

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL

EXHIBIT
14a

Introduced by

Read first time

Committee:

- 1 A BILL FOR AN ACT relating to the Nebraska Real Estate License Act; to
- 2 amend sections 81-885.03 and 81-885.25, Reissue Revised Statutes of
- 3 Nebraska; to eliminate notice requirements for cease and desist
- 4 orders as provided; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 81-885.03, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 81-885.03 (1) Any person who, directly or indirectly for another,
4 with the intention or upon the promise of receiving any form of
5 compensation or consideration, offers, attempts, or agrees to perform or
6 performs any single act described in subdivision (2) of section
7 81-885.01, whether as a part of a transaction, or as an entire
8 transaction, shall be deemed a broker, associate broker, or salesperson
9 within the meaning of the Nebraska Real Estate License Act, and such
10 action shall constitute sufficient contact with the state for the
11 exercise of personal jurisdiction over such person in any action arising
12 out of such action. Committing a single act described in such subdivision
13 by a person required to be licensed under the Nebraska Real Estate
14 License Act and not so licensed shall constitute a violation of the act
15 for which the commission may impose sanctions pursuant to this section
16 for the protection of the public health, safety, or welfare.

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

23 (3) If such person violates a cease and desist order issued pursuant
24 to this section, he or she shall be subject to further proceedings before
25 the commission. If, during such proceedings, the commission makes a
26 finding of guilt, the commission may impose a fine not to exceed (a) one
27 thousand dollars for each day that any action is performed without the
28 appropriate license following the issuance of the order or (b) the amount
29 of all money earned as commission by the violator, whichever is greater.
30 Judgments for the collection of any fine imposed under this section may
31 be filed in the district court of any county in this state.

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

3 **Sec. 2.** Section 81-885.25, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 81-885.25 (1) Before the commission censures a licensee, imposes a
6 civil fine, or revokes or suspends a license, ~~or issues a cease and~~
7 ~~desist order~~, the commission shall send to the licensee or violator a
8 copy of the complaint by registered mail, certified mail, first-class
9 mail using intelligent mail barcode or another similar tracking method
10 used or approved by the United States Postal Service, or a designated
11 delivery service as provided in section 25-505.01, which contains the
12 charges against the licensee or violator and, unless the licensee or
13 violator waives the right to a hearing and has executed a consent order,
14 give the licensee or violator a hearing on the matter.

15 (2) The licensee or violator shall have full authority to be heard
16 in person or by counsel before the commission in reference to such
17 charges. The commission shall, at least twenty days prior to the date set
18 for hearing, notify the licensee or violator in writing of the date and
19 place of the hearing. Such notice may be served by delivering it
20 personally to the licensee or violator or by sending it by either
21 registered mail, certified mail, first-class mail using intelligent mail
22 barcode or another similar tracking method used or approved by the United
23 States Postal Service, or a designated delivery service as provided in
24 section 25-505.01, to the last-known business address of such licensee or
25 any known address of the violator. If the licensee is an associate broker
26 or a salesperson, the commission shall also notify the broker employing
27 the licensee by mailing a copy of such notice to the broker's last-known
28 business address.

29 **Sec. 3.** Original sections 81-885.03 and 81-885.25, Reissue Revised
30 Statutes of Nebraska, are repealed.