Title 299 - NEBRASKA REAL ESTATE COMMISSION

Chapter 2 - BUSINESS PRACTICES; EMPLOYMENT OF SALESPERSON OR ASSOCIATE BROKER; ADVERTISING; SOLICITING LISTINGS OR REPRESENTATION; TRANSMISSION OF WRITTEN OFFERS TO OWNER; CLOSING REAL ESTATE TRANSACTIONS; GOOD FUNDS; REPRESENTING ANOTHER BROKER; RETENTION OF SIGNS; BRANCH OFFICES.

001 It shall be presumed that a duly licensed broker whose principal business is other than that of a real estate broker is unable to supervise licensed employees, and said broker shall not be allowed to employ a real estate salesperson or an associate broker until such presumption is overcome by satisfactory evidence to the contrary.

002 Each broker shall record with the Commission the type of business form under which the broker is doing business, i.e., sole proprietorship, general or limited partnership, corporation, limited liability company, or any other entity authorized by law under which a broker may be operating a real estate business, and the legal name of such entity if it is not a sole proprietorship. A broker may operate only under one business entity. In addition, the broker shall record with the Commission all names under which the broker will be conducting business. All trade names shall be recorded with the Commission only after registration with the Secretary of State's Office.

003 Advertising shall include all forms of identification, representation, promotion, and solicitation disseminated in any manner and by any means of communication to the public for any purpose related to licensed real estate activity. All advertising shall be under the direct supervision of the broker, and ~~in~~ prominently display the name the broker is conducting business as recorded with the Commission in a way that is conspicuous, discernible, and easily identifiable by the public. Advertising which is contrary to Sections 003 to 006 of these regulations shall constitute misleading or inaccurate advertising under Section 81-885.24(2) of the Nebraska Real Estate License Act.

003.01 Each broker who is operating as an independent broker or sole proprietorship, without being a corporation or limited liability company or filing a trade name, shall advertise in his or her name as recorded with the Commission and include the word(s) "Broker" or "Real Estate Broker", e.g. Sara Stone, Broker or Sara Stone, Real Estate Broker.

003.02 Each broker, when operating under a franchise, shall clearly set forth in all advertising, in addition to the franchise name, the name under which the broker is doing business as recorded with the Commission and, if applicable, registered with the Secretary of State.

003.03 Each broker who is operating under one or more trade names as registered with the Secretary of State and recorded with the Commission will advertise in the trade name(s) as recorded. The broker is not required to identify all trade names on each advertisement but must advertise, without exception, in the name of one of the trade names as registered with the Secretary of State and as recorded with the Commission. This section applies to independent brokers, sole proprietorships, franchises, corporations, partnerships, limited liability companies, or any other entity authorized by law under which a broker may be operating a real estate business.

003.04 Each broker who is operating under a corporation will advertise in the name of the corporation as registered with the Secretary of State and recorded with the Commission. If the corporation also registers one or more trade names with the Secretary of State, such trade name(s) shall be recorded with the Commission, and the corporation may advertise in either the corporate name or the trade name(s).

003.05 Each broker who is operating under a limited liability company will advertise in the name of the limited liability company as registered with the Secretary of State and recorded with the Commission. If the limited liability company also registers one or more trade names with the Secretary of State, such trade name(s) shall be recorded with the Commission, and the limited liability company may advertise in either the limited liability company name or the trade name(s).

003.06 If registered and recorded names have in their titles, "Co.", "Inc." or the like, such designations may be excluded from advertising, provided that such exclusion is likely to neither deceive nor confuse the public with regard to the identity of the real estate business being advertised.

003.07 Real estate affiliate and team advertising:

003.07a Team advertising shall always include the team name as recorded with the team's designated broker.

003.07b Team advertising shall prominently display the name the broker supervising the team conducts business under as recorded with the Commission adjacent to the team name and similar or greater in size and visibility than the team name.

003.07b Advertising featuring the name of an affiliated associate broker or salesperson shall **p**rominently display the name the broker supervising the affiliated salesperson or associate broker conducts business under as recorded with the Commission adjacent to affiliated licensee's name and similar or greater in size and visibility than the affiliated licensee's name.

003.08 Real estate team names:

003.08a Must always include the word "team" or "group" as part of the team name.

003.08b Real estate team names shall not include the words:

(i) Realtors,
(ii) Company,
(iii) Corporation,
(iv) Corp.,
(v) Inc.,
(vi) LLC,
(vii) Inc.,
(viii) LP or LLP,
(ix) LP or LLP,
(x) or similar words suggesting the team is a separate real estate brokerage or company.

003.08c Real estate team names may include the words “real estate” or “realty” only if such terms are immediately followed by the word “team” or “group”

004 A broker shall not advertise to sell, buy, exchange, rent, or lease real property in a manner indicating that the offer to sell, buy, exchange, rent, or lease such real property is being made by a private party not engaged in the real estate business, and no advertisement shall be inserted in any publication where only a post office box number, telephone number, or street address appears.

005 Every salesperson, associate broker, and broker is prohibited from advertising under his or her own name the offering for sale, purchase, or exchange of any real property unless he or she is the owner thereof. Every licensee, when advertising his or her own property for sale, purchase, or exchange must disclose in such advertising that he or she is a licensed real estate salesperson, associate broker, or broker.

006 Every licensee is prohibited from soliciting or attempting to secure listings or to represent a purchaser or tenant without first advising the owner or prospective purchaser or tenant that he or she is a licensee, and that he or she is engaged in the real estate business.

007 In the event that more than one written offer is made before the owner has accepted an offer and closed on that offer, any other written offer presented to the licensee, whether by a prospective purchaser, an agent of a prospective purchaser, or a cooperating broker, shall be transmitted forthwith to the owner for his or her consideration.

008 A salesperson or associate broker shall not participate in the closing of any real estate transaction except under the supervision and with the consent of the broker under whom such salesperson or associate broker is licensed. A broker shall not authorize any person who is not licensed as a salesperson or associate broker to conduct the closing of a real estate transaction. This shall not prevent an unlicensed person, such as a closing secretary, from doing the preparatory work for the closing, subject to the approval of the licensee conducting the closing; and does not apply to real estate closing agents authorized under Neb. Rev. Stat. 76-2,121 et seq.

009 A broker closing a real estate transaction shall be in compliance with Neb. Rev. Stat. Sections 76-2,121 through 76-2,123.

010 The consent required from the employing broker for an associate broker or salesperson to represent another real estate broker or to accept a commission or other valuable consideration from anyone other than the employing broker as set forth in Neb. Rev. Stat. 81-885.24(7) and (8), respectively, shall be given in writing by the broker in advance of the licensee representing the other broker or the acceptance of the commission or other valuable consideration from the other party. A copy of the consent shall be maintained by the employing broker for five years following the date of such consent.

011 The word "Placing..." as used in 81-885.24(11) of the Nebraska Real Estate License Act shall also be construed to mean the retention of such sign. Written authorization is required to place and retain a sign, and the sign must be removed within a reasonable period of time after the termination of such written authorization.

012 A branch office is any location, other than the main office of a real estate business, where: 1) one or more licensees spend a substantial amount of time transacting real estate business requiring a license; and 2) such licensee(s) advertises that they can be contacted for real estate business purposes; and 3) such licensee(s) maintains what would, in the normal business context, be considered a business office. Nothing in this Section should be construed to include the advertising of a home phone number and address by a licensee in the alphabetical listing of subscribers section, or white pages, of the telephone directory to come within the branch office definition. A model home utilized as an office on a temporary basis would not be considered a branch office.

013 A real estate broker, who is not otherwise involved in the real estate transaction before a written agreement has been entered into for the purchase, sale, or exchange of the real estate, may close the real estate transaction as long as the broker complies with all provisions of the Nebraska Real Estate License Act and Rules of the Commission.

013.01 For the purpose of 013 above, the word "close" refers to services as an independent party to perform the ministerial actions necessary to complete the transaction, which may include the receipt and disbursement of funds. When providing only the above ministerial actions, the broker shall disclose, in writing, to all parties to the transaction, prior to the closing of the transaction, that the broker is only providing this ministerial service and is not acting as an agent for either party. The disclosure shall be signed by both parties and a copy shall be maintained in accordance with 299 NAC 3-001.

013.02 Whenever a broker participates in a real estate transaction before a written agreement has been entered into for the purchase, sale, or exchange of real estate, the broker must fulfill the applicable obligations of a broker to the seller and the buyer in accordance with the provisions of the Nebraska Real Estate License Act and the Rules of the Commission.

014 In the event that a team or group leader's license is suspended or revoked, unless dissolved, the team or group must forthwith designate a new leader and provide the name of the new group leader to the team's designated broker. If a team or group member for whom the team or group is named has his or her license suspended or revoked the team must forthwith designate a new name for the team or group which does not use or incorporate the revoked or suspended licensee's name. This provision shall not apply to periods when a team or group member for whom the team or group is named is serving his or her suspension on probation.

015 The operative date of the amendments found in sections 003 and 014 of this chapter shall be July 1, 2017.

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

Laws 1994, LB 1275, §3; RS 1943, §76-2,123 R.S. Cum. Supp., 1994. Effective date July 16, 1994.

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

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