, or who advertises or holds
6 himself or herself out to the general public as a real property
7 appraiser, perform any act described in section 76-2216 shall be deemed a
8 real property appraiser within the meaning of the Real Property Appraiser
9 Act, and such action shall constitute sufficient contact with this state
10 for the exercise of personal jurisdiction over such person in any action
11 arising out of such act. Committing a single act described in this such
12 section by a person required to be credentialed under the Real Property
13 Appraiser Act and not so credentialed shall constitute a violation of the
14 act for which the board may impose sanctions pursuant to this section for
15 the protection of the public health, safety, or welfare.

16 (3) The board may issue a cease and desist order against any person
17 who violates this section ~~by performing any action described in section~~
18 ~~76-2216 without the appropriate credential~~. Such order shall be final ten
19 days after issuance unless such person requests a hearing pursuant to
20 section 76-2240. The board may, through the Attorney General, obtain an
21 order from the district court for the enforcement of the cease and desist
22 order.

23 Sec. 71. Section 76-2221, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 76-2221 The Real Property Appraiser Act shall not apply to:

26 (1) Any real property appraiser who is a salaried employee of (a)
27 the federal government, (b) any agency of the state government or a
28 political subdivision which appraises real estate, (c) any insurance
29 company authorized to do business in this state, or (d) any bank, savings
30 bank, savings and loan association, building and loan association, credit
31 union, or small loan company licensed by this state or supervised or

1 regulated by or through federal enactments covering financial
2 institutions, except that any employee of the entities listed in
3 subdivisions (a) through (d) of this subdivision who signs a report as a
4 credentialed real property appraiser shall be subject to the act and the
5 Uniform Standards of Professional Appraisal Practice. Any salaried
6 employee of the entities listed in subdivisions (a) through (d) of this
7 subdivision who is a credentialed real property appraiser and who does
8 not sign a report as a credentialed real property appraiser shall include
9 the following disclosure prominently with such report: This opinion of
10 value may not meet the minimum standards contained in the Uniform
11 Standards of Professional Appraisal Practice and is not governed by the
12 Real Property Appraiser Act;

13 (2) A person referred to in subsection (1) of section 81-885.16;

14 (3) Any person who provides assistance (a) in obtaining the data
15 upon which assignment results are an appraisal is based, (b) in the
16 physical preparation of a report, such as taking photographs, preparing
17 charts, maps, or graphs, or typing or printing the report, or (c) that
18 does not directly involve the exercise of judgment in arriving at the
19 assignment results analyses, opinions, or conclusions concerning real
20 estate or real property set forth in the report;

21 (4) Any owner of real estate, employee of the owner, or attorney
22 licensed to practice law in this state representing the owner who renders
23 an estimate or opinion of value of the real estate or any interest in the
24 real estate when such estimate or opinion is for the purpose of real
25 estate taxation, or any other person who renders such an estimate or
26 opinion of value when that estimate or opinion requires a specialized
27 knowledge that a real property appraiser would not have, except that a
28 real property appraiser or a person licensed under the Nebraska Real
29 Estate License Act is not exempt under this subdivision;

30 (5) Any owner of real estate, employee of the owner, or attorney
31 licensed to practice law in this state representing the owner who renders

1 an estimate or opinion of value of real estate or any interest in real
2 estate or damages thereto when such estimate or opinion is offered as
3 testimony in any condemnation proceeding, or any other person who renders
4 such an estimate or opinion when that estimate or opinion requires a
5 specialized knowledge that a real property appraiser would not have,
6 except that a real property appraiser or a person licensed under the
7 Nebraska Real Estate License Act is not exempt under this subdivision;

8 (6) Any owner of real estate, employee of the owner, or attorney
9 licensed to practice law in this state representing the owner who renders
10 an estimate or opinion of value of the real estate or any interest in the
11 real estate when such estimate or opinion is offered in connection with a
12 legal matter involving real property;

13 (7) Any person appointed by a county board of equalization to act as
14 a referee pursuant to section 77-1502.01, except that any person who also
15 practices as an independent real property appraiser for others shall be
16 subject to the Real Property Appraiser Act and shall be credentialed
17 prior to engaging in such other real property appraisal practice
18 ~~appraising~~. Any real property appraiser appointed to act as a referee
19 pursuant to section 77-1502.01 and who prepares a report for the county
20 board of equalization shall not sign such report as a credentialed real
21 property appraiser and shall include the following disclosure prominently
22 with such report: This opinion of value may not meet the minimum
23 standards contained in the Uniform Standards of Professional Appraisal
24 Practice and is not governed by the Real Property Appraiser Act;

25 (8) Any person who is appointed to serve as an appraiser pursuant to
26 section 76-706, except that if such person is a credential holder, he or
27 she shall (a) be subject to the scope of practice applicable to his or
28 her classification of credential and (b) comply with the Uniform
29 Standards of Professional Appraisal Practice, excluding standards 1
30 through 10; or

31 (9) Any person, including an independent contractor, retained by a

1 county to assist in the appraisal of real property as performed by the
2 county assessor of such county subject to the standards established by
3 the Tax Commissioner pursuant to section 77-1301.01. A person so retained
4 shall be under the direction and responsibility of the county assessor.

5 Sec. 72. Section 76-2223, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 76-2223 (1) The Real Property Appraiser Board shall administer and
8 enforce the Real Property Appraiser Act and may:

9 (a) Receive applications for credentialing under the act, process
10 such applications and regulate the issuance of credentials to qualified
11 applicants, and maintain a directory of the names and addresses of
12 persons who receive credentials under the act;

13 (b) Hold meetings, public hearings, informal conferences, and
14 administrative hearings, prepare or cause to be prepared specifications
15 for all real property appraiser classifications, solicit bids and enter
16 into contracts with one or more testing services, and administer or
17 contract for the administration of examinations approved by the Appraiser
18 Qualifications Board in such places and at such times as deemed
19 appropriate;

20 (c) Develop the specifications for credentialing examinations,
21 including timing, location, and security necessary to maintain the
22 integrity of the examinations;

23 (d) Review the procedures and criteria of a contracted testing
24 service to ensure that the testing meets with the approval of the
25 Appraiser Qualifications Board;

26 (e) Collect all fees required or permitted by the act. The Real
27 Property Appraiser Board shall remit all such receipts to the State
28 Treasurer for credit to the Real Property Appraiser Fund. In addition,
29 the board may collect and transmit to the appropriate federal authority
30 any fees established under the Financial Institutions Reform, Recovery,
31 and Enforcement Act of 1989;

1 (f) Establish appropriate administrative procedures for disciplinary
2 proceedings conducted pursuant to the Real Property Appraiser Act;

3 (g) Issue subpoenas to compel the attendance of witnesses and the
4 production of books, documents, records, and other papers, administer
5 oaths, and take testimony and require submission of and receive evidence
6 concerning all matters within its jurisdiction. In case of disobedience
7 of a subpoena, the Real Property Appraiser Board may make application to
8 the district court of Lancaster County to require the attendance and
9 testimony of witnesses and the production of documentary evidence. If any
10 person fails to obey an order of the court, he or she may be punished by
11 the court as for contempt thereof;

12 (h) Deny an application or censure, suspend, or revoke a credential
13 if it finds that the applicant or credential holder has committed any of
14 the acts or omissions set forth in section 76-2238 or otherwise violated
15 the act. Any disciplinary matter may be resolved through informal
16 disposition pursuant to section 84-913;

17 (i) Take appropriate disciplinary action against a credential holder
18 if the Real Property Appraiser Board determines that a credential holder
19 has violated any provision of the act or the Uniform Standards of
20 Professional Appraisal Practice;

21 (j) Enter into consent decrees and issue cease and desist orders
22 upon a determination that a violation of the act has occurred;

23 (k) Promote research and conduct studies relating to the profession
24 of real property appraisal, sponsor real property appraisal educational
25 activities, and incur, collect fees for, and pay the necessary expenses
26 in connection with activities which shall be open to all credential
27 holders;

28 (l) Establish and adopt minimum standards for appraisals as required
29 under section 76-2237;

30 (m) Adopt and promulgate rules and regulations to carry out the act.
31 The rules and regulations may include provisions establishing minimum

1 standards for education providers, courses, and instructors. The rules
2 and regulations shall be adopted and promulgated pursuant to the
3 Administrative Procedure Act; and

4 (n) Do all other things necessary to carry out the Real Property
5 Appraiser Act.

6 (2) The Real Property Appraiser Board shall also administer and
7 enforce the Nebraska Appraisal Management Company Registration Act.

8 Sec. 73. Section 76-2227, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 76-2227 (1) Applications for initial credentials, upgrade of
11 credentials, credentials through reciprocity, temporary credentials, and
12 renewal of credentials, including authorization to take the appropriate
13 examination, shall be made in writing to the board on forms approved by
14 the board. The payment of the appropriate fee in an amount established by
15 the board pursuant to section 76-2241 shall accompany all applications.

16 (2) Applications for credentials shall include the applicant's
17 social security number and such other information as the board may
18 require.

19 (3) At the time of filing an application for a credential, the
20 applicant shall sign a pledge that he or she has read and will comply
21 with the Uniform Standards of Professional Appraisal Practice. Each
22 applicant shall also certify that he or she understands the types of
23 misconduct for which disciplinary proceedings may be initiated.

24 (4) To qualify for an initial credential, an upgrade of a
25 credential, a credential through reciprocity, a temporary credential, or
26 a renewal of a credential, an applicant shall:

27 (a) Certify that disciplinary proceedings are not pending against
28 him or her in any jurisdiction or state the nature of any pending
29 disciplinary proceedings;

30 (b) Certify that he or she has not surrendered an appraiser
31 credential, or any other registration, license, or certification, issued

1 by any other regulatory agency or held in any other jurisdiction, in lieu
2 of disciplinary action pending or threatened within the five-year period
3 immediately preceding the date of application;

4 (c) Certify that his or her appraiser credential, or any other
5 registration, license, or certification, issued by any other regulatory
6 agency or held in any other jurisdiction, has not been revoked or
7 suspended within the five-year period immediately preceding the date of
8 application;

9 (d) Not have been convicted of, including a conviction based upon a
10 plea of guilty or nolo contendere:

11 (i) Any felony or, if so convicted, has had his or her civil rights
12 restored;

13 (ii) Any crime of fraud, dishonesty, breach of trust, money
14 laundering, misrepresentation, or deceit involving real estate, financial
15 services, or in the making of an appraisal within the five-year period
16 immediately preceding the date of application; or

17 (iii) Any other crime which is related to the qualifications,
18 functions, or duties of a real property appraiser within the five-year
19 period immediately preceding the date of application;

20 (e) Certify that no civil judicial actions, including dismissal with
21 settlement, in connection with real estate, financial services, or in the
22 making of an appraisal have been brought against him or her within the
23 five-year period immediately preceding the date of application;

24 (f) Demonstrate character and general fitness such as to command the
25 confidence and trust of the public; and

26 (g) Not possess a background that would call into question public
27 trust or a credential holder's fitness for credentialing.

28 (5) Credentials shall be issued only to persons who have a good
29 reputation for honesty, trustworthiness, integrity, and competence to
30 perform real property appraisal practice assignments in such manner as to
31 safeguard the interest of the public and only after satisfactory proof of

1 such qualification has been presented to the board upon request and a
2 completed application has been approved.

3 (6) No credential shall be issued to a person other than an
4 individual.

5 Sec. 74. Section 76-2228.01, Revised Statutes Supplement, 2019, is
6 amended to read:

7 76-2228.01 (1) To qualify for a credential as a trainee real
8 property appraiser, an applicant shall:

9 (a) Be at least nineteen years of age;

10 (b) Hold a high school diploma or a certificate of high school
11 equivalency or have education acceptable to the Real Property Appraiser
12 Board;

13 (c)(i) Have successfully completed and passed examination for no
14 fewer than seventy-five class hours in Real Property Appraiser Board-
15 approved qualifying education courses conducted by education providers as
16 prescribed by rules and regulations of the Real Property Appraiser Board
17 and completed the fifteen-hour National Uniform Standards of Professional
18 Appraisal Practice Course. Each course shall include a proctored, closed-
19 book examination pertinent to the material presented. Except for the
20 fifteen-hour National Uniform Standards of Professional Appraisal
21 Practice Course, which shall be completed within the two-year period
22 immediately preceding submission of the application, all class hours
23 shall be completed within the five-year period immediately preceding
24 submission of the application; or

25 (ii) Hold a bachelor's degree or higher in real estate from an
26 accredited degree-awarding college or university that has had all or part
27 of its curriculum approved by the Appraiser Qualifications Board as
28 required core curriculum or the equivalent as determined by the Appraiser
29 Qualifications Board. The degree shall be conferred within the five-year
30 period immediately preceding submission of the application. If the degree
31 in real estate or equivalent as approved by the Appraiser Qualifications

1 Board does not satisfy all required qualifying education for
2 credentialing, the remaining class hours shall be completed in Real
3 Property Appraiser Board-approved qualifying education pursuant to
4 subdivision (c)(i) of this subsection;

5 (d) As prescribed by rules and regulations of the Real Property
6 Appraiser Board, successfully complete a Real Property Appraiser Board-
7 approved supervisory real property appraiser and trainee course within
8 one year immediately preceding the date of application; and

9 (e) Submit two copies of legible ink-rolled fingerprint cards or
10 equivalent electronic fingerprint submissions to the Real Property
11 Appraiser Board for delivery to the Nebraska State Patrol in a form
12 approved by both the Nebraska State Patrol and the Federal Bureau of
13 Investigation. A fingerprint-based national criminal history record check
14 shall be conducted through the Nebraska State Patrol and the Federal
15 Bureau of Investigation with such record check to be carried out by the
16 Real Property Appraiser Board.

17 (2) Prior to engaging in ~~appraisal practice~~ or real property
18 appraisal practice activity, a trainee real property appraiser shall
19 submit a written request for supervisory real property appraiser approval
20 on a form approved by the board. The request for supervisory real
21 property appraiser approval may be made at the time of application or any
22 time after approval as a trainee real property appraiser.

23 (3) To qualify for an upgraded credential, a trainee real property
24 appraiser shall satisfy the appropriate requirements as follows:

25 (a) Submit two copies of legible ink-rolled fingerprint cards or
26 equivalent electronic fingerprint submissions to the Real Property
27 Appraiser Board for delivery to the Nebraska State Patrol in a form
28 approved by both the Nebraska State Patrol and the Federal Bureau of
29 Investigation. A fingerprint-based national criminal history record check
30 shall be conducted through the Nebraska State Patrol and the Federal
31 Bureau of Investigation with such record check to be carried out by the

1 Real Property Appraiser Board; and

2 (b) Within the twelve months following approval of the applicant's
3 education and experience by the Real Property Appraiser Board for an
4 upgraded credential, pass an appropriate examination approved by the
5 Appraiser Qualifications Board for that upgraded credential, prescribed
6 by rules and regulations of the Real Property Appraiser Board, and
7 administered by a contracted testing service.

8 (4) To qualify for a credential as a licensed residential real
9 property appraiser, a trainee real property appraiser shall:

10 (a) Successfully complete and pass proctored, closed-book
11 examinations for no fewer than seventy-five additional class hours in
12 board-approved qualifying education courses conducted by education
13 providers as prescribed by rules and regulations of the board, or hold a
14 bachelor's degree in real estate from an accredited degree-awarding
15 college or university or equivalent pursuant to subdivision (1)(c)(ii) of
16 section 76-2230; and

17 (b) Meet the experience requirements pursuant to subdivision (1)(d)
18 of section 76-2230.

19 (5) To qualify for a credential as a certified residential real
20 property appraiser, a trainee real property appraiser shall:

21 (a) Meet the postsecondary educational requirements pursuant to
22 subdivisions (1)(b) and (c) of section 76-2231.01;

23 (b) Successfully complete and pass proctored, closed-book
24 examinations for no fewer than one hundred twenty-five additional class
25 hours in board-approved qualifying education courses conducted by
26 education providers as prescribed by rules and regulations of the board,
27 or hold a bachelor's degree in real estate from an accredited degree-
28 awarding college or university or equivalent pursuant to subdivision (1)
29 (d)(ii) of section 76-2231.01; and

30 (c) Meet the experience requirements pursuant to subdivision (1)(e)
31 of section 76-2231.01.

1 (6) To qualify for a credential as a certified general real property
2 appraiser, a trainee real property appraiser shall:

3 (a) Meet the postsecondary educational requirements pursuant to
4 subdivisions (1)(b) and (c) of section 76-2232;

5 (b) Successfully complete and pass proctored, closed-book
6 examinations for no fewer than two hundred twenty-five additional class
7 hours in board-approved qualifying education courses conducted by
8 education providers as prescribed by rules and regulations of the board,
9 or hold a bachelor's degree in real estate from an accredited degree-
10 awarding college or university or equivalent pursuant to subdivision (1)
11 (d)(ii) of section 76-2232; and

12 (c) Meet the experience requirements pursuant to subdivision (1)(e)
13 of section 76-2232.

14 (7) The scope of practice for the trainee real property appraiser
15 shall be limited to real property appraisal practice assignments the
16 ~~appraisal of the types of real property or real estate that the~~
17 supervisory certified real property appraiser is permitted to engage in
18 ~~appraise~~ by his or her current credential and that the supervisory real
19 property appraiser is competent to engage in ~~appraise~~.

20 Sec. 75. Section 76-2228.02, Revised Statutes Supplement, 2019, is
21 amended to read:

22 76-2228.02 (1) Each trainee real property appraiser's experience
23 shall be subject to direct supervision by a supervisory real property
24 appraiser. To qualify as a supervisory real property appraiser, a real
25 property appraiser shall:

26 (a) Be a certified residential real property appraiser or certified
27 general real property appraiser in good standing;

28 (b) Have held a certified real property appraiser credential in this
29 state, or the equivalent in any other jurisdiction, for a minimum of
30 three years immediately preceding the date of the written request for
31 approval as supervisory real property appraiser;

1 (c) Have not successfully completed disciplinary action by the board
2 or any other jurisdiction, which action limited the real property
3 appraiser's legal eligibility to engage in real property appraisal
4 practice activity within three years immediately preceding the date the
5 written request for approval as supervisory real property appraiser is
6 submitted by the applicant or trainee real property appraiser on a form
7 approved by the board;

8 (d) As prescribed by rules and regulations of the board, have
9 successfully completed a board-approved supervisory real property
10 appraiser and trainee course preceding the date the written request for
11 approval as supervisory real property appraiser is submitted by the
12 applicant or trainee real property appraiser on a form approved by the
13 board; and

14 (e) Certify that he or she understands his or her responsibilities
15 and obligations under the Real Property Appraiser Act as a supervisory
16 real property appraiser and applies his or her signature to the written
17 request for approval as supervisory real property appraiser submitted by
18 the applicant or trainee real property appraiser.

19 (2) The supervisory real property appraiser shall be responsible for
20 the training and direct supervision of the trainee real property
21 appraiser's experience by:

22 (a) Accepting responsibility for the report by applying his or her
23 signature and certifying that the report is in compliance with the
24 Uniform Standards of Professional Appraisal Practice;

25 (b) Reviewing the trainee real property appraiser reports; and

26 (c) Personally inspecting each appraised property with the trainee
27 real property appraiser as is consistent with his or her scope of
28 practice until the supervisory real property appraiser determines that
29 the trainee real property appraiser is competent in accordance with the
30 competency rule of the Uniform Standards of Professional Appraisal
31 Practice.

1 (3) A certified real property appraiser disciplined by the board or
2 any other appraiser regulatory agency in another jurisdiction, which
3 discipline may or may not have limited the real property appraiser's
4 legal eligibility to engage in real property appraisal practice activity,
5 shall not be eligible as a supervisory real property appraiser as of the
6 date disciplinary action was imposed against the appraiser by the board
7 or any other appraiser regulatory agency. The certified real property
8 appraiser shall be considered to be in good standing and eligible as a
9 supervisory real property appraiser upon the successful completion of
10 disciplinary action that does not limit the real property appraiser's
11 legal eligibility to engage in real property appraisal practice activity,
12 or three years after the successful completion of disciplinary action
13 that limits the real property appraiser's legal eligibility to engage in
14 real property appraisal practice activity.

15 (4) The trainee real property appraiser may have more than one
16 supervisory real property appraiser, but a supervisory real property
17 appraiser may not supervise more than three trainee real property
18 appraisers at one time.

19 (5) As prescribed by rules and regulations of the board, an
20 appraisal experience log shall be maintained jointly by the supervisory
21 real property appraiser and the trainee real property appraiser.

22 Sec. 76. Section 76-2230, Revised Statutes Supplement, 2019, is
23 amended to read:

24 76-2230 (1) To qualify for a credential as a licensed residential
25 real property appraiser, an applicant shall:

26 (a) Be at least nineteen years of age;

27 (b) Hold a high school diploma or a certificate of high school
28 equivalency or have education acceptable to the Real Property Appraiser
29 Board;

30 (c)(i) Have successfully completed and passed examination for no
31 fewer than one hundred fifty class hours in Real Property Appraiser

1 Board-approved qualifying education courses conducted by education
2 providers as prescribed by rules and regulations of the Real Property
3 Appraiser Board and completed the fifteen-hour National Uniform Standards
4 of Professional Appraisal Practice Course. Each course shall include a
5 proctored, closed-book examination pertinent to the material presented;
6 or

7 (ii) Hold a bachelor's degree or higher in real estate from an
8 accredited degree-awarding college or university that has had all or part
9 of its curriculum approved by the Appraiser Qualifications Board as
10 required core curriculum or the equivalent as determined by the Appraiser
11 Qualifications Board. If the degree in real estate or equivalent as
12 approved by the Appraiser Qualifications Board does not satisfy all
13 required qualifying education for credentialing, the remaining class
14 hours shall be completed in Real Property Appraiser Board-approved
15 qualifying education pursuant to subdivision (c)(i) of this subsection;

16 (d) Have no fewer than one thousand hours of experience as
17 prescribed by rules and regulations of the Real Property Appraiser Board.
18 The required experience shall be acceptable to the Real Property
19 Appraiser Board and subject to review and determination as to conformity
20 with the Uniform Standards of Professional Appraisal Practice. The
21 experience shall have occurred during a period of no fewer than six
22 months;

23 (e) Submit two copies of legible ink-rolled fingerprint cards or
24 equivalent electronic fingerprint submissions to the Real Property
25 Appraiser Board for delivery to the Nebraska State Patrol in a form
26 approved by both the Nebraska State Patrol and the Federal Bureau of
27 Investigation. A fingerprint-based national criminal history record check
28 shall be conducted through the Nebraska State Patrol and the Federal
29 Bureau of Investigation with such record check to be carried out by the
30 Real Property Appraiser Board; and

31 (f) Within the twelve months following approval of the applicant's

1 education and experience by the Real Property Appraiser Board, pass a
2 licensed residential real property appraiser examination, certified
3 residential real property appraiser examination, or certified general
4 real property appraiser examination, approved by the Appraiser
5 Qualifications Board, prescribed by rules and regulations of the Real
6 Property Appraiser Board, and administered by a contracted testing
7 service.

8 (2) To qualify for an upgraded credential, a licensed residential
9 real property appraiser shall satisfy the appropriate requirements as
10 follows:

11 (a) Submit two copies of legible ink-rolled fingerprint cards or
12 equivalent electronic fingerprint submissions to the Real Property
13 Appraiser Board for delivery to the Nebraska State Patrol in a form
14 approved by both the Nebraska State Patrol and the Federal Bureau of
15 Investigation. A fingerprint-based national criminal history record check
16 shall be conducted through the Nebraska State Patrol and the Federal
17 Bureau of Investigation with such record check to be carried out by the
18 Real Property Appraiser Board; and

19 (b) Within the twelve months following approval of the applicant's
20 education and experience by the Real Property Appraiser Board for an
21 upgraded credential, pass an appropriate examination approved by the
22 Appraiser Qualifications Board for that upgraded credential, prescribed
23 by rules and regulations of the Real Property Appraiser Board, and
24 administered by a contracted testing service.

25 (3) To qualify for a credential as a certified residential real
26 property appraiser, a licensed residential real property appraiser shall:

27 (a)(i) Meet the postsecondary educational requirements pursuant to
28 subdivisions (1)(b) and (c) of section 76-2231.01; or

29 (ii)(A) Have held a credential as a licensed residential real
30 property appraiser for a minimum of five years; and

31 (B) Not have been subject to a nonappealable disciplinary action by

1 the board or any other jurisdiction, which action limited the real
2 property appraiser's legal eligibility to engage in real property
3 appraisal practice activity within five years immediately preceding the
4 date of application for the certified residential real property appraiser
5 credential;

6 (b) Successfully complete and pass proctored, closed-book
7 examinations for no fewer than fifty additional class hours in board-
8 approved qualifying education courses conducted by education providers as
9 prescribed by rules and regulations of the board, or hold a bachelor's
10 degree in real estate from an accredited degree-awarding college or
11 university or equivalent pursuant to subdivision (1)(d)(ii) of section
12 76-2231.01; and

13 (c) Meet the experience requirements pursuant to subdivision (1)(e)
14 of section 76-2231.01.

15 (4) To qualify for a credential as a certified general real property
16 appraiser, a licensed residential real property appraiser shall:

17 (a) Meet the postsecondary educational requirements pursuant to
18 subdivisions (1)(b) and (c) of section 76-2232;

19 (b) Successfully complete and pass proctored, closed-book
20 examinations for no fewer than one hundred fifty additional class hours
21 in board-approved qualifying education courses conducted by education
22 providers as prescribed by rules and regulations of the board, or hold a
23 bachelor's degree in real estate from an accredited degree-awarding
24 college or university or equivalent pursuant to subdivision (1)(d)(ii) of
25 section 76-2232; and

26 (c) Meet the experience requirements pursuant to subdivision (1)(e)
27 of section 76-2232.

28 (5) An appraiser holding a valid licensed residential real property
29 appraiser credential shall satisfy the requirements for the trainee real
30 property appraiser credential for a downgraded credential.

31 (6) The scope of practice for a licensed residential real property

1 appraiser shall be limited to real property appraisal practice concerning
2 ~~the appraisal of, and review of appraisal of,~~ noncomplex residential real
3 property or real estate having no more than four units, if any, with a
4 transaction value of less than one million dollars and complex
5 residential real property or real estate having no more than four units,
6 if any, with a transaction value of less than two hundred fifty thousand
7 dollars. The appraisal of subdivisions for which a development analysis
8 or appraisal is necessary is not included in the scope of practice for a
9 licensed residential real property appraiser.

10 Sec. 77. Section 76-2231.01, Revised Statutes Supplement, 2019, is
11 amended to read:

12 76-2231.01 (1) To qualify for a credential as a certified
13 residential real property appraiser, an applicant shall:

14 (a) Be at least nineteen years of age;

15 (b)(i) Hold a bachelor's degree, or higher, from an accredited
16 degree-awarding college or university;

17 (ii) Hold an associate's degree from an accredited degree-awarding
18 community college, college, or university in the study of business
19 administration, accounting, finance, economics, or real estate;

20 (iii) Successfully complete thirty semester hours of college-level
21 education from an accredited degree-awarding community college, college,
22 or university that includes:

23 (A) Three semester hours in each of the following: English
24 composition; microeconomics; macroeconomics; finance; algebra, geometry,
25 or higher mathematics; statistics; computer science; and business law or
26 real estate law; and

27 (B) Three semester hours each in two elective courses in any of the
28 topics listed in subdivision (b)(iii)(A) of this subsection, or in
29 accounting, geography, agricultural economics, business management, or
30 real estate;

31 (iv) Successfully complete thirty semester hours of the College-

1 Level Examination Program from an accredited degree-awarding community
2 college, college, or university that includes three semester hours in
3 each of the following subject matter areas: College algebra; college
4 composition; college composition modular; college mathematics; principles
5 of macroeconomics; principles of microeconomics; introductory business
6 law; and information systems; or

7 (v) Successfully complete any combination of subdivisions (b)(iii)
8 and (iv) of this subsection that ensures coverage of all topics and hours
9 identified in subdivision (b)(iii) of this subsection;

10 (c) Have his or her education evaluated for equivalency by one of
11 the following if the college degree is from a foreign country:

12 (i) An accredited degree-awarding college or university;

13 (ii) A foreign degree credential evaluation service company that is
14 a member of the National Association of Credential Evaluation Services;
15 or

16 (iii) A foreign degree credential evaluation service company that
17 provides equivalency evaluation reports accepted by an accredited degree-
18 awarding college or university;

19 (d)(i) Have successfully completed and passed examination for no
20 fewer than two hundred class hours in Real Property Appraiser Board-
21 approved qualifying education courses conducted by education providers as
22 prescribed by rules and regulations of the Real Property Appraiser Board
23 and completed the fifteen-hour National Uniform Standards of Professional
24 Appraisal Practice Course. Each course shall include a proctored, closed-
25 book examination pertinent to the material presented; or

26 (ii) Hold a bachelor's degree or higher in real estate from an
27 accredited degree-awarding college or university that has had all or part
28 of its curriculum approved by the Appraiser Qualifications Board as
29 required core curriculum or the equivalent as determined by the Appraiser
30 Qualifications Board. If the degree in real estate or equivalent as
31 approved by the Appraiser Qualifications Board does not satisfy all

1 required qualifying education for credentialing, the remaining class
2 hours shall be completed in Real Property Appraiser Board-approved
3 qualifying education pursuant to subdivision (d)(i) of this subsection;

4 (e) Have no fewer than one thousand five hundred hours of experience
5 as prescribed by rules and regulations of the Real Property Appraiser
6 Board. The required experience shall be acceptable to the Real Property
7 Appraiser Board and subject to review and determination as to conformity
8 with the Uniform Standards of Professional Appraisal Practice. The
9 experience shall have occurred during a period of no fewer than twelve
10 months;

11 (f) Submit two copies of legible ink-rolled fingerprint cards or
12 equivalent electronic fingerprint submissions to the Real Property
13 Appraiser Board for delivery to the Nebraska State Patrol in a form
14 approved by both the Nebraska State Patrol and the Federal Bureau of
15 Investigation. A fingerprint-based national criminal history record check
16 shall be conducted through the Nebraska State Patrol and the Federal
17 Bureau of Investigation with such record check to be carried out by the
18 Real Property Appraiser Board; and

19 (g) Within the twelve months following approval of the applicant's
20 education and experience by the Real Property Appraiser Board, pass a
21 certified residential real property appraiser examination or certified
22 general real property appraiser examination, approved by the Appraiser
23 Qualifications Board, prescribed by rules and regulations of the Real
24 Property Appraiser Board, and administered by a contracted testing
25 service.

26 (2) To qualify for an upgraded credential, a certified residential
27 real property appraiser shall satisfy the following requirements:

28 (a) Submit two copies of legible ink-rolled fingerprint cards or
29 equivalent electronic fingerprint submissions to the Real Property
30 Appraiser Board for delivery to the Nebraska State Patrol in a form
31 approved by both the Nebraska State Patrol and the Federal Bureau of

1 Investigation. A fingerprint-based national criminal history record check
2 shall be conducted through the Nebraska State Patrol and the Federal
3 Bureau of Investigation with such record check to be carried out by the
4 Real Property Appraiser Board; and

5 (b) Within the twelve months following approval of the applicant's
6 education and experience by the Real Property Appraiser Board for an
7 upgrade to a certified general real property appraiser credential, pass a
8 certified general real property appraiser examination approved by the
9 Appraiser Qualifications Board, prescribed by rules and regulations of
10 the Real Property Appraiser Board, and administered by a contracted
11 testing service.

12 (3) To qualify for a credential as a certified general real property
13 appraiser, a certified residential real property appraiser shall:

14 (a) Meet the postsecondary educational requirements pursuant to
15 subdivisions (1)(b) and (c) of section 76-2232;

16 (b) Successfully complete and pass proctored, closed-book
17 examinations for no fewer than one hundred additional class hours in
18 board-approved qualifying education courses conducted by education
19 providers as prescribed by rules and regulations of the board, or hold a
20 bachelor's degree in real estate from an accredited degree-awarding
21 college or university or equivalent pursuant to subdivision (1)(d)(ii) of
22 section 76-2232; and

23 (c) Meet the experience requirements pursuant to subdivision (1)(e)
24 of section 76-2232.

25 (4) ~~A An appraiser holding a valid~~ certified residential real
26 property appraiser credential shall satisfy the requirements for the
27 trainee real property appraiser credential and licensed residential real
28 property appraiser credential for a downgraded credential. If requested,
29 evidence acceptable to the Real Property Appraiser Board concerning the
30 experience shall be presented along with an application in the form of
31 written reports or file memoranda.

1 (5) The scope of practice for a certified residential real property
2 appraiser shall be limited to real property appraisal practice concerning
3 ~~the appraisal of, and review of appraisal of,~~ residential real property
4 or real estate having no more than four residential units, if any,
5 without regard to transaction value or complexity. The appraisal of
6 subdivisions for which a development analysis or appraisal is necessary
7 is not included in the scope of practice for a certified residential real
8 property appraiser.

9 Sec. 78. Section 76-2232, Revised Statutes Supplement, 2019, is
10 amended to read:

11 76-2232 (1) To qualify for a credential as a certified general real
12 property appraiser, an applicant shall:

13 (a) Be at least nineteen years of age;

14 (b) Hold a bachelor's degree, or higher, from an accredited degree-
15 awarding college or university;

16 (c) Have his or her education evaluated for equivalency by one of
17 the following if the college degree is from a foreign country:

18 (i) An accredited degree-awarding college or university;

19 (ii) A foreign degree credential evaluation service company that is
20 a member of the National Association of Credential Evaluation Services;
21 or

22 (iii) A foreign degree credential evaluation service company that
23 provides equivalency evaluation reports accepted by an accredited degree-
24 awarding college or university;

25 (d)(i) Have successfully completed and passed examination for no
26 fewer than three hundred class hours in Real Property Appraiser Board-
27 approved qualifying education courses conducted by education providers as
28 prescribed by rules and regulations of the Real Property Appraiser Board
29 and completed the fifteen-hour National Uniform Standards of Professional
30 Appraisal Practice Course. Each course shall include a proctored, closed-
31 book examination pertinent to the material presented; or

1 (ii) Hold a bachelor's degree or higher in real estate from an
2 accredited degree-awarding college or university that has had all or part
3 of its curriculum approved by the Appraiser Qualifications Board as
4 required core curriculum or the equivalent as determined by the Appraiser
5 Qualifications Board. If the degree in real estate or equivalent as
6 approved by the Appraiser Qualifications Board does not satisfy all
7 required qualifying education for credentialing, the remaining class
8 hours shall be completed in Real Property Appraiser Board-approved
9 qualifying education pursuant to subdivision (d)(i) of this subsection;

10 (e) Have no fewer than three thousand hours of experience, of which
11 one thousand five hundred hours shall be in nonresidential appraisal
12 work, as prescribed by rules and regulations of the Real Property
13 Appraiser Board. The required experience shall be acceptable to the Real
14 Property Appraiser Board and subject to review and determination as to
15 conformity with the Uniform Standards of Professional Appraisal Practice.
16 The experience shall have occurred during a period of no fewer than
17 eighteen months;

18 (f) Submit two copies of legible ink-rolled fingerprint cards or
19 equivalent electronic fingerprint submissions to the Real Property
20 Appraiser Board for delivery to the Nebraska State Patrol in a form
21 approved by both the Nebraska State Patrol and the Federal Bureau of
22 Investigation. A fingerprint-based national criminal history record check
23 shall be conducted through the Nebraska State Patrol and the Federal
24 Bureau of Investigation with such record check to be carried out by the
25 Real Property Appraiser Board; and

26 (g) Within the twelve months following approval of the applicant's
27 education and experience by the Real Property Appraiser Board, pass a
28 certified general real property appraiser examination, approved by the
29 Appraiser Qualifications Board, prescribed by rules and regulations of
30 the Real Property Appraiser Board, and administered by a contracted
31 testing service.

1 (2) ~~A An appraiser holding a valid~~ certified general real property
2 appraiser ~~credential~~ shall satisfy the requirements for the trainee real
3 property appraiser credential, licensed residential real property
4 appraiser credential, and certified residential real property appraiser
5 credential for a downgraded credential. If requested, evidence acceptable
6 to the Real Property Appraiser Board concerning the experience shall be
7 presented along with an application in the form of written reports or
8 file memoranda.

9 (3) The scope of practice for the certified general real property
10 appraiser shall include real property appraisal practice concerning is
11 ~~the appraisal of~~ all types of real property or real estate that appraiser
12 is competent to engage in appraise.

13 Sec. 79. Section 76-2233, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 76-2233 (1) A person currently credentialed to engage in real
16 property appraisal practice concerning appraise real estate and real
17 property under the laws of another jurisdiction may qualify for a
18 credential through reciprocity as a licensed residential real property
19 appraiser, a certified residential real property appraiser, or a
20 certified general real property appraiser by complying with all of the
21 provisions of the Real Property Appraiser Act relating to the appropriate
22 classification of credentialing.

23 (2) An applicant under this section may qualify for a credential if,
24 in the determination of the board:

25 (a) The requirements for credentialing in the applicant's
26 jurisdiction of practice specified in an application for credentialing
27 meet or exceed the minimum requirements of the Real Property Appraiser
28 Qualification Criteria as adopted and promulgated by the Appraiser
29 Qualifications Board of The Appraisal Foundation; and

30 (b) The regulatory program of the applicant's jurisdiction of
31 practice specified in an application for credentialing is determined to

1 be effective in accordance with Title XI of the Financial Institutions
2 Reform, Recovery, and Enforcement Act of 1989 by the Appraisal
3 Subcommittee of the Federal Financial Institutions Examination Council.

4 (3) The status of an applicant's jurisdiction of practice specified
5 in an application for credentialing through reciprocity shall be verified
6 through the most recent Compliance Review Report issued by the Appraisal
7 Subcommittee of the Federal Financial Institutions Examination Council.
8 In the case that findings pertaining to the adoption or implementation of
9 the Real Property Appraiser Qualification Criteria indicate that one or
10 more credentialing requirements do not meet or exceed the Real Property
11 Appraiser Qualification Criteria as promulgated by the Appraiser
12 Qualifications Board of The Appraisal Foundation, the board may request
13 evidence from the jurisdiction of practice or the Appraisal Subcommittee
14 of the Federal Financial Institutions Examination Council showing that
15 progress has been made to mitigate the findings in the Compliance Review
16 Report.

17 (4) To qualify for a credential through reciprocity, the applicant
18 shall:

19 (a) Submit two copies of legible ink-rolled fingerprint cards or
20 equivalent electronic fingerprint submissions to the board for delivery
21 to the Nebraska State Patrol in a form approved by both the Nebraska
22 State Patrol and the Federal Bureau of Investigation. A fingerprint-based
23 national criminal history record check shall be conducted through the
24 Nebraska State Patrol and the Federal Bureau of Investigation with such
25 record check to be carried out by the board;

26 (b) Submit an irrevocable consent that service of process upon him
27 or her may be made by delivery of the process to the director of the
28 board if the plaintiff cannot, in the exercise of due diligence, effect
29 personal service upon the applicant in an action against the applicant in
30 a court of this state arising out of the applicant's activities as a real
31 property appraiser in this state; and

1 (c) Comply with such other terms and conditions as may be determined
2 by the board.

3 (5) The credential status of an applicant under this section,
4 including current standing and any disciplinary action imposed against
5 his or her credentials, shall be verified through the National Registry
6 of the Appraisal Subcommittee of the Federal Financial Institutions
7 Examination Council.

8 Sec. 80. Section 76-2233.01, Reissue Revised Statutes of Nebraska,
9 is amended to read:

10 76-2233.01 (1) A nonresident currently credentialed to engage in
11 real property appraisal practice concerning ~~appraise~~ real estate and real
12 property under the laws of another jurisdiction may obtain a temporary
13 credential as a licensed residential real property appraiser, a certified
14 residential real property appraiser, or a certified general real property
15 appraiser to engage in real property appraisal practice activity in this
16 state.

17 (2) To qualify for the issuance of a temporary credential, an
18 applicant shall:

19 (a) Submit an application on a form approved by the board;

20 (b) Submit a letter of engagement or a contract indicating the
21 location of the real property appraisal practice assignment and
22 completion date;

23 (c) Submit an irrevocable consent that service of process upon him
24 or her may be made by delivery of the process to the director of the
25 board if the plaintiff cannot, in the exercise of due diligence, effect
26 personal service upon the applicant in an action against the applicant in
27 a court of this state arising out of the applicant's activities in this
28 state; and

29 (d) Pay the appropriate application fee in an amount established by
30 the board pursuant to section 76-2241.

31 (3) The credential status of an applicant under this section,

1 including current standing and any disciplinary action imposed against
2 his or her credentials, shall be verified through the National Registry
3 of the Appraisal Subcommittee of the Federal Financial Institutions
4 Examination Council.

5 (4) Application for a temporary credential is valid for one year
6 from the date application is made to the board or upon the expiration of
7 the assignment specified in the letter of engagement, whichever occurs
8 first.

9 (5) A temporary credential issued under this section shall be
10 expressly limited to a grant of authority to engage in real property
11 appraisal practice activity required for an assignment in this state.
12 Each temporary credential shall expire upon the completion of the
13 assignment or upon the expiration of a period of six months from the date
14 of issuance, whichever occurs first. A temporary credential may be
15 renewed for one additional six-month period.

16 (6) Any person issued a temporary credential to engage in real
17 property appraisal practice activity in this state shall comply with all
18 of the provisions of the Real Property Appraiser Act relating to the
19 appropriate classification of credentialing. The board may, upon its own
20 motion, and shall, upon the written complaint of any aggrieved person,
21 cause an investigation to be made with respect to an alleged violation of
22 the act by a person who is engaged in, or who has engaged in, real
23 property appraisal practice activity as a temporary credential holder,
24 and that person shall be deemed a real property appraiser within the
25 meaning of the act.

26 Sec. 81. Section 76-2233.02, Reissue Revised Statutes of Nebraska,
27 is amended to read:

28 76-2233.02 (1) A credential issued under the Real Property Appraiser
29 Act other than a temporary credential shall remain in effect until
30 December 31 of the designated year unless surrendered, revoked,
31 suspended, or canceled prior to such date. To renew a valid credential,

1 the credential holder shall file an application on a form approved by the
2 board and pay the appropriate renewal fee in an amount established by the
3 board pursuant to section 76-2241. The credential holder shall also pay
4 the criminal history record check fee in an amount established by the
5 board pursuant to section 76-2241 for maintenance of the random
6 fingerprint audit program to the board not later than November 30 of the
7 designated year. A credential may be renewed for one year or two years.
8 In every second year of the two-year continuing education period, as
9 specified in section 76-2236, evidence of completion of continuing
10 education requirements shall accompany renewal application or be on file
11 with the board prior to renewal.

12 (2) The board shall establish a number of credential holders to be
13 selected at random to submit, along with the application for renewal, two
14 copies of legible ink-rolled fingerprint cards or equivalent electronic
15 fingerprint submissions to the board for delivery to the Nebraska State
16 Patrol in a form approved by both the Nebraska State Patrol and the
17 Federal Bureau of Investigation. A fingerprint-based national criminal
18 history record check shall be conducted through the Nebraska State Patrol
19 and the Federal Bureau of Investigation with such record check to be
20 carried out by the board.

21 (3) If a credential holder fails to apply and meet the requirements
22 for renewal by November 30 of the designated year, such credential holder
23 may obtain a renewal of such credential by satisfying all of the
24 requirements for renewal and paying the appropriate late processing fee
25 in an amount established by the board pursuant to section 76-2241 if such
26 late renewal takes place prior to July 1 of the following year. A
27 credential holder selected at random to submit fingerprint cards or
28 equivalent electronic fingerprints that has applied and met all other
29 requirements for renewal prior to November 30 of the designated year
30 shall not pay a late processing fee if fingerprint cards or equivalent
31 electronic fingerprints are received prior to November 30 of the

1 designated year. If a credential holder that first obtained his or her
2 credential at the current level on or after November 1 fails to apply and
3 meet the requirements for renewal by December 31 of the designated year,
4 such credential holder may obtain a renewal of such credential by
5 satisfying all the requirements for renewal and paying a late processing
6 fee if such late renewal takes place prior to July 1 of the following
7 year. The board may refuse to renew any credential if the credential
8 holder has continued to, directly or indirectly for another, offer,
9 attempt, agree to engage in, or engage in ~~perform~~ real property appraisal
10 practice activities or other related activities in this state following
11 the expiration of his or her credential. If a credential is not renewed
12 prior to July 1, a credential holder shall reapply for credentialing and
13 meet the current requirements in place at the time of application, except
14 as provided in section 76-2233.03.

15 Sec. 82. Section 76-2233.03, Reissue Revised Statutes of Nebraska,
16 is amended to read:

17 76-2233.03 (1) A credential holder may request that his or her
18 credential be placed on inactive status for a period not to exceed two
19 years. Such requests shall be submitted to the board on an application
20 form prescribed by the board. The payment of the appropriate fee in an
21 amount established by the board pursuant to section 76-2241 shall
22 accompany all applications for requests of inactive status.

23 (2) A credential holder whose credential is placed on inactive
24 status shall not:

25 (a) Assume or use any title, designation, or abbreviation likely to
26 create the impression that such person holds an active credential issued
27 by the board; or

28 (b) Engage in ~~appraisal practice or~~ real property appraisal practice
29 ~~activity~~ or act as a credentialed real property appraiser.

30 (3) A credential holder whose credential is placed on inactive
31 status may make a request to the board that such credential be reinstated

1 to active status on an application form prescribed by the board. The
2 payment of the appropriate fee in an amount established by the board
3 pursuant to section 76-2241 shall accompany all applications for
4 reinstatement of a credential.

5 (4) A credential holder's application for reinstatement shall
6 include evidence that he or she has met the continuing education
7 requirements as specified in section 76-2236 while the credential was on
8 inactive status.

9 (5) If a credential holder's credential expires during the inactive
10 period, an application for renewal of the credential shall accompany the
11 application for reinstatement. All requirements for renewal specified in
12 section 76-2233.02 shall be met, except for the requirement to pay a late
13 processing fee for applications received after November 30 of the
14 designated year.

15 (6) If a credential holder fails to reinstate his or her credential
16 to active status prior to the completion of the two-year period, his or
17 her credential will return to the status as if the credential was not
18 placed on inactive status. If a credential holder's credential is expired
19 at the completion of the two-year period, the credential holder shall
20 reapply for credentialing and meet the current requirements in place at
21 the time of application.

22 Sec. 83. Section 76-2236, Revised Statutes Supplement, 2019, is
23 amended to read:

24 76-2236 (1) Every credential holder shall furnish evidence to the
25 board that he or she has satisfactorily completed no fewer than twenty-
26 eight hours of approved continuing education activities in each two-year
27 continuing education period. The continuing education period begins on
28 January 1 of the next year for any credential holder who first obtained
29 his or her credential at the current level on or after July 1. Hours of
30 satisfactorily completed approved continuing education activities cannot
31 be carried over from one two-year continuing education period to another.

1 Evidence of successful completion of such continuing education activities
2 for the two-year continuing education period, including passing
3 examination if applicable, shall be submitted to the board in the manner
4 prescribed by the board. No continuing education activity shall be less
5 than two hours in duration. A person who holds a temporary credential
6 does not have to meet any continuing education requirements in the Real
7 Property Appraiser Act.

8 (2) As prescribed by rules and regulations of the Real Property
9 Appraiser Board and at least once every two years, the seven-hour
10 National Uniform Standards of Professional Appraisal Practice Update
11 Course as approved by the Appraiser Qualifications Board or the
12 equivalent of the course as approved by the Real Property Appraiser
13 Board, shall be included in the continuing education requirement of each
14 credential holder. An instructor certified by the Appraiser
15 Qualifications Board satisfies this requirement by successfully
16 completing a seven-hour instructor recertification course and examination
17 as approved by the Appraiser Qualifications Board.

18 (3) A continuing education activity conducted in another
19 jurisdiction in which the activity is approved to meet the continuing
20 education requirements for renewal of a credential in such other
21 jurisdiction shall be accepted by the board if that jurisdiction has
22 adopted and enforces standards for such continuing education activity
23 that meet or exceed the standards established by the Real Property
24 Appraiser Act and the rules and regulations of the board.

25 (4) The board may adopt a program of continuing education for
26 individual credentials as long as the program is compliant with the
27 Appraiser Qualifications Board's criteria specific to continuing
28 education.

29 (5) No more than fourteen hours may be approved by the Real Property
30 Appraiser Board as continuing education in each two-year continuing
31 education period for participation, other than as a student, in appraisal

1 educational processes and programs, which includes teaching, program
2 development, authorship of textbooks, or similar activities that are
3 determined by the board to be equivalent to obtaining continuing
4 education. Evidence of participation shall be submitted to the board upon
5 completion of the appraisal educational process or program. No
6 preapproval will be granted for participation in appraisal educational
7 processes or programs.

8 (6) Qualifying education, as approved by the board, successfully
9 completed by a credential holder to fulfill the class-hour requirement to
10 upgrade to a higher classification than his or her current
11 classification, shall be approved by the board as continuing education.

12 (7) Qualifying education, as approved by the board, taken by a
13 credential holder not to fulfill the class-hour requirement to upgrade to
14 a higher classification, shall be approved by the board as continuing
15 education if the credential holder completes the examination.

16 (8) A board-approved supervisory real property appraiser and trainee
17 course successfully completed by a certified real property appraiser
18 shall be approved by the board as continuing education no more than once
19 during each two-year continuing education period.

20 (9) The Real Property Appraiser Board shall approve continuing
21 education activities and instructors which it determines would protect
22 the public by improving the competency of credential holders.

23 Sec. 84. Section 76-2238, Revised Statutes Supplement, 2019, is
24 amended to read:

25 76-2238 The following acts and omissions shall be considered grounds
26 for disciplinary action or denial of an application by the board:

27 (1) Failure to meet the minimum qualifications for credentialing
28 established by or pursuant to the Real Property Appraiser Act;

29 (2) Procuring or attempting to procure a credential under the act by
30 knowingly making a false statement, submitting false information, or
31 making a material misrepresentation in an application filed with the

1 board or procuring or attempting to procure a credential through fraud or
2 misrepresentation;

3 (3) Paying money or other valuable consideration other than the fees
4 provided for by the act to any member or employee of the board to procure
5 a credential;

6 (4) An act or omission involving real estate or real property
7 appraisal practice which constitutes dishonesty, fraud, or
8 misrepresentation with or without the intent to substantially benefit the
9 credential holder or another person or with the intent to substantially
10 injure another person;

11 (5) Failure to demonstrate character and general fitness such as to
12 command the confidence and trust of the public;

13 (6) Conviction, including a conviction based upon a plea of guilty
14 or nolo contendere, of any felony unless his or her civil rights have
15 been restored;

16 (7) Entry of a final civil or criminal judgment, including dismissal
17 with settlement, on grounds of fraud, dishonesty, breach of trust, money
18 laundering, misrepresentation, or deceit involving real estate, financial
19 services, or real property in the making of an appraisal practice;

20 (8) Conviction, including a conviction based upon a plea of guilty
21 or nolo contendere, of a crime which is related to the qualifications,
22 functions, or duties of a real property appraiser;

23 (9) Performing valuation services as a credentialed real property
24 appraiser under an assumed or fictitious name;

25 (10) Paying a finder's fee or a referral fee to any person in
26 connection with a real property appraisal practice assignment ~~the~~
27 ~~appraisal of real estate or real property or an appraisal review~~, except
28 that an intracompany payment for business development shall not be
29 considered to be unethical or a violation of this subdivision;

30 (11) Making a false or misleading statement in that portion of a
31 written report that deals with professional qualifications or in any

1 testimony concerning professional qualifications;

2 (12) Any violation of the act or any rules and regulations adopted
3 and promulgated pursuant to the act;

4 ~~(13) Violation of the confidential nature of any information to~~
5 ~~which a credential holder gained access through employment for evaluation~~
6 ~~assignments or valuation assignments;~~

7 ~~(14) Acceptance of a fee for performing a real property appraisal~~
8 ~~valuation assignment, evaluation assignment, or appraisal review~~
9 ~~assignment when the fee is or was contingent upon (a) the real property~~
10 ~~appraiser reporting a predetermined analysis, opinion, or conclusion, (b)~~
11 ~~the analysis, opinion, conclusion, or valuation reached, or (c) the~~
12 ~~consequences resulting from an appraisal or appraisal review;~~

13 ~~(15) Failure or refusal to exercise reasonable diligence in~~
14 ~~developing an appraisal or appraisal review, preparing a report, or~~
15 ~~communicating a report or assignment results;~~

16 ~~(16) Negligence or incompetence in developing an appraisal or~~
17 ~~appraisal review, preparing a report, or communicating a report or~~
18 ~~assignment results, including failure to follow the standards and ethical~~
19 ~~rules adopted by the board;~~

20 ~~(13)~~ (17) Failure to maintain, or to make available for inspection
21 and copying, records required by the board;

22 ~~(14)~~ (18) Demonstrating negligence, incompetence, or unworthiness to
23 act as a real property appraiser, whether of the same or of a different
24 character as otherwise specified in this section;

25 ~~(15)~~ (19) Suspension or revocation of an appraisal credential or a
26 license in another regulated occupation, trade, or profession in this or
27 any other jurisdiction or disciplinary action taken by another
28 jurisdiction that limits the real property appraiser's ability to engage
29 in real property appraisal practice activity;

30 ~~(16)~~ (20) Failure to renew or surrendering an appraisal credential
31 or any other registration, license, or certification issued by any other

1 regulatory agency or held in any other jurisdiction in lieu of
2 disciplinary action pending or threatened;

3 (17) ~~(21)~~ Failure to report disciplinary action taken against an
4 appraisal credential or any other registration, license, or certification
5 issued by any other regulatory agency or held in any other jurisdiction
6 within sixty days of receiving notice of such disciplinary action;

7 (18) ~~(22)~~ Failure to comply with terms of a consent agreement or
8 settlement agreement;

9 (19) ~~(23)~~ Failure to submit or produce books, records, documents,
10 workfiles, reports, or other materials requested by the board concerning
11 any matter under investigation;

12 (20) ~~(24)~~ Failure of an education provider to produce records,
13 documents, reports, or other materials, including, but not limited to,
14 required student attendance reports, to the board;

15 (21) ~~(25)~~ Knowingly offering or attempting to offer a qualifying or
16 continuing education course or activity as being approved by the board to
17 a real property ~~an appraiser credentialed under the Real Property~~
18 ~~Appraiser Act,~~ or an applicant, without first obtaining approval of the
19 activity from the board, except for courses required by an accredited
20 degree-awarding college or university for completion of a degree in real
21 estate, if the college or university had its curriculum approved by the
22 Appraiser Qualifications Board as qualifying education;

23 (22) ~~(26)~~ Presentation to the Real Property Appraiser Board of any
24 check which is returned to the State Treasurer unpaid, whether payment of
25 fee is for an initial or renewal credential or for examination; and

26 (23) ~~(27)~~ Failure to pass the examination.

27 Sec. 85. Section 76-2239, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 76-2239 (1) The board may, upon its own motion, and shall, upon the
30 written complaint of any aggrieved person, cause an investigation to be
31 made with respect to an alleged violation of the Real Property Appraiser

1 Act. The board may revoke or suspend the credential or otherwise
2 discipline a credential holder, revoke or suspend a qualifying or
3 continuing education course or activity, deny any application, or issue a
4 cease and desist order for any violation of the Real Property Appraiser
5 Act. Any disciplinary action taken against a credentialed real property
6 appraiser, including any action that limits a credentialed real property
7 appraiser's ability to engage in real property appraisal practice, shall
8 be reported to federal authorities as required by Title XI of the
9 Financial Institutions Reform, Recovery, and Enforcement Act of 1989.
10 Upon receipt of information indicating that a person may have violated
11 any provision of the Real Property Appraiser Act, the board shall make an
12 investigation of the facts to determine whether or not there is evidence
13 of a violation. If technical assistance is required, the board may
14 contract with or use qualified persons.

15 (2)(a) If an investigation indicates that a person may have violated
16 a provision of the act, the board may offer the person an opportunity to
17 voluntarily and informally discuss the alleged violation before the
18 board. The board may enter into consent agreements or negotiate
19 settlements.

20 (b) If an investigation indicates that a person not holding a
21 credential under the act has violated a provision of the act, the board
22 may issue a cease and desist order or refer the investigation to the
23 appropriate county attorney for the consideration of formal charges.

24 (c) If an investigation indicates that a credential holder has
25 violated a provision of the act, a formal complaint shall be prepared by
26 the board and served upon the credential holder. The complaint shall
27 require the credential holder to file an answer within thirty days of the
28 date of service. In responding to a complaint, the credential holder may
29 admit the allegations of the complaint, deny the allegations of the
30 complaint, or plead otherwise. Failure to make a timely response shall be
31 deemed an admission of the allegations of the complaint. Upon receipt of

1 an answer to the complaint, the director or chairperson of the board
2 shall set a date, time, and place for an administrative hearing on the
3 complaint. The date of the hearing shall not be less than thirty nor more
4 than one hundred twenty days from the date that the answer is filed
5 unless such date is extended for good cause.

6 Sec. 86. Section 76-2243, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 76-2243 Nothing contained in the Real Property Appraiser Act shall
9 be deemed to prohibit any credential holder under the act from engaging
10 in real property appraisal practice as a professional corporation in
11 accordance with the Nebraska Professional Corporation Act.

12 Sec. 87. Section 76-2245, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 76-2245 No person engaged in real property appraisal practice
15 ~~activities~~ in this state or acting in the capacity of a real property
16 appraiser in this state may bring or maintain any action in any court of
17 this state to collect compensation for the performance of valuation
18 services for which credentialing is required by the Real Property
19 Appraiser Act without alleging and proving that he or she was duly
20 credentialed under the act in this state at all times during the
21 performance of such services.

22 Sec. 88. Section 76-2246, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 76-2246 Any person required to be credentialed by the Real Property
25 Appraiser Act who, directly or indirectly for another, offers, attempts,
26 agrees to engage in, or engages in real property appraisal practice
27 ~~activity~~ or who advertises or holds himself or herself out to the general
28 public as a real property appraiser in this state without obtaining
29 proper credentialing under the act shall be guilty of a Class III
30 misdemeanor and shall be ineligible to apply for credentialing under the
31 act for a period of one year from the date of his or her conviction of

1 such offense. The board may, in its discretion, credential such person
2 within such one-year period upon application and after an administrative
3 hearing.

4 Sec. 89. Section 76-2247.01, Reissue Revised Statutes of Nebraska,
5 is amended to read:

6 76-2247.01 (1) A person may retain or employ a real property
7 appraiser credentialed under the Real Property Appraiser Act to perform
8 valuation services. In each case, the valuation services specific to real
9 property appraisal practice, including any ~~appraisal, appraisal review,~~
10 ~~and~~ report, shall comply with the Real Property Appraiser Act and the
11 Uniform Standards of Professional Appraisal Practice.

12 (2) In a valuation assignment, the real property appraiser shall
13 remain an impartial, disinterested third party. When providing an
14 evaluation assignment, the real property appraiser may respond to a
15 client's stated objective but shall also remain an impartial,
16 disinterested third party.

17 Sec. 90. Section 76-3202, Revised Statutes Supplement, 2019, is
18 amended to read:

19 76-3202 For purposes of the Nebraska Appraisal Management Company
20 Registration Act:

21 (1) Affiliate means any person that controls, is controlled by, or
22 is under common control with, another person;

23 (2) AMC appraiser means a person who holds a valid credential or
24 equivalent to appraise real estate and real property under the laws of
25 this state or another jurisdiction, and holds the status of active on the
26 National Registry of the Appraisal Subcommittee of the Federal Financial
27 Institutions Examination Council in one or more jurisdictions;

28 (3) AMC final rule means, collectively, the rules adopted by the
29 federal agencies as required in section 1124 of the Financial
30 Institutions Reform, Recovery, and Enforcement Act of 1989, as such rules
31 existed on January 1, 2019;

1 (4) AMC National Registry means the registry of appraisal management
2 companies that hold a registration as an appraisal management company
3 issued by the board or the equivalent issued in another jurisdiction, and
4 federally regulated appraisal management companies, maintained by the
5 Appraisal Subcommittee;

6 (5) Appraisal has the same meaning as in section 76-2204;

7 (6) Appraisal management company means a person that:

8 (a) Provides appraisal management services to creditors or to
9 secondary mortgage market participants, including affiliates;

10 (b) Provides appraisal management services in connection with
11 valuing a consumer's principal dwelling as security for a consumer credit
12 transaction or incorporating such transactions into securitizations; and

13 (c) Within a twelve-month period, oversees an appraiser panel of:

14 (i) More than fifteen AMC appraisers who each hold a credential in
15 this state; or

16 (ii) Twenty-five or more AMC appraisers who each hold a credential
17 or equivalent in two or more jurisdictions;

18 (7) Appraisal management services means one or more of the
19 following:

20 (a) To recruit, select, and retain AMC appraisers;

21 (b) To contract with AMC appraisers to perform assignments;

22 (c) To manage the process of having an appraisal performed,
23 including providing administrative services such as receiving appraisal
24 orders and reports, submitting completed reports to creditors and
25 secondary mortgage market participants, collecting fees from creditors
26 and secondary mortgage market participants for services provided, and
27 paying AMC appraisers for valuation services performed; or

28 (d) To review and verify the work of AMC appraisers;

29 ~~(8) Appraisal practice has the same meaning as in section~~
30 ~~76-2205.01;~~

31 (8) ~~(9)~~ Appraisal Subcommittee means the Appraisal Subcommittee of

1 the Federal Financial Institutions Examination Council;

2 (9) ~~(10)~~ Appraiser panel means a network, list, or roster of AMC
3 appraisers approved by an appraisal management company to perform
4 appraisals as independent contractors for the appraisal management
5 company;

6 (10) ~~(11)~~ Assignment has the same meaning as in section 76-2207.01;

7 (11) ~~(12)~~ Board has the same meaning as in section 76-2207.18;

8 (12) ~~(13)~~ Consumer credit means credit offered or extended to a
9 consumer primarily for personal, family, or household purposes;

10 (13) ~~(14)~~ Contact person means a person designated by the appraisal
11 management company as the main contact for all communication between the
12 appraisal management company and the board;

13 (14) ~~(15)~~ Covered transaction means any consumer credit transaction
14 secured by the consumer's principal dwelling;

15 (15) ~~(16)~~ Credential has the same meaning as in section 76-2207.25;

16 (16) ~~(17)~~ Creditor means a person who regularly extends consumer
17 credit that is subject to a finance charge or is payable by written
18 agreement in more than four installments, not including a downpayment,
19 and to whom the obligation is initially payable, either on the face of
20 the note or contract or by agreement when there is no note or contract. A
21 person regularly extends consumer credit if:

22 (a) The person extended credit, other than credit subject to the
23 requirements of 12 C.F.R. 1026.32, as such regulation existed on January
24 1, 2019, more than five times for transactions secured by a dwelling in
25 the preceding calendar year, or in the current calendar year if a person
26 did not meet these standards in the preceding calendar year; and

27 (b) In any twelve-month period, the person originates more than one
28 credit extension that is subject to the requirements of 12 C.F.R.
29 1026.32, as such regulation existed on January 1, 2019, or one or more
30 such credit extensions through a mortgage broker;

31 (17) ~~(18)~~ Dwelling means a residential structure that contains one

1 to four units, whether or not that structure is attached to real
2 property, including an individual condominium unit, cooperative unit,
3 mobile home, or trailer if used as a residence. With respect to a
4 dwelling:

5 (a) A consumer may have only one principal dwelling at a time;

6 (b) A vacation or secondary dwelling is not a principal dwelling;
7 and

8 (c) A dwelling bought or built by a consumer with the intention of
9 that dwelling becoming the consumer's principal dwelling within one year,
10 or upon completion of construction, is considered to be the consumer's
11 principal dwelling for the purpose of the Nebraska Appraisal Management
12 Company Registration Act;

13 (18) ~~(19)~~ Federally regulated appraisal management company means an
14 appraisal management company that is:

15 (a) Owned and controlled by an insured depository institution as
16 defined in 12 U.S.C. 1813, as such section existed on January 1, 2019;
17 and

18 (b) Regulated by the Office of the Comptroller of the Currency, the
19 Board of Governors of the Federal Reserve System, the Federal Deposit
20 Insurance Corporation, or the successor of any such agencies;

21 (19) ~~(20)~~ Federal agencies means the Board of Governors of the
22 Federal Reserve System, the Federal Deposit Insurance Corporation, the
23 Office of the Comptroller of the Currency, the National Credit Union
24 Administration, the Consumer Financial Protection Bureau, the Federal
25 Housing Finance Agency, or the successor of any of such agencies;

26 (20) ~~(21)~~ Financial Institutions Reform, Recovery, and Enforcement
27 Act of 1989 has the same meaning as in section 76-2207.30;

28 (21) ~~(22)~~ Independent contractor means a person established as an
29 independent contractor by the appraisal management company for the
30 purpose of federal income taxation;

31 (22) ~~(23)~~ Jurisdiction has the same meaning as in section

1 76-2207.32;

2 ~~(23)~~ ~~(24)~~ Person has the same meaning as in section 76-2213.02;

3 ~~(24)~~ ~~(25)~~ Real estate has the same meaning as in section 76-2214;

4 ~~(25)~~ ~~(26)~~ Real property has the same meaning as in section
5 76-2214.01;

6 ~~(26)~~ ~~(27)~~ Real property appraisal practice activity has the same
7 meaning as in section 76-2215;

8 ~~(27)~~ ~~(28)~~ Registration means a registration as an appraisal
9 management company in this state issued by the board if all requirements
10 for approval as an appraisal management company required in the Nebraska
11 Appraisal Management Company Registration Act have been met by a person
12 making application to the board, including the submission of all required
13 fees, and the board has granted all rights to the person to operate as an
14 appraisal management company in this state as allowed under the act;

15 ~~(28)~~ ~~(29)~~ Report has the same meaning as in section 76-2216.02;

16 ~~(29)~~ ~~(30)~~ Secondary mortgage market participant means a guarantor or
17 insurer of mortgage-backed securities, or an underwriter or issuer of
18 mortgage-backed securities, and only includes an individual investor in a
19 mortgage-backed security if that investor also serves in the capacity of
20 a guarantor, insurer, underwriter, or issuer for the mortgage-backed
21 security;

22 ~~(30)~~ ~~(31)~~ Uniform Standards of Professional Appraisal Practice has
23 the same meaning as in section 76-2218.02; and

24 ~~(31)~~ ~~(32)~~ Valuation services has the same meaning as in section
25 76-2219.01.

26 Sec. 91. Section 76-3203.01, Revised Statutes Supplement, 2019, is
27 amended to read:

28 76-3203.01 (1) Only AMC appraisers considered to be in good standing
29 in all jurisdictions in which an active credential is held shall be
30 included on an appraisal management company's appraiser panel.

31 (2) An appraisal management company shall remove any AMC appraiser

1 from its appraiser panel within thirty days after receiving notice that
2 the AMC appraiser:

3 (a) Is no longer considered to be in good standing in one or more
4 jurisdictions in which he or she holds an active credential or
5 equivalent;

6 (b) The AMC appraiser's credential or equivalent has been refused,
7 denied, canceled, or revoked; or

8 (c) The AMC appraiser has surrendered his or her credential or
9 equivalent in lieu of revocation.

10 (3) Pursuant to subdivision (6)(c) of section 76-3202, an appraiser
11 panel shall include each AMC appraiser as of the earliest date on which
12 such person was accepted by the appraisal management company:

13 (a) For consideration for future assignments in covered transactions
14 or for secondary mortgage market participants in connection with covered
15 transactions; or

16 (b) For engagement to perform one or more appraisals on behalf of a
17 creditor for a covered transaction or for a secondary mortgage market
18 participant in connection with covered transactions.

19 (4) Any AMC appraiser included on an appraisal management company's
20 appraiser panel pursuant to subsection (3) of this section shall remain
21 on such appraiser panel until the date on which the appraisal management
22 company:

23 (a) Sends written notice to the AMC appraiser removing him or her
24 from the appraiser panel. Such written notice shall include an
25 explanation of the action taken by the appraisal management company;

26 (b) Receives written notice from the AMC appraiser requesting that
27 he or she be removed from the appraiser panel. Such written notice shall
28 include an explanation of the action requested by the AMC appraiser; or

29 (c) Receives written notice on behalf of the AMC appraiser of the
30 death or incapacity of the AMC appraiser. Such written notice shall
31 include an explanation on behalf of the AMC appraiser.

1 (5) Upon receipt of notice that he or she has been removed from the
2 appraisal management company's appraiser panel, an AMC appraiser shall
3 have thirty days to provide a response to the appraisal management
4 company that removed the AMC appraiser from its appraiser panel. Upon
5 receipt of the AMC appraiser's response, the appraisal management company
6 shall have thirty days to reconsider the removal and provide a written
7 response to the AMC appraiser.

8 (6) If an AMC appraiser is removed from an appraisal management
9 company's appraiser panel pursuant to subsection (4) of this section,
10 nothing shall prevent the appraisal management company at any time during
11 the twelve months after removal from the appraiser panel from considering
12 such person for future assignments in covered transactions or for
13 secondary mortgage market participants in connection with covered
14 transactions, or for engagement to perform one or more appraisals on
15 behalf of a creditor for a covered transaction or for a secondary
16 mortgage market participant in connection with covered transactions. If
17 such consideration or engagement takes place, the removal shall be deemed
18 not to have occurred and such person shall be deemed to have been
19 included on the appraiser panel without interruption.

20 (7) Any AMC appraiser included on an appraisal management company's
21 appraiser panel engaged in ~~appraisal practice~~ or real property appraisal
22 practice activity as a result of an assignment provided by an appraisal
23 management company shall be free from inappropriate influence and
24 coercion as required by the appraisal independence standards established
25 under section 129E of the federal Truth in Lending Act, as such section
26 existed on January 1, 2018, including the requirements for payment of a
27 reasonable and customary fee to AMC appraisers when the appraisal
28 management company is engaged in providing appraisal management services.

29 (8) An appraisal management company shall select an AMC appraiser
30 from its appraiser panel for an assignment who is independent of the
31 transaction and who has the requisite education, expertise, and

1 experience necessary to competently complete the assignment for the
2 particular market and property type.

3 Sec. 92. Section 76-3207, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 76-3207 (1) A person applying for issuance of a registration or
6 renewal of a registration shall not:

7 (a) In whole or in part, directly or indirectly, be owned by any
8 person who has had a credential or equivalent refused, denied, canceled,
9 or revoked or who has surrendered a credential or equivalent in lieu of
10 revocation in any jurisdiction for a substantive cause as determined by
11 the board; and

12 (b) Be more than ten percent owned by a person who is not of good
13 moral character, which for purposes of this section shall require that
14 such person has not been convicted of, or entered a plea of nolo
15 contendere to, a felony relating to the ~~appraisal practice~~ or real
16 property appraisal practice activity or any crime involving fraud,
17 misrepresentation, or moral turpitude or failed to submit to a criminal
18 history record check through the Nebraska State Patrol and the Federal
19 Bureau of Investigation.

20 (2) For purposes of subdivision (1)(b) of this section, each
21 individual owner of more than ten percent of an appraisal management
22 company shall, at the time an application for issuance of a registration
23 is made, submit two copies of legible ink-rolled fingerprint cards or
24 equivalent electronic fingerprint submissions to the board for delivery
25 to the Nebraska State Patrol in a form approved by both the Nebraska
26 State Patrol and the Federal Bureau of Investigation. The board shall pay
27 the Nebraska State Patrol the costs associated with conducting a
28 fingerprint-based national criminal history record check through the
29 Nebraska State Patrol and the Federal Bureau of Investigation with such
30 record check to be carried out by the board.

31 (3) For the purpose of subdivision (1)(a) of this section, a person

1 is not barred from issuance of a registration if the credential or
2 equivalent of the person with an ownership interest was not refused,
3 denied, canceled, revoked, or surrendered in lieu of revocation for a
4 substantive cause as determined by the board and has been reinstated by
5 the jurisdiction in which the action was taken.

6 Sec. 93. Section 76-3210, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 76-3210 Any employee of or independent contractor to an appraisal
9 management company that holds a registration, including any AMC appraiser
10 included on an appraisal management company's appraiser panel engaged in
11 ~~appraisal practice or~~ real property appraisal practice activity, shall
12 comply with the Real Property Appraiser Act, including the Uniform
13 Standards of Professional Appraisal Practice.

14 Sec. 94. Section 77-2387, Revised Statutes Supplement, 2019, is
15 amended to read:

16 77-2387 For purposes of the Public Funds Deposit Security Act,
17 unless the context otherwise requires:

18 (1) Affiliate means any entity that controls, is controlled by, or
19 is under common control with another entity;

20 (2) Bank means any state-chartered or federally chartered bank which
21 has a main chartered office in this state, any branch thereof in this
22 state, or any branch in this state of a state-chartered or federally
23 chartered bank which maintained a main chartered office in this state
24 prior to becoming a branch of such state-chartered or federally chartered
25 bank;

26 (3) Capital stock financial institution means a capital stock state
27 building and loan association, a capital stock federal savings and loan
28 association, a capital stock federal savings bank, and a capital stock
29 state savings bank, which has a main chartered office in this state, any
30 branch thereof in this state, or any branch in this state of a capital
31 stock financial institution which maintained a main chartered office in

1 this state prior to becoming a branch of such capital stock financial
2 institution;

3 (4) Control means to own directly or indirectly or to control in any
4 manner twenty-five percent of the voting shares of any bank, capital
5 stock financial institution, or holding company or to control in any
6 manner the election of the majority of directors of any bank, capital
7 stock financial institution, or holding company;

8 (5) Custodial official means an officer or an employee of the State
9 of Nebraska or any political subdivision who, by law, is made custodian
10 of or has control over public money or public funds subject to the act or
11 the security for the deposit of public money or public funds subject to
12 the act;

13 (6) Deposit guaranty bond means a bond underwritten by an insurance
14 company authorized to do business in this state which provides coverage
15 for deposits of a governing authority which are in excess of the amounts
16 insured or guaranteed by the Federal Deposit Insurance Corporation;

17 (7) Director means the Director of Banking and Finance;

18 (8) Event of default means the issuance of an order by a supervisory
19 authority or a receiver which restrains a bank, capital stock financial
20 institution, or qualifying mutual financial institution from paying its
21 deposit liabilities;

22 (9) Governing authority means the official, or the governing board,
23 council, or other body or group of officials, authorized to designate a
24 bank, capital stock financial institution, or qualifying mutual financial
25 institution as a depository of public money or public funds subject to
26 the act;

27 (10) Governmental unit means the State of Nebraska or any political
28 subdivision thereof;

29 (11) Political subdivision means any county, city, village,
30 township, district, authority, or other public corporation or entity,
31 whether organized and existing under direct provisions of the

1 Constitution of Nebraska or laws of the State of Nebraska or by virtue of
2 a charter, corporate articles, or other legal instruments executed under
3 authority of the constitution or laws, including any entity created
4 pursuant to the Interlocal Cooperation Act or the Joint Public Agency
5 Act;

6 (12) Qualifying mutual financial institution shall have the same
7 meaning as in section 77-2365.01;

8 (13) Repurchase agreement means an agreement to purchase securities
9 by the governing authority by which the counterparty bank, capital stock
10 financial institution, or qualifying mutual financial institution will
11 repurchase the securities on or before a specified date and for a
12 specified amount and the counterparty bank, capital stock financial
13 institution, or qualifying mutual financial institution will deliver the
14 underlying securities to the governing authority by book entry, physical
15 delivery, or third-party custodial agreement. The transfer of underlying
16 securities to the counterparty bank's, capital stock financial
17 institution's, or qualifying mutual financial institution's customer book
18 entry account may be used for book entry delivery if the governing
19 authority so chooses; and

20 (14) Securities means:

21 (a) Bonds or obligations fully and unconditionally guaranteed both
22 as to principal and interest by the United States Government;

23 (b) United States Government notes, certificates of indebtedness, or
24 treasury bills of any issue;

25 (c) United States Government bonds;

26 (d) United States Government guaranteed bonds or notes;

27 (e) Bonds or notes of United States Government agencies;

28 (f) Bonds of any state or political subdivision which are fully
29 defeased as to principal and interest by any combination of bonds or
30 notes authorized in subdivision (c), (d), or (e) of this subdivision;

31 (g) Bonds or obligations, including mortgage-backed securities and

1 collateralized mortgage obligations, issued by or backed by collateral
2 one hundred percent guaranteed by the Federal Home Loan Mortgage
3 Corporation, the Federal Farm Credit System, a Federal Home Loan Bank, or
4 the Federal National Mortgage Association;

5 (h) Student loans backed or partially guaranteed by the United
6 States Department of Education;

7 (i) ~~(h)~~ Repurchase agreements the subject securities of which are
8 any of the securities described in subdivisions (a) through (g) of this
9 subdivision;

10 (j) ~~(i)~~ Securities issued under the authority of the Federal Farm
11 Loan Act;

12 (k) ~~(j)~~ Loan participations which carry the guarantee of the
13 Commodity Credit Corporation, an instrumentality of the United States
14 Department of Agriculture;

15 (l) ~~(k)~~ Guaranty agreements of the Small Business Administration of
16 the United States Government;

17 (m) ~~(l)~~ Bonds or obligations of any county, city, village,
18 metropolitan utilities district, public power and irrigation district,
19 sewer district, fire protection district, rural water district, or school
20 district in this state which have been issued as required by law;

21 (n) ~~(m)~~ Bonds of the State of Nebraska or of any other state which
22 are purchased by the Board of Educational Lands and Funds of this state
23 for investment in the permanent school fund or which are purchased by the
24 state investment officer of this state for investment in the permanent
25 school fund;

26 (o) ~~(n)~~ Bonds or obligations of another state, or a political
27 subdivision of another state, which are rated within the two highest
28 classifications by at least one of the standard rating services;

29 (p) ~~(o)~~ Warrants of the State of Nebraska;

30 (q) ~~(p)~~ Warrants of any county, city, village, local hospital
31 district, or school district in this state;

1 ~~(r)~~ ~~(q)~~ Irrevocable, nontransferable, unconditional standby letters
2 of credit issued by a Federal Home Loan Bank; and

3 ~~(s)~~ ~~(r)~~ Certificates of deposit fully insured or guaranteed by the
4 Federal Deposit Insurance Corporation that are issued to a bank, capital
5 stock financial institution, or qualifying mutual financial institution
6 furnishing securities pursuant to the Public Funds Deposit Security Act.

7 Sec. 95. Section 81-885.04, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 81-885.04 Except as to the requirements with respect to the
10 subdivision of land, the Nebraska Real Estate License Act shall not apply
11 to:

12 (1) Any person, partnership, limited liability company, or
13 corporation who as owner or lessor shall perform any of the acts
14 described in subdivision (2) of section 81-885.01 with reference to
15 property owned or leased by him, her, or it or to the regular employees
16 thereof, with respect to the property so owned or leased, when such acts
17 are performed in the regular course of or as an incident to the
18 management, sale, or other disposition of such property and the
19 investment therein, except that such regular employees shall not perform
20 any of the acts described in such subdivision in connection with a
21 vocation of selling or leasing any real estate or the improvements
22 thereon;

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

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

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

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

9 (6) Any officer or employee of the state government or any political
10 subdivision thereof performing his or her official duties for real estate
11 tax purposes or performing his or her official duties related to the
12 acquisition of any interest in real property when the interest is being
13 acquired for a public purpose;

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

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

21 (9) Any unlicensed person who provides a list or lists of potential
22 purchasers to a broker or salesperson or who makes calls or facilitates
23 the initial contact between a potential client or customer as defined in
24 sections 76-2407 and 76-2409, respectively, and a broker or salesperson.
25 The unlicensed person may only provide information regarding the broker
26 or salesperson and the broker's or salesperson's services in written
27 information created by the broker or salesperson that identifies the
28 broker or salesperson and the broker's or salesperson's place of business
29 and which is sent by email, United States mail, or by link to a web site
30 created by the broker or salesperson. The unlicensed person is not
31 permitted to discuss with such potential client or customer the services

1 offered or to be offered by the broker or salesperson. The unlicensed
2 person acting under this exemption may not discuss with such potential
3 client or customer the client's or customer's motivation, motivating
4 factors, or price such potential client or customer is willing to offer
5 or accept. The unlicensed person does not have the authority and shall
6 not purport to have the authority to obligate any such potential client
7 or customer to work with a particular broker or salesperson or particular
8 broker's or salesperson's place of business. The unlicensed person shall,
9 at the beginning of any contact with such potential client or customer,
10 identify who the unlicensed person is, the name of the entity that
11 employs the unlicensed person, the name of the broker or salesperson, and
12 the name of the broker's or salesperson's real estate business on whose
13 behalf the contact is being made. The unlicensed person shall not perform
14 any other activity of a broker or salesperson described in section
15 81-885.01, except those acts specifically provided for in this
16 subdivision. A broker or salesperson who engages an unlicensed person
17 under this exemption shall provide written instructions to such
18 unlicensed person explaining the limitations of this exemption or provide
19 a copy of the law to such unlicensed person.

20 Sec. 96. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
21 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32,
22 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50,
23 51, 52, 53, 94, 95, and 98 of this act become operative three calendar
24 months after the adjournment of this legislative session. The other
25 sections of this act become operative on their effective date.

26 Sec. 97. If any section in this act or any part of any section is
27 declared invalid or unconstitutional, the declaration shall not affect
28 the validity or constitutionality of the remaining portions.

29 Sec. 98. Original sections 25-223, 76-842, 76-844, 76-854, 76-857,
30 76-859, 76-860, 76-867, 76-869, 76-870, 76-884, 76-890, 76-902, and
31 81-885.04, Reissue Revised Statutes of Nebraska, sections 1-116 and

1 21-201, Revised Statutes Cumulative Supplement, 2018, and sections 76-861
2 and 77-2387, Revised Statutes Supplement, 2019, are repealed.

3 Sec. 99. Original sections 76-2202, 76-2204, 76-2205.02,
4 76-2207.01, 76-2207.17, 76-2207.22, 76-2207.26, 76-2212.03, 76-2215,
5 76-2216, 76-2216.02, 76-2218.02, 76-2219.01, 76-2219.02, 76-2220,
6 76-2221, 76-2223, 76-2227, 76-2233, 76-2233.01, 76-2233.02, 76-2233.03,
7 76-2239, 76-2243, 76-2245, 76-2246, 76-2247.01, 76-3207, and 76-3210,
8 Reissue Revised Statutes of Nebraska, and sections 76-2207.27,
9 76-2207.30, 76-2228.01, 76-2228.02, 76-2230, 76-2231.01, 76-2232,
10 76-2236, 76-2238, 76-3202, and 76-3203.01, Revised Statutes Supplement,
11 2019, are repealed.

12 Sec. 100. The following sections are outright repealed: Sections
13 76-2205.01 and 76-2216.03, Reissue Revised Statutes of Nebraska.

14 Sec. 101. Since an emergency exists, this act takes effect when
15 passed and approved according to law.

16 2. On page 1, strike beginning with "the" in line 1 through line 5
17 and insert "commerce; to amend sections 25-223, 76-842, 76-844, 76-854,
18 76-857, 76-859, 76-860, 76-867, 76-869, 76-870, 76-884, 76-890, 76-902,
19 76-2202, 76-2204, 76-2205.02, 76-2207.01, 76-2207.17, 76-2207.22,
20 76-2207.26, 76-2212.03, 76-2215, 76-2216, 76-2216.02, 76-2218.02,
21 76-2219.01, 76-2219.02, 76-2220, 76-2221, 76-2223, 76-2227, 76-2233,
22 76-2233.01, 76-2233.02, 76-2233.03, 76-2239, 76-2243, 76-2245, 76-2246,
23 76-2247.01, 76-3207, 76-3210, and 81-885.04, Reissue Revised Statutes of
24 Nebraska, sections 1-116 and 21-201, Revised Statutes Cumulative
25 Supplement, 2018, and sections 76-861, 76-2207.27, 76-2207.30,
26 76-2228.01, 76-2228.02, 76-2230, 76-2231.01, 76-2232, 76-2236, 76-2238,
27 76-3202, 76-3203.01, and 77-2387, Revised Statutes Supplement, 2019; to
28 eliminate obsolete provisions relating to accountants; to change
29 provisions relating to the certified public accountant examination; to
30 define terms and provide for the ratification of defective corporate
31 actions under the Nebraska Model Business Corporation Act; to adopt the

1 Uniform Trust Decanting Act and change tax provisions for property
2 transferred under the act; to change provisions relating to actions on
3 breach of warranty on improvements to real property; to change provisions
4 under the Nebraska Condominium Act; to change provisions relating to the
5 Real Property Appraiser Act; to redefine the term security to include
6 certain student loans under the Public Funds Deposit Security Act; to
7 provide an exemption to the Nebraska Real Estate License Act as
8 prescribed; to harmonize provisions; to provide operative dates; to
9 provide severability; to repeal the original sections; to outright repeal
10 sections 76-2205.01 and 76-2216.03, Reissue Revised Statutes of Nebraska;
11 and to declare an emergency."