

LEGISLATIVE BILL 151

EXHIBIT

16a

Approved by the Governor February 13, 2024

Introduced by Dover, 19.

A BILL FOR AN ACT relating to the State Real Estate Commission; to amend sections 81-885.18 and 81-885.25, Reissue Revised Statutes of Nebraska, and section 81-885.07, Revised Statutes Cumulative Supplement, 2022; to change provisions relating to the membership of the State Real Estate Commission and certain notice requirements; and to repeal the original sections.

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

Section 1. Section 81-885.07, Revised Statutes Cumulative Supplement, 2022, is amended to read:

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

(b) Three of the members of the commission appointed by the Governor shall be active and licensed real estate brokers who have engaged in the real estate business as brokers or associate brokers for not less than five years, which members shall be appointed by the Governor, one from each of the three congressional districts ~~as the districts were constituted on January 1, 2006.~~ If a boundary of a congressional district changes, a member affected by such change shall continue to serve the balance of the term of appointment for the district for which such member was appointed.

(c) The remaining members shall be appointed at large, one of whom shall be representative of the public, one of whom shall be a licensed real estate salesperson who has engaged in the real estate business as a salesperson for not less than three years, and one of whom shall be an active and licensed real estate broker who has engaged in the real estate business as a broker or associate broker for not less than five years. ~~The member representing the former congressional district 1 on July 14, 2006, shall represent congressional district 1 for the balance of his or her term. The member representing the former congressional district 2 on July 14, 2006, shall represent congressional district 2 for the balance of his or her term. The member representing the former congressional district 3 on July 14, 2006, shall become an at-large member for the balance of his or her term. The member representing the former congressional district 4 on July 14, 2006, shall represent congressional district 3 for the balance of his or her term.~~

(2) At the expiration of the term of any member of the commission, the Governor shall appoint a successor for a term of six years. Any appointed member shall be limited to one six-year term, in addition to any partial term served. In the event of a vacancy on the commission, the Governor shall fill such vacancy by appointing a member to serve during the unexpired term of the member whose office has become vacant. In the absence of the chairperson, the senior member of the commission in point of service present shall serve as presiding officer. Not less than four members of the commission must be present at any official meeting of the commission. The action of the majority of the members of the commission shall be deemed the action of the commission. No appointed person may act as a member of the commission while holding any other elective or appointive state or federal office.

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

(4) The commission shall employ a director who shall keep a record of all the proceedings, transactions, communications, and official acts of the commission, be custodian of all the records of the commission, and perform such other duties as the commission may require. The director shall call a meeting of the commission at the ~~his or her~~ discretion of the director or upon the

at the level necessary to meet expenditures of the commission as approved by the Legislature and to provide a sufficient cash fund balance.

Sec. 2. Section 81-885.18, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.18 (1) If the director of the commission, after an application in proper form has been filed with the commission, accompanied by the proper fee, refuses to accept the application, the director shall give notice of the fact to the applicant within twenty days after his or her ruling, order, or decision.

(2) Upon written request from the applicant, filed within thirty days after receipt of such notice by the applicant, the commission shall set the matter down for a hearing to be conducted within ninety days after receipt of the applicant's request.

(3) The hearing shall be at such time and place as the commission shall prescribe. At least twenty days prior to the date set for the hearing the commission shall notify the applicant and other persons protesting, and the notice shall set forth the reasons why the director refused to accept the application. Such written notice of hearing may be served by delivery personally to the applicant and protesters or by mailing the same by registered mail, or certified mail, first-class mail using intelligent mail barcode or another similar tracking method used or approved by the United States Postal Service, or a designated delivery service as provided in section 25-505.01, to the last-known business address of the applicant and protesters.

(4) At the hearing the applicant shall be entitled to examine, either in person or by counsel, any and all persons protesting against him or her, as well as all other witnesses whose testimony is relied upon to substantiate any protest or denial of the application. The applicant shall be entitled to present such evidence, written and oral, as he or she may see fit and as may be pertinent to the inquiry.

(5) At the hearing all witnesses shall be duly sworn by the chairperson of the commission, or any member thereof, and stenographic notes of the proceedings shall be taken. Any party to the proceedings desiring a copy of the stenographic notes shall be furnished with a copy upon the payment to the commission of such fee as the commission shall prescribe, if the request is made within ten days after the date of any order issued by the commission.

(6) The commission shall render a decision on any application within sixty days after the final hearing on such application and shall immediately notify the parties to the proceedings, in writing, of its ruling, order, or decision.

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

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

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

Sec. 4. Original sections 81-885.18 and 81-885.25, Reissue Revised Statutes of Nebraska, and section 81-885.07, Revised Statutes Cumulative Supplement, 2022, are repealed.

LEGISLATIVE BILL 152

Approved by the Governor March 5, 2024

Introduced by Dover, 19; Wayne, 13.

A BILL FOR AN ACT relating to the Membership Campground Act; to amend sections 76-2102, 76-2104, 76-2106, 76-2110, and 76-2117, Reissue Revised Statutes of Nebraska; to eliminate registration requirements and a penalty under the Membership Campground Act; to harmonize provisions; to repeal the original sections; and to outright repeal sections 76-2103, 76-2105, 76-2107, 76-2108, 76-2109, 76-2114, 76-2115, and 76-2116, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 76-2102, Reissue Revised Statutes of Nebraska, is amended to read:

76-2102 For purposes of the Membership Campground Act:

(1) Advertisement means ~~shall mean~~ an attempt by publication, dissemination, solicitation, or circulation to induce, directly or indirectly, any person to enter into an obligation or acquire a title or interest in a membership camping contract;

(2) Affiliate means ~~shall mean~~ any person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person specified;

~~(3) Blanket encumbrance shall mean any mortgage, deed of trust, option to purchase, vendor's lien or interest under a contract or agreement of sale, judgment lien, federal or state tax lien, or other material lien or encumbrance which secures or evidences the obligation to pay money or to sell or convey all or part of a campground located in this state, made available to purchasers by the membership camping operator, and which authorizes, permits, or requires the foreclosure or other disposition of the campground. Blanket encumbrance shall include the lessor's interest in a lease of all or part of a campground which is located in this state and which is made available to purchasers by a membership camping operator. Blanket encumbrance shall not include a lien for taxes or assessments levied by a public body which are not yet due and payable;~~

~~(3) (4) Business day means shall mean~~ any day except Saturday, Sunday, or a legal holiday;

~~(4) (5) Campground means shall mean~~ real property made available to persons for camping, whether by tent, trailer, camper, cabin, recreational vehicle, or similar device, and includes ~~shall include~~ the outdoor recreational facilities located on the real property. Campground does ~~shall~~ not include a mobile home park as defined in section 76-1464;

~~(5) (6) Campsite means shall mean~~ a space:

(a) Designed and promoted for the purpose of locating a trailer, tent, tent trailer, recreational vehicle, pickup camper, or other similar device used for camping; and

(b) With no permanent dwelling on it;

~~(6) (7) Commission means shall mean~~ the State Real Estate Commission;

~~(7) (8) Controlling persons of a membership camping operator means shall mean~~ each director and officer and each owner of twenty-five percent or more of the stock of the operator, if the operator is a corporation, each general partner and each owner of twenty-five percent or more of the partnership or other interests, if the operator is a general or limited partnership or other person doing business as a membership camping operator, and each member owning twenty-five percent or more of the limited liability company, if the operator is a limited liability company;

~~(8) (9) Facilities means shall mean~~ any of the following amenities provided and located on the campground: Campsites; rental trailers; swimming pools; sport courts; recreation buildings and trading posts; or grocery stores;

~~(9) (10) Membership camping contract means shall mean~~ an agreement offered or sold within this state evidencing a purchaser's right to use a campground of

value ~~does shall~~ not include a fee to offset the reasonable costs of a transfer of a membership camping contract; and

(15) ~~(16)~~ Salesperson means shall ~~mean~~ any individual, other than a membership camping operator, who is engaged in obtaining commitments of persons to enter into membership camping contracts by making a direct sales presentation to the person but does shall not include any individual engaged in the referral of persons without making any representations about the camping program or a direct sales presentation to such persons.

Sec. 2. Section 76-2104, Reissue Revised Statutes of Nebraska, is amended to read:

76-2104 No person shall, in connection with the offering, sale, or lease of an interest in a membership campground:

- (1) Employ any device, scheme, or artifice to defraud;
- (2) Make any untrue statement of a material fact;
- (3) Fail to state a material fact necessary to make a statement clear;
- (4) Issue, circulate, or publish any prospectus, circular, advertisement, printed matter, document, pamphlet, leaflet, or other literature containing an untrue statement of a material fact or that fails to state a material fact necessary to make the statements on the literature clear; or
- (5) Issue, circulate, or publish any advertising matter or make any written representation unless the name of the person issuing, circulating, or publishing the matter or making the representation is clearly indicated; ~~or~~
- ~~(6) Make any statement or representation or issue, circulate, or publish any advertising matter containing any statement that the membership campground has been in any way approved by the commission except in conjunction with a public report issued by the commission.~~

Sec. 3. Section 76-2106, Reissue Revised Statutes of Nebraska, is amended to read:

76-2106 The Membership Campground Act shall not apply to the following transactions shall be exempt from registration:

- (1) The offer, sale, or transfer by any one person of not more than one membership camping contract in any twelve-month period;
- (2) The offer or sale by a government, government agency, or other subdivision of government;
- (3) The bona fide pledge of a membership camping contract; and
- (4) Transactions subject to regulation pursuant to the Nebraska Time-Share Act.

Sec. 4. Section 76-2110, Reissue Revised Statutes of Nebraska, is amended to read:

76-2110 ~~(1) A membership camping operator subject to the registration requirements of sections 76-2103 and 76-2105 shall provide a disclosure statement to a purchaser or prospective purchaser before the person signs a membership camping contract or gives any money or thing of value for the purchase of a membership camping contract.~~

(2) The front cover or first page of the disclosure statement shall contain only the following in the order stated:

- (a) Membership camping operator's disclosure statement printed at the top in boldface type of a minimum size of ten points;
- (b) The name and principal business address of the membership camping operator and any material affiliate of the membership camping operator;
- (c) A statement that the membership camping operator is in the business of offering for sale membership camping contracts;
- (d) A statement printed in double-spaced, boldface type of a minimum size of ten points which reads as follows:

THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN THE EXECUTION OF A MEMBERSHIP CAMPING CONTRACT. THE MEMBERSHIP CAMPING OPERATOR IS REQUIRED BY LAW TO DELIVER TO YOU A COPY OF THIS DISCLOSURE STATEMENT BEFORE YOU EXECUTE A MEMBERSHIP CAMPING CONTRACT. THE STATEMENTS CONTAINED IN THIS DOCUMENT ARE ONLY SUMMARY IN NATURE. YOU, AS A PROSPECTIVE PURCHASER, SHOULD REVIEW ALL REFERENCES, EXHIBITS, CONTRACT DOCUMENTS, AND SALES MATERIALS. YOU SHOULD NOT RELY UPON ANY ORAL REPRESENTATIONS AS BEING CORRECT. ANY ORAL MISREPRESENTATION SHALL BE A VIOLATION OF THE MEMBERSHIP CAMPGROUND ACT. REFER TO THIS DOCUMENT AND TO THE ACCOMPANYING EXHIBITS FOR CORRECT REPRESENTATIONS. THE MEMBERSHIP CAMPING OPERATOR IS PROHIBITED FROM MAKING ANY REPRESENTATIONS WHICH CONFLICT WITH THOSE CONTAINED IN THE CONTRACT AND THIS DISCLOSURE STATEMENT; and

partner, limited liability company member, or controlling person of the membership camping operator;

(b) A description of the nature of the purchaser's right or license to use the campground and the facilities which are to be available for use by purchasers;

(c) A description of the membership camping operator's experience in the membership camping business, including the length of time the operator has been in the membership camping business;

(d) The location of each of the campgrounds which is to be available for use by purchasers and a description of the facilities at each campground which are currently available for use by purchasers. Facilities which are planned, incomplete, or not yet available for use shall be clearly identified as incomplete or unavailable. A description of any facilities that are or will be available to nonpurchasers and a projected date of completion shall also be provided. The description shall include, but not be limited to, the number of campsites in each campground and campsites in each campground with full or partial hookups, swimming pools, tennis courts, recreation buildings, restrooms and showers, laundry rooms, trading posts, and grocery stores;

(e) The fees and charges that purchasers are or may be required to pay for the use of the campground or any facilities;

(f) Any initial, additional, or special fee due from the purchaser, together with a description of the purpose and method of calculating the fee;

(g) The extent to which financial arrangements, if any, have been provided for the completion of facilities, together with a statement of the membership camping operator's obligation to complete planned facilities. The statement shall include a description of any restrictions or limitations on the membership camping operator's obligation to begin or to complete the facilities;

(h) The names of the managing entity, if any, and the significant terms of any management contract, including, but not limited to, the circumstances under which the membership camping operator may terminate the management contract;

(i) A statement, whether by way of supplement or otherwise, of the rules, regulations, restrictions, or covenants regulating the purchaser's use of the campground and the facilities which are to be available for use by the purchaser, including a statement of whether and how the rules, regulations, restrictions, or covenants may be changed;

(j) A statement of the policies covering the availability of campsites, the availability of reservations, and the conditions under which they are made;

(k) A statement of any grounds for forfeiture of a purchaser's membership camping contract;

(l) A statement of whether the membership camping operator has the right to withdraw permanently from use all or any portion of any campground devoted to membership camping and, if so, the conditions under which the withdrawal shall be permitted;

(m) A statement describing the material terms and conditions of any reciprocal program to be available to the purchaser, including a statement concerning whether the purchaser's participation in any reciprocal program is dependent on the continued affiliation of the membership camping operator with that reciprocal program, whether additional costs may be required to use reciprocal facilities, and whether the membership camping operator reserves the right to terminate such affiliation;

(n) As to all memberships offered by the membership camping operator at each campground, all of the following:

(i) The form of membership offered;

(ii) The types of duration of membership along with a summary of the major privileges, restrictions, and limitations applicable to each type;

(iii) Provisions that have been made for public utilities at each campsite, including water, electricity, telephone, and sewage facilities; and

(iv) The number of memberships to be sold to that campground; and

(o) A statement of the assistance, if any, that the membership camping operator will provide to the purchaser in the resale of membership camping contracts and a detailed description of how any such resale program is operated, ~~;~~ and

~~(p) The following statement printed in double spaced, boldface type of a minimum size of ten points:~~

~~REGISTRATION OF THE MEMBERSHIP CAMPING OPERATOR WITH THE STATE REAL ESTATE~~

improvements or nonexistent scenes without clearly indicating that the improvements are proposed and the scenes do not exist.

(2) A person shall not by any means, as part of an advertising program, offer any item of value as an inducement to the recipient to visit a location, attend a sales presentation, or contact a salesperson unless the person clearly and conspicuously discloses in writing in the offer in readily understandable language each of the following:

(a) The name and street address of the owner of the real or personal property or the provider of the services which are the subject of such visit, sales presentation, or contact with a salesperson;

(b) A general description of the business of the owner or provider identified and the purpose of any requested visit, sales presentation, or contact with a salesperson, including a general description of the facilities or proposed facilities or services which are the subject of the sales presentation;

(c) A statement of the odds, in arabic numerals, of receiving each item offered;

(d) All restrictions, qualifications, and other conditions that shall be satisfied before the recipient is entitled to receive the item, including all of the following:

(i) Any deadline by which the recipient shall visit the location, attend the sales presentation, or contact the salesperson in order to receive the item;

(ii) The approximate duration of any visit and sales presentation; and

(iii) Any other conditions, such as a minimum age qualification, a financial qualification, or a requirement that if the recipient is married both ~~spouses husband and wife~~ be present in order to receive the item;

(e) A statement that the owner or provider reserves the right to provide a rain check or a substitute or like item if these rights are reserved;

(f) A statement that a recipient who receives an offered item may request and will receive evidence showing that the item provided matches the item randomly or otherwise selected for distribution to that recipient; and

(g) All other rules, terms, and conditions of the offer, plan, or program.

(3) A person, ~~a making an offer subject to registration under sections 76-2103 and 76-2105~~ or the person's employee, or ~~an agent of the person~~ shall not offer any item relating to a membership campground contract if the person, employee, or agent knows or has reason to know that the offered item will not be available in a sufficient quantity based on the reasonably anticipated response to the offer.

(4) A person, ~~a making an offer subject to registration under sections 76-2103 and 76-2105~~ or the person's employee, or ~~an agent of the person~~ shall not fail to provide any offered item relating to a membership campground contract which a recipient is entitled to receive, unless the failure to provide the item is due to a higher than reasonably anticipated response to the offer which caused the item to be unavailable and the offer discloses the reservation of a right to provide a rain check or a like or substitute item if the offered item is unavailable.

(5) If the person, person's employee, or agent of the person making an offer ~~subject to registration under sections 76-2103 and 76-2105~~ is unable to provide an offered item relating to a membership campground contract because of limitations of supply not reasonably foreseeable or controllable by the person, employee, or agent making the offer, the person, employee, or agent making the offer shall inform the recipient of the recipient's right to receive a rain check for the item offered or receive a like or substitute item of equal or greater value at no additional cost or obligation to the recipient.

(6) If a rain check is provided, the person, employee, or agent making an offer relating to a membership campground contract ~~subject to registration under sections 76-2103 and 76-2105~~, within a reasonable time, and in any event not later than thirty calendar days after the rain check is issued, shall deliver the agreed item to the recipient's address without additional cost or obligation to the recipient unless the item for which the rain check is provided remains unavailable because of limitations of supply not reasonably foreseeable or controllable by the person, employee, or agent making the offer. If the item is unavailable for such reasons, the person, employee, or agent, not later than thirty days after the expiration of the thirty-day period, shall deliver a like or substitute item of equal or greater retail value to the

a particular prize, gift, money, or other item of value, unless the representation is true;

- (d) Label any offer a notice of termination or notice of cancellation; and
- (e) Misrepresent in any manner the offer, plan, or program.

Sec. 6. Original sections 76-2102, 76-2104, 76-2106, 76-2110, and 76-2117, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 7. The following sections are outright repealed: Sections 76-2103, 76-2105, 76-2107, 76-2108, 76-2109, 76-2114, 76-2115, and 76-2116, Reissue Revised Statutes of Nebraska.

LEGISLATIVE BILL 1073

Approved by the Governor April 15, 2024

Introduced by Slama, 1.

A BILL FOR AN ACT relating to law; to amend sections 44-7,115, 44-1308, 44-19,116, 44-5807, 48-2706, 68-956, 76-2,122, 76-856, 81-885.10, and 81-885.55, Reissue Revised Statutes of Nebraska, and sections 44-4603, 44-4604, 76-2,121, 81-885.01, 81-885.17, 81-885.24, and 87-302, Revised Statutes Cumulative Supplement, 2022; to adopt the Peer-to-Peer Vehicle Sharing Program Act; to prohibit certain actions relating to insurance for lung cancer screening; to change requirements relating to step-therapy override exceptions, documents and information provided to an independent review organization, title insurance, index-linked variable annuity contracts, the Pharmacy Benefit Manager Licensure and Regulation Act, pharmacy benefit managers, onsite audits of the operations of third-party administrators, health benefit plans offered by professional employer organizations, the Medicaid Prescription Drug Act, requirements for real estate closing agents, the Nebraska Condominium Act, the Nebraska Real Estate License Act, and deceptive trade practices; to prohibit and require certain actions relating to right-to-list home sale agreements; to define and redefine terms; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide operative dates; to repeal the original sections; and to declare an emergency.

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

Section 1. Sections 1 to 15 of this act shall be known and may be cited as the Peer-to-Peer Vehicle Sharing Program Act.

Sec. 2. For purposes of the Peer-to-Peer Vehicle Sharing Program Act, unless the context otherwise requires:

(1) Agreement means the terms and conditions applicable to an owner and a driver that govern the use of a vehicle shared through a peer-to-peer vehicle sharing program. Agreement does not mean a rental agreement as defined in section 44-4067;

(2) Delivery period means the period of time during which a vehicle is being delivered to the location at which the start time begins, if applicable, as documented by the agreement;

(3) Driver means an individual who has been authorized to drive a vehicle by an owner under an agreement;

(4) Owner means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing through a peer-to-peer vehicle sharing program;

(5) Peer-to-peer vehicle sharing program or program means a business platform that connects owners with drivers to enable the sharing of vehicles for financial consideration. A program is not a transportation network company as defined in section 75-323 or a rental car company as defined in section 44-4067;

(6) Sharing means the authorized use of a vehicle by an individual other than an owner through a peer-to-peer vehicle sharing program;

(7) Sharing period means the period of time that commences with the delivery period or, if there is no delivery period, that commences with the start time and, in either case, ends at the termination time;

(8) Start time means the time when a vehicle becomes subject to the control of a driver at or after the time the reservation is scheduled to begin as documented in the records of a program;

(9) Termination time means the earliest of the following events:

(a) The expiration of the agreed upon period of time established for the use of a vehicle according to the terms of the agreement if the vehicle is delivered to the location specified in the agreement;

(b) When a vehicle is returned to an alternative location as agreed upon by the owner and driver as communicated through the peer-to-peer vehicle

(a) Makes a material, intentional, or fraudulent misrepresentation, or a material, intentional, or fraudulent omission, to a program relating to the vehicle or the agreement prior to the sharing period in which the assumption of such liability would otherwise be required; or

(b) Acts in concert with a driver to trigger the assumption of such liability that would otherwise be required.

(3) The assumption of financial liability under subsection (1) of this section applies to bodily injury, property damage, and uninsured and underinsured motorist losses by injured third parties.

Sec. 4. (1) A program shall require during each sharing period that the owner and driver are insured under a motor vehicle liability insurance policy that:

(a) Provides financial responsibility in amounts no less than the minimum amounts required by section 60-310; and

(b)(i) Recognizes that the vehicle is made available and used through the program; or

(ii) Does not exclude use of the vehicle by a driver through the program.

(2) The financial responsibility required under subsection (1) of this section may be satisfied by motor vehicle liability insurance or other acceptable means of demonstrating financial responsibility in Nebraska, voluntarily maintained by:

(a) The owner;

(b) The driver;

(c) The program; or

(d) Any combination of owner, driver, and program.

(3) The financial responsibility described in subsection (1) of this section and satisfied pursuant to subsection (2) of this section shall be the primary coverage during the sharing period in the event that a claim occurs in another state with minimum financial responsibility limits higher than those required under section 60-310, and during the sharing period the coverage maintained under subsection (2) of this section shall satisfy any difference in minimum coverage amounts, up to the applicable policy limits.

(4) The insurer, insurers, or program providing coverage under section 3 or 4 of this act shall assume primary financial liability for a claim when:

(a) A dispute exists as to who was in control of the vehicle at the time of the loss and the program does not have available, did not retain, or fails to provide the information required by section 7 of this act; or

(b) A dispute exists as to whether the vehicle was returned to the alternative location pursuant to subdivision (9)(b) of section 2 of this act.

(5) If financial responsibility maintained by the owner or the driver in accordance with subsection (2) of this section has lapsed or does not provide the required financial responsibility, the program or its insurer shall provide the coverage required by subsection (1) of this section beginning with the first dollar of a claim and have the duty to defend such claim except under circumstances as set forth in subsection (2) of section 3 of this act.

(6) Financial responsibility maintained by the program shall not be dependent on another insurer first denying a claim, nor shall another motor vehicle liability insurance policy be required to first deny a claim.

(7) Nothing in the Peer-to-Peer Vehicle Sharing Program Act:

(a) Limits the liability of a program for any act or omission of the program itself that results in injury or economic loss to any person as a result of the use of a vehicle through the program; or

(b) Limits the ability of a program, by contract, to seek indemnification from an owner or a driver for economic loss sustained by the program resulting from a breach of the terms and conditions of an agreement by such owner or driver.

Sec. 5. At the time an owner makes a vehicle available for use through a program and immediately prior to each time such owner offers such vehicle for use through such program, the program shall notify the owner that if the vehicle has a lien against it, the use of the vehicle through the program, including such use without physical damage insurance coverage, may violate the terms of the contract with the lienholder.

Sec. 6. (1) An authorized insurer that writes motor vehicle liability insurance in Nebraska may exclude any and all coverage and the duty to defend or indemnify for any claim afforded under the owner's motor vehicle liability insurance policy, including:

(3) A program shall retain the records required in this section for a period of not less than four years.

Sec. 8. An insurer that defends or indemnifies a claim arising from the operation of a vehicle that is excluded under the terms of its policy shall have the right to seek recovery against the motor vehicle insurer of the program if the claim is made against the owner or driver for loss or injury that occurs during the sharing period.

Sec. 9. (1) A program shall have an insurable interest in a vehicle during the sharing period.

(2) Nothing in this section shall impose liability on a program to maintain the coverage required by section 3 or 4 of this act.

(3) A program may own and maintain as the named insured one or more policies of motor vehicle liability insurance that provides coverage for:

(a) Liabilities assumed by the program under an agreement;

(b) Liability of an owner or driver; or

(c) Damage or loss to a vehicle.

Sec. 10. A program and an owner shall be exempt from vicarious liability in accordance with 49 U.S.C. 30106(a), as such section existed on January 1, 2023, and under any state or local law that imposes liability solely based on vehicle ownership.

Sec. 11. (1) Each agreement made in Nebraska shall disclose to each owner and driver:

(a) Any right of the program to seek indemnification from an owner or a driver for economic loss sustained by the program resulting from a breach of the terms and conditions of the agreement by such owner or driver;

(b) That a motor vehicle liability insurance policy issued to an owner or a driver may not provide a defense or indemnity for any claim asserted by the program;

(c) That a program's financial responsibility afforded to each owner and driver is available only during the sharing period;

(d) That for any use of a vehicle by a driver after the termination time, a driver or owner may not have coverage;

(e) The daily rate, fees, costs, and, if applicable, any insurance or protection package costs that are charged to an owner or a driver; and

(f) That an owner's motor vehicle liability insurance may not provide coverage for the vehicle.

(2) Each agreement made in Nebraska shall disclose to each driver:

(a) An emergency telephone number to contact personnel capable of fielding roadside assistance and other customer service inquiries; and

(b) Any conditions under which a driver shall maintain a personal motor vehicle liability insurance policy and any required coverage limits on a primary basis in order to use a vehicle through the program.

Sec. 12. A program shall have sole responsibility for any equipment, such as a global positioning system or other special equipment, that is put in or on a vehicle to monitor or facilitate sharing and shall agree to indemnify and hold harmless the owner for any damage to or theft of such equipment during the sharing period not caused by the owner. A program has the right to seek indemnity from a driver for any loss or damage to such equipment that occurs during the sharing period.

Sec. 13. (1) At the time an owner makes a vehicle available for use by a program and immediately prior to each time the owner offers such vehicle for use by such program, the program shall:

(a) Verify that the vehicle does not have any safety recalls for which the repairs have not been made; and

(b) Notify the owner of the requirements under subsection (2) of this section.

(2) An owner shall:

(a) Not make a vehicle available for use through a program if the owner has received actual notice of a safety recall on such vehicle until the safety recall repair has been made;

(b) Upon receipt of actual notice of a safety recall on a vehicle when such vehicle is offered for use through a program, remove the vehicle from availability as soon as practicably possible and until the safety recall repair has been made; and

(c) Upon receipt of actual notice of a safety recall on a vehicle, and when the vehicle is in the possession of a driver, notify the program of the

construed to limit the powers of an airport authority under Nebraska law.

Sec. 16. Notwithstanding section 44-3,131, beginning January 1, 2025, no policy, certificate, or contract, delivered, issued for delivery, or renewed in this state, or any self-funded employee benefit plan, to the extent not preempted by federal law, shall impose a deductible, coinsurance, or any other cost-sharing requirements for lung cancer screening, including screening performed with low-dose computed tomography, for an individual at least fifty years of age and not older than eighty years of age who has a twenty-pack-per-year smoking history and currently smokes or who has quit smoking within the past fifteen years. This section shall not apply if an individual (1) has not smoked for fifteen years, (2) develops a health problem that substantially limits life expectancy, or (3) is preparing to have curative lung surgery.

Sec. 17. Section 44-7,115, Reissue Revised Statutes of Nebraska, is amended to read:

44-7,115 (1) A step-therapy override exception shall be approved by a health carrier or utilization review organization if any of the following circumstances apply:

(a) The prescription drug required under the step-therapy protocol is contraindicated pursuant to the drug manufacturer's prescribing information for the drug or, due to a documented adverse event with a previous use or a documented medical condition, including a comorbid condition, is likely to do any of the following:

(i) Cause an adverse reaction to the covered individual;

(ii) Decrease the ability of the covered individual to achieve or maintain reasonable functional ability in performing daily activities; or

(iii) Cause physical or mental harm to the covered individual;

(b) The prescription drug required under the step-therapy protocol is expected to be ineffective based on the known clinical characteristics of the covered person, such as the covered person's adherence to or compliance with the covered person's individual plan of care, and any of the following:

(i) The known characteristics of the prescription drug regimen as described in peer-reviewed literature or in the manufacturer's prescribing information for the drug;

(ii) The health care provider's medical judgment based on clinical practice guidelines or peer-reviewed journals; or

(iii) The covered person's documented experience with the prescription drug regimen;

(c) The covered person has had a trial of a therapeutically equivalent dose of the prescription drug under the step-therapy protocol while under the covered person's current or previous health benefit plan for a period of time to allow for a positive treatment outcome, and such prescription drug was discontinued by the covered person's health care provider due to lack of effectiveness; or

(d) The covered person is currently receiving a positive therapeutic outcome on a prescription drug selected by the covered person's health care provider for the medical condition under consideration while under the covered person's current or previous health benefit plan. Nothing in the Step-Therapy Reform Act shall prohibit the distribution of a pharmaceutical sample, except that the pharmaceutical sample may not be used to meet the requirements of this subdivision.

(2) Upon the approval of a step-therapy override exception, the health carrier or utilization review organization shall authorize coverage for the prescription drug selected by the covered person's prescribing health care provider if the prescription drug is a covered prescription drug under the covered person's health benefit plan.

(3) Except in the case of an urgent care request, a health carrier or utilization review organization shall make a determination to approve or deny a request for a step-therapy override exception within five calendar days after receipt of complete, clinically relevant written documentation supporting a step-therapy override exception under subsection (1) of this section. In the case of an urgent care request, a health carrier or utilization review organization shall approve or deny a request for a step-therapy override exception within seventy-two hours after receipt of such documentation. If a request for a step-therapy override exception is incomplete or additional clinically relevant information is required, the health carrier or utilization review organization may request such information within the applicable time

(a) A health carrier or utilization review organization from requiring a pharmacist to effect substitutions of prescription drugs consistent with section 28-414.01, 38-28,111, or 71-2478;

(b) A health care provider from prescribing a prescription drug that is determined to be medically appropriate; or

(c) A health carrier or utilization review organization from requiring a covered person to try a prescription drug with the same generic name and demonstrated bioavailability, a biosimilar, or a biological product that is an interchangeable biological product pursuant to the Nebraska Drug Product Selection Act prior to providing coverage for the equivalent branded prescription drug.

(6) For purposes of this section, biosimilar has the same meaning as defined in 42 U.S.C. 262(i)(2) or interchangeable biological product as defined in 42 U.S.C. 262(i)(3).

Sec. 18. Section 44-1308, Reissue Revised Statutes of Nebraska, is amended to read:

44-1308 (1)(a) Within four months after the date of receipt of a notice of an adverse determination or final adverse determination pursuant to section 44-1305, a covered person or the covered person's authorized representative may file a request for an external review with the director.

(b) Within one business day after the date of receipt of a request for an external review pursuant to subdivision (1)(a) of this section, the director shall send a copy of the request to the health carrier.

(2) Within five business days following the date of receipt of the copy of the external review request from the director under subdivision (1)(b) of this section, the health carrier shall complete a preliminary review of the request to determine whether:

(a) The individual is or was a covered person in the health benefit plan at the time that the health care service was requested or, in the case of a retrospective review, was a covered person in the health benefit plan at the time that the health care service was provided;

(b) The health care service that is the subject of the adverse determination or the final adverse determination is a covered service under the covered person's health benefit plan, but for a determination by the health carrier that the health care service is not covered because it does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness;

(c) The covered person has exhausted the health carrier's internal grievance process as set forth in the Health Carrier Grievance Procedure Act unless the covered person is not required to exhaust the health carrier's internal grievance process pursuant to section 44-1307; and

(d) The covered person has provided all the information and forms required to process an external review, including the release form provided under subsection (2) of section 44-1305.

(3)(a) Within one business day after completion of the preliminary review, the health carrier shall notify the director and covered person and, if applicable, the covered person's authorized representative, in writing whether:

(i) The request is complete; and

(ii) The request is eligible for external review.

(b) If the request:

(i) Is not complete, the health carrier shall inform the covered person and, if applicable, the covered person's authorized representative and the director in writing and include in the notice what information or materials are needed to make the request complete; or

(ii) Is not eligible for external review, the health carrier shall inform the covered person and, if applicable, the covered person's authorized representative and the director in writing and include in the notice the reasons for its ineligibility.

(c)(i) The director may specify the form for the health carrier's notice of initial determination under this subsection and any supporting information to be included in the notice.

(ii) The notice of initial determination shall include a statement informing the covered person and, if applicable, the covered person's authorized representative that a health carrier's initial determination that the external review request is ineligible for review may be appealed to the director.

person's authorized representative of the request's eligibility and acceptance for external review.

(b) In reaching a decision, the assigned independent review organization is not bound by any decisions or conclusions reached during the health carrier's utilization review process as set forth in the Utilization Review Act or the health carrier's internal grievance process as set forth in the Health Carrier Grievance Procedure Act.

(c) The director shall include in the notice provided to the covered person and, if applicable, the covered person's authorized representative a statement that the covered person or his or her authorized representative may submit in writing to the assigned independent review organization within five business days following the date of receipt of the notice provided pursuant to subdivision (4)(a) of this section additional information that the independent review organization shall consider when conducting the external review. The independent review organization is not required to but may accept and consider additional information submitted after five business days.

(5)(a) Within five business days after the date of receipt of the notice provided pursuant to subdivision (4)(a) of this section, the health carrier or its designee utilization review organization shall provide to the assigned independent review organization the documents and any information considered in making the adverse determination or final adverse determination. Any documents or information solely related to cost shall not be provided.

(b) Except as provided in subdivision (5)(c) of this section, failure by the health carrier or its utilization review organization to provide the documents and information within the time specified in subdivision (5)(a) of this section shall not delay the conduct of the external review.

(c)(i) If the health carrier or its utilization review organization fails to provide the documents and information within the time specified in subdivision (5)(a) of this section, the assigned independent review organization may terminate the external review and make a decision to reverse the adverse determination or final adverse determination.

(ii) Within one business day after making the decision under subdivision (5)(c)(i) of this section, the independent review organization shall notify the covered person and, if applicable, the covered person's authorized representative, the health carrier, and the director.

(6)(a) The assigned independent review organization shall review all of the information and documents received pursuant to subsection (5) of this section and any other information submitted in writing to the independent review organization by the covered person or the covered person's authorized representative pursuant to subdivision (4)(c) of this section.

(b) Upon receipt of any information submitted by the covered person or the covered person's authorized representative pursuant to subdivision (4)(c) of this section, the assigned independent review organization shall forward the information to the health carrier within one business day.

(7)(a) Upon receipt of the information, if any, required to be forwarded pursuant to subdivision (6)(b) of this section, the health carrier may reconsider its adverse determination or final adverse determination that is the subject of the external review.

(b) Reconsideration by the health carrier of its adverse determination or final adverse determination pursuant to subdivision (7)(a) of this section shall not delay or terminate the external review.

(c) The external review may only be terminated if the health carrier decides, upon completion of its reconsideration, to reverse its adverse determination or final adverse determination and provide coverage or payment for the health care service that is the subject of the adverse determination or final adverse determination.

(d)(i) Within one business day after making the decision to reverse its adverse determination or final adverse determination as provided in subdivision (7)(c) of this section, the health carrier shall notify the covered person and, if applicable, the covered person's authorized representative, the assigned independent review organization, and the director in writing of its decision.

(ii) The assigned independent review organization shall terminate the external review upon receipt of the notice from the health carrier sent pursuant to subdivision (7)(d)(i) of this section.

(8) In addition to the documents and information provided pursuant to subsection (5) of this section, the assigned independent review organization,

health carrier or its designee utilization review organization; and

(g) The opinion of the independent review organization's clinical reviewer or reviewers after considering subdivisions (8)(a) through (f) of this section to the extent that the information or documents are available and the clinical reviewer or reviewers consider it appropriate.

(9)(a) Within forty-five days after the date of receipt of the request for an external review, the assigned independent review organization shall provide written notice of its decision to uphold or reverse the adverse determination or the final adverse determination to the covered person, if applicable, the covered person's authorized representative, the health carrier, and the director.

(b) The independent review organization shall include in the notice sent pursuant to subdivision (9)(a) of this section:

(i) A general description of the reason for the request for external review;

(ii) The date that the independent review organization received the assignment from the director to conduct the external review;

(iii) The date that the external review was conducted;

(iv) The date of its decision;

(v) The principal reason or reasons for its decision, including what applicable, if any, evidence-based standards were a basis for its decision;

(vi) The rationale for its decision; and

(vii) References to the evidence or documentation, including the evidence-based standards, considered in reaching its decision.

(c) Upon receipt of a notice of a decision pursuant to subdivision (9)(a) of this section reversing the adverse determination or final adverse determination, the health carrier shall immediately approve the coverage that was the subject of the adverse determination or final adverse determination.

(10) The assignment by the director of an approved independent review organization to conduct an external review in accordance with this section shall be done on a random basis among those approved independent review organizations qualified to conduct the particular external review based on the nature of the health care service that is the subject of the adverse determination or final adverse determination and other circumstances, including conflict of interest concerns pursuant to subsection (4) of section 44-1313.

Sec. 19. Section 44-19,116, Reissue Revised Statutes of Nebraska, is amended to read:

44-19,116 (1)(a) A title insurance agent may operate as an escrow, security, settlement, or closing agent subject to the requirements of subdivisions (b) through (f) of this subsection.

(b) All funds deposited with the title insurance agent in connection with an escrow, settlement, closing, or security deposit shall be submitted for collection to or deposited in a separate fiduciary trust account or accounts in a qualified financial institution no later than the close of the next business day in accordance with the following requirements:

(i) The funds shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement, security deposit, or closing agreement and shall be segregated for each depository by escrow, settlement, security deposit, or closing in the records of the title insurance agent in a manner that permits the funds to be identified on an individual basis; and

(ii) The funds shall be applied only in accordance with the terms of the individual instructions or agreements under which the funds were accepted.

(c) Funds held in an escrow account shall be disbursed only pursuant to a written instruction or agreement specifying how and to whom such funds may be disbursed.

(d) Funds held in a security deposit account shall be disbursed only pursuant to a written agreement specifying:

(i) What actions the indemnitor shall take to satisfy his or her obligation under the agreement;

(ii) The duties of the title insurance agent with respect to disposition of the funds held, including a requirement to maintain evidence of the disposition of the title exception before any balance may be paid over to the depositing party or his or her designee; and

(iii) Any other provisions the director may require.

(e)(i) Disbursements may be made out of an escrow, settlement, or closing

(f) A title insurance agent who holds funds relating to an exchange under section 1031 of the Internal Revenue Code shall provide written disclosure, at or before closing, to the person whose funds are being held, on a separate paper with no other information on the paper, which states that:

(i) Such services performed by a title insurance agent are not regulated by the Department of Banking and Finance, the Department of Insurance, or any other agency of the State of Nebraska or by any agency of the United States Government;

(ii) The safety and security of such funds is not guaranteed by any agency of the State of Nebraska or of the United States Government or otherwise protected by law; and

(iii) The owner of such funds should satisfy himself or herself as to the safety and security of such funds.

(2) If the title insurance agent is appointed by two or more title insurers and maintains fiduciary trust accounts in connection with providing escrow, closing, or settlement services, the title insurance agent shall allow each title insurer access to the accounts and any or all of the supporting account information in order to ascertain the safety and security of the funds held by the title insurance agent.

(3) Nothing in the Title Insurance Agent Act shall be deemed to prohibit the recording of documents prior to the time funds are available for disbursement with respect to a transaction if all parties consent to the transaction in writing.

(4) Nothing in this section is intended to amend, alter, or supersede other sections of the act or the laws of this state or the United States regarding an escrow holder's duties and obligations.

(5) The director may prescribe a standard agreement for escrow, settlement, closing, or security deposit funds.

Sec. 20. (1) For purposes of this section, an index-linked variable annuity is a variable annuity that includes index-linked crediting features, either in the contract or added to such contract by rider, endorsement, or amendment, that credit interest based on the performance of an index, subject to index parameters including, but not limited to, caps, participation rates, spreads or margins, trigger or step rates, or other crediting elements, and may lose value subject to limitations including, but not limited to, a floor or a buffer. An index-linked variable annuity may be combined in a single contract with a variable annuity with unitized separate accounts, a fixed annuity, or both.

(2) Notwithstanding section 44-2212, a separate investment account established to hold assets of index-linked variable annuity contracts may be uninsulated and chargeable with any liabilities arising out of any other separate investment account or any other business of the company which has no specific and determinable relation to or dependence upon such separate account.

(3) If a separate investment account established to hold assets of index-linked variable annuity contracts is uninsulated, then the following provisions shall apply:

(a) Notwithstanding section 44-402.02, such separate account is not required to have the income, gains, and losses, realized or unrealized, from assets allocated to such account credited to or charged against such account;

(b) Notwithstanding section 44-402.03, amounts allocated to such separate account and accumulations thereon must be invested and reinvested in accordance with the requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies and the investments in such separate account or accounts shall be taken into account in applying investment limitations otherwise applicable to investments of such company;

(c) Notwithstanding sections 44-402.03 and 44-2213, assets, other than derivatives, may be held by such separate account, and transferred between the general account and such separate account, at book value or market value; and

(d) Notwithstanding subdivision (1) of section 44-5103, the assets of such separate account are admitted assets.

Sec. 21. Section 44-4603, Revised Statutes Cumulative Supplement, 2022, is amended to read:

44-4603 For purposes of the Pharmacy Benefit Manager Licensure and Regulation Act:

(1) Auditing entity means a pharmacy benefit manager or any person that represents a pharmacy benefit manager in conducting an audit for compliance

claims processing service, provided directly or indirectly, whether in connection with or separate from a claims processing service, including, but not limited to:

- (a) Negotiating a rebate, discount, or other financial incentive or arrangement with a drug company;
- (b) Disbursing or distributing a rebate;
- (c) Managing or participating in an incentive program or arrangement for a pharmacist service;
- (d) Negotiating or entering into a contractual arrangement with a pharmacist or pharmacy;
- (e) Developing and maintaining a formulary;
- (f) Designing a prescription benefit program; or
- (g) Advertising or promoting a service;
- (8) Pharmacist has the same meaning as in section 38-2832;
- (9) Pharmacist service means a product, good, or service or any combination thereof provided as a part of the practice of pharmacy;
- (10) Pharmacy has the same meaning as in section 71-425;
- (11)(a) Pharmacy benefit manager means a person, business, or entity, including a wholly or partially owned or controlled subsidiary of a pharmacy benefit manager, that provides a claims processing service or other prescription drug or device service for a health benefit plan to a covered person who is a resident of this state; and
 - (b) Pharmacy benefit manager does not include:
 - (i) A health care facility licensed in this state;
 - (ii) A health care professional licensed in this state;
 - (iii) A consultant who only provides advice as to the selection or performance of a pharmacy benefit manager; or
 - (iv) A health carrier to the extent that it performs any claims processing service or other prescription drug or device service exclusively for its enrollees; and
- (12) Plan sponsor has the same meaning as in section 44-2702.

Sec. 22. Section 44-4604, Revised Statutes Cumulative Supplement, 2022, is amended to read:

44-4604 (1) The Pharmacy Benefit Manager Licensure and Regulation Act applies to any contract or health benefit plan issued, renewed, recredentialed, amended, or extended on or after January 1, 2023, including any ~~health carrier that performs a~~ claims processing service or other prescription drug or device service performed through a third party.

(2) As a condition of licensure, any contract in existence on the date a pharmacy benefit manager receives its license to do business in this state shall comply with the requirements of the act.

(3) Nothing in the act is intended or shall be construed to conflict with existing relevant federal law.

Sec. 23. Section 44-5807, Reissue Revised Statutes of Nebraska, is amended to read:

44-5807 (1) If an insurer utilizes the services of a third-party administrator, the insurer shall be responsible for determining the benefits, premium rates, underwriting criteria, and claims-payment procedures and for securing reinsurance, if any. The rules pertaining to these matters shall be provided, in writing, by the insurer to the third-party administrator. The responsibilities of the third-party administrator as to any of these matters shall be set forth in the written agreement between the third-party administrator and the insurer.

(2) It shall be the sole responsibility of the insurer to provide for competent administration of its programs.

(3) In cases when a third-party administrator administers benefits for more than one hundred certificate holders or subscribers on behalf of an insurer, the insurer shall, at least semiannually, conduct a review of the operations of the third-party administrator. The director may require the insurer to conduct ~~At least one such review shall be~~ an onsite audit of the operations of the third-party administrator.

Sec. 24. Section 48-2706, Reissue Revised Statutes of Nebraska, is amended to read:

48-2706 (1) No person shall knowingly enter into a co-employment relationship in which less than a majority of the employees of the client in this state are covered employees or in which less than one-half of the payroll

retains the exclusive right to direct and control the covered employees as is necessary to conduct the client's business, to discharge any of the client's fiduciary responsibilities, or to comply with any licensure requirements applicable to the client or to the covered employees.

(3) Except as specifically provided in the Professional Employer Organization Registration Act, the co-employment relationship between the client and the professional employer organization, and between each co-employer and each covered employee, shall be governed by the professional employer agreement. Each professional employer agreement shall include the following:

(a) The allocation of rights, duties, and obligations as described in this section;

(b) A provision that the professional employer organization shall have responsibility to pay wages to covered employees; to withhold, collect, report, and remit payroll-related and unemployment taxes; and, to the extent the professional employer organization has assumed responsibility in the professional employer agreement, to make payments for employee benefits for covered employees. For purposes of this section, wages does not include any obligation between a client and a covered employee for payments beyond or in addition to the covered employee's salary, draw, or regular rate of pay, such as bonuses, commissions, severance pay, deferred compensation, profit sharing, or vacation, sick, or other paid time off pay, unless the professional employer organization has expressly agreed to assume liability for such payments in the professional employer agreement;

(c) A provision that the professional employer organization shall have a right to hire, discipline, and terminate a covered employee as may be necessary to fulfill the professional employer organization's responsibilities under the act and the professional employer agreement. The client shall have a right to hire, discipline, and terminate a covered employee; and

(d) A provision that the responsibility to obtain workers' compensation coverage for covered employees and for other employees of the client from an insurer licensed to do business in this state and otherwise in compliance with all applicable requirements shall be specified in the professional employer agreement in accordance with section 48-2709. The client shall not be relieved of its obligations under the Nebraska Workers' Compensation Act to provide workers' compensation coverage in the event that the professional employer organization fails to obtain workers' compensation insurance for which it has assumed responsibility.

(4) With respect to each professional employer agreement entered into by a professional employer organization, such professional employer organization shall provide written notice to each covered employee affected by such agreement. The professional employer organization shall provide, and the client shall post in a conspicuous place at the client's worksite, the following:

(a) Notice of the general nature of the co-employment relationship between and among the professional employer organization, the client, and any covered employees; and

(b) Any notice required by the state relating to unemployment compensation and the minimum wage.

(5) Except to the extent otherwise expressly provided by the applicable professional employer agreement:

(a) A client shall be solely responsible for the quality, adequacy, or safety of the goods or services produced or sold in the client's business;

(b) A client shall be solely responsible for (i) directing, supervising, training, and controlling the work of the covered employees with respect to the business activities of the client or when such employees are otherwise acting under the express direction and control of the client and (ii) the acts, errors, or omissions of the covered employees with regard to such activities or when such employees are otherwise acting under the express direction and control of the client;

(c) A client shall not be liable for the acts, errors, or omissions of a professional employer organization or of any covered employee of the client and a professional employer organization when such covered employee is acting under the express direction and control of the professional employer organization;

(d) Nothing in this subsection shall limit any contractual liability or obligation specifically provided in a professional employer agreement; and

(e) A covered employee is not, solely as the result of being a covered employee of a professional employer organization, an employee of the

Professional Employer Organization Registration Act shall relieve a client of any sales tax liability with respect to its goods or services;

(b) Any tax or assessment imposed upon professional employer services or any business license or other fee which is based upon gross receipts shall allow a deduction from the gross income or receipts of the business derived from performing professional employer services that is equal to that portion of the fee charged to a client that represents the actual cost of wages and salaries, benefits, workers' compensation, payroll taxes, withholding, or other assessments paid to or on behalf of a covered employee by the professional employer organization under a professional employer agreement;

(c) Any tax assessed or assessment or mandated expenditure on a per capita or per employee basis shall be assessed against the client for covered employees and against the professional employer organization for its employees who are not covered employees co-employed with a client. Any benefit or monetary consideration that meets the requirements of mandates imposed on a client and that is received by covered employees through the professional employer organization either through payroll or through benefit plans sponsored by the professional employer organization shall be credited against the client's obligation to fulfill such mandates; and

(d) In the case of a tax or an assessment imposed or calculated upon the basis of total payroll, the professional employer organization shall be eligible to apply any small business allowance or exemption available to the client for the covered employees for the purpose of computing the tax.

(8) A professional employer organization shall not offer its covered employees any health benefit plan that which is not:

(a) Fully fully insured by an authorized insurer; or -

(b) Self-funded and in compliance with:

(i) Sections 44-7601 to 44-7618, except subdivisions (1) and (2) of section 44-7606; and

(ii) The federal Employee Retirement Income Security Act of 1974, as such act existed on January 1, 2024.

Sec. 25. Section 68-956, Reissue Revised Statutes of Nebraska, is amended to read:

68-956 (1) The department shall (a) enter ÷ ~~(1) Enter~~ into a multistate purchasing pool, (b) ÷ ~~(2)~~ negotiate directly with manufacturers or labelers, ÷ or (c) ~~(3)~~ contract with a pharmacy benefit manager for negotiated discounts or rebates for all prescription drugs under the medical assistance program in order to achieve the lowest available price for such drugs under such program.

(2) Any contract under the Medicaid Prescription Drug Act with a pharmacy benefit manager or a managed care organization using a pharmacy benefit manager shall require any pharmacy benefit manager that is a party or otherwise subject to the contract to comply with the Pharmacy Benefit Manager Licensure and Regulation Act.

Sec. 26. Section 76-2,121, Revised Statutes Cumulative Supplement, 2022, is amended to read:

76-2,121 For purposes of sections 76-2,121 to 76-2,123:

(1) Federally insured financial institution means shall mean an institution in which the monetary deposits are insured by the Federal Deposit Insurance Corporation or National Credit Union Administration;

(2) Good funds means shall mean: (a) Lawful money of the United States; (b) wired funds when unconditionally held by the real estate closing agent or employee; (c) cashier's checks, certified checks, bank money orders, or teller's checks issued by a federally insured financial institution and unconditionally held by the real estate closing agent or employee; ~~or~~ (d) United States treasury checks, federal reserve bank checks, federal home loan bank checks, State of Nebraska warrants, and warrants of a city of the metropolitan or primary class; or (e) real-time or instant payments through the FedNow® Service of the United States Federal Reserve System or through the RTP® network of The Clearing House Payments Company L.L.C.;

(3) Real estate closing agent means shall mean a person who collects and disburses funds on behalf of another in closing a real estate transaction but does shall not include a seller or buyer closing a real estate transaction on his or her own behalf or a lender closing a real estate loan transaction; and

(4) Regulating entity means shall mean the:

(a) Department of Insurance;

(b) Supreme Court;

hundred dollars need not be available for disbursement from good funds;

(b) Except as provided in section 81-885.21, deposit all funds received on behalf of another person in a trust account controlled by the real estate closing agent in a federally insured financial institution, except that up to one thousand five hundred dollars may be paid by one party directly to another party without first being deposited in a trust account controlled by the real estate closing agent; and

(c) Except as provided in section 81-885.21, disburse closing funds only from the real estate closing agent's trust account in a federally insured financial institution in the form of good funds or in the form of a check drawn from the real estate closing agent's trust account.

(3) The following real estate transactions are exempt from this section:

(a) Transactions with a political subdivision which is exercising its power of condemnation or eminent domain;

(b) Lease or rental transactions; and

(c) Real estate transactions in which the closing occurs within one business day following another real estate closing and in which one party is a principal to both transactions, but only to the extent that the funds disbursed in the subsequent transaction are drawn upon funds properly received by a real estate closing agent in the prior transaction which were deposited in that real estate closing agent's trust account in a federally insured financial institution or as otherwise provided in section 81-885.21.

(4) The Attorney General or any county attorney may act to enjoin the performance of real estate closings which violate this section.

(5) A person acting as a real estate closing agent in violation of this section shall be guilty of a Class V misdemeanor.

Sec. 28. (1) No person shall present for recording, cause to be presented for recording, or record in the office of the register of deeds or county clerk any (a) right-to-list home sale agreement as defined in section 81-885.01 or (b) lien or encumbrance resulting from such right-to-list home sale agreement.

(2) Any right-to-list home sale agreement as defined in section 81-885.01 or lien or encumbrance resulting from such right-to-list home sale agreement that is executed, modified, or extended after the operative date of this section is void and unenforceable.

(3) If a right-to-list home sale agreement as defined in section 81-885.01 is recorded in this state, it shall not provide actual or constructive notice of such agreement against an otherwise bona fide purchaser or creditor.

(4) Any assignment or transfer of the right to provide any service under a real estate service agreement recorded prior to the operative date of this section that would otherwise be in violation of this section is void and unenforceable without a written notice provided to and a written agreement by each party to such service agreement.

Sec. 29. Section 76-856, Reissue Revised Statutes of Nebraska, is amended to read:

76-856 (a) The declaration may require that all or a specified number or percentage of the mortgagees or beneficiaries of deeds of trust encumbering the units approve specified actions of the unit owners or the association as a condition to the effectiveness of those actions, but such a requirement shall be enforceable only as to matters involving the subdivision of any unit and the creation of any timeshare or as to proposed amendments to the declaration that adversely affect the priority of the mortgagee's or beneficiary's lien or the mortgagee's or beneficiary's rights to foreclose its lien by judicial or nonjudicial means, or that otherwise materially affect the rights and interests of the mortgagee or beneficiary and no requirement for approval may operate to (i) deny or delegate control over the general administrative affairs of the association by the unit owners or the executive board, or (ii) prevent the association or the executive board from commencing, intervening in, or settling any litigation or proceeding, or receiving and distributing any insurance proceeds except pursuant to section 76-871. The declaration may not provide that a lien on a member's unit for any assessment levied against the unit relates back to the date of filing of the declaration or that such lien takes priority over any mortgage or deed of trust on the unit recorded subsequent to the filing of the declaration and prior to the recording by the association of the notice required under subsection (a) of section 76-874.

(b) In securing approval from a mortgagee or beneficiary of a deed of trust for a proposed amendment to a declaration, the association shall be

by making the written request of the unit owners required under this subsection. Any notices required to be sent to the mortgagees, beneficiaries, or assignees under this subsection shall be sent to all available addresses provided to the association.

(c) If any mortgagee or beneficiary of a deed of trust encumbering a unit has been requested by certified mail, return receipt requested, to approve a proposed amendment to a declaration, and such mortgagee or beneficiary fails to approve or object to such request in writing delivered to the requestor by certified mail within sixty days after the date such request has been received by the mortgagee or beneficiary, such failure to respond shall be deemed approval to the amendment.

(d) Any amendment adopted without the required approval of a mortgagee or beneficiary of the deed of trust shall be voidable only by a mortgagee or beneficiary who was entitled to notice and an opportunity to approve. An action to void an amendment shall be subject to the statute of limitations beginning five years after the adoption of an amendment to a declaration. This subsection shall apply to all mortgages, regardless of the date of recordation of the mortgage or deed of trust.

Sec. 30. Section 81-885.01, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-885.01 For purposes of the Nebraska Real Estate License Act, unless the context otherwise requires:

(1) Associate broker means a person who has a broker's license and who is employed by another broker to participate in any activity described in subdivision (2) of this section;

~~(1) Real estate means and includes condominiums and leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold, and whether the real estate is situated in this state or elsewhere;~~

(2) Broker means any person who, for any form of compensation or consideration or with the intent or expectation of receiving the same from another, negotiates or attempts to negotiate the listing, sale, purchase, exchange, rent, lease, or option for any real estate or improvements thereon, or assists in procuring prospects or holds himself or herself out as a referral agent for the purpose of securing prospects for the listing, sale, purchase, exchange, renting, leasing, or optioning of any real estate or collects rents or attempts to collect rents, gives a broker's price opinion or comparative market analysis, or holds himself or herself out as engaged in any of the foregoing. Broker also includes any person: (a) Employed, by or on behalf of the owner or owners of lots or other parcels of real estate, for any form of compensation or consideration to sell such real estate or any part thereof in lots or parcels or make other disposition thereof; (b) who auctions, offers, attempts, or agrees to auction real estate; or (c) who buys or offers to buy or sell or otherwise deals in options to buy real estate;

(3) Broker's price opinion means an analysis, opinion, or conclusion prepared by a person licensed under the Nebraska Real Estate License Act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property for the purpose of (a) listing, purchase, or sale, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;

~~(3) Associate broker means a person who has a broker's license and who is employed by another broker to participate in any activity described in subdivision (2) of this section;~~

(4) Commission means the State Real Estate Commission;

(5) Comparative market analysis means an analysis, opinion, or conclusion prepared by a person licensed under the act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property by comparison to other real property currently or recently in the marketplace for the purpose of (a) listing, purchase, or sale, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;

(6) ~~(4)~~ Designated broker means an individual holding a broker's license who has full authority to conduct the real estate activities of a real estate business. In a sole proprietorship, the owner, or broker identified by the

Consumer Financial Protection Bureau, (e) the National Credit Union Administration, or (f) the successors of any of those agencies;

(9) Federally related transaction means a real-estate-related transaction that (a) requires the services of an appraiser and (b) is engaged in, contracted for, or regulated by a federal financial institution regulatory agency;

(10) ~~(5)~~ Inactive broker means an associate broker whose license has been returned to the commission by the licensee's broker, a broker who has requested the commission to place the license on inactive status, a new licensee who has failed to designate an employing broker or have the license issued as an individual broker, or a broker whose license has been placed on inactive status under statute, rule, or regulation;

~~(6) Salesperson means any person, other than an associate broker, who is employed by a broker to participate in any activity described in subdivision (2) of this section;~~

(11) ~~(7)~~ Inactive salesperson means a salesperson whose license has been returned to the commission by the licensee's broker, a salesperson who has requested the commission to place the license on inactive status, a new licensee who has failed to designate an employing broker, or a salesperson whose license has been placed on inactive status under statute, rule, or regulation;

(12) ~~(8)~~ Person means and includes individuals, corporations, partnerships, and limited liability companies, except that when referring to a person licensed under the act, it means an individual;

(13) Purchaser means a person who acquires or attempts to acquire or succeeds to an interest in land;

(14) Real estate means and includes condominiums and leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold, and whether the real estate is situated in this state or elsewhere;

(15) Regulatory jurisdiction means a state, district, or territory of the United States, a province of Canada or a foreign country, or a political subdivision of a foreign country, which has implemented and administers laws regulating the activities of a broker;

(16)(a) Right-to-list home sale agreement means an agreement:

(i) By the owner of residential real estate to provide another person with the exclusive right to list such residential real estate for sale at a future date in exchange for monetary consideration or an equivalent to monetary consideration; and

(ii)(A) That states that the agreement runs with the land or otherwise purports to bind future owners of such residential real estate; or

(B) That purports to be a lien, encumbrance, or other real property security interest; and

(b) Right-to-list home sale agreement does not include any lien, encumbrance, or other real property security interest expressly authorized under the laws of this state, including any:

(i) Home warranty or similar product that covers the cost of maintenance of a major home system or appliance for a fixed period;

(ii) Insurance contract;

(iii) Option or right of refusal to purchase the residential real estate;

(iv) Contract for deed or purchase;

(v) Declaration created in the formation of a common-interest community or an amendment to such declaration;

(vi) Maintenance or repair agreement entered by a homeowners' association in a common-interest community;

(vii) Mortgage or trust deed loan or a commitment to make or receive a mortgage or trust deed loan;

(viii) Security agreement under the Uniform Commercial Code relating to the sale or rental of any personal property or fixture;

(ix) Water, sewer, electrical, telephone, cable, or other regulated utility service provider; or

(x) Right granted by the Nebraska Construction Lien Act;

(17) Salesperson means any person, other than an associate broker, who is employed by a broker to participate in any activity described in subdivision (2) of this section;

(18) Subdivider means any person who causes land to be subdivided into a

~~and which has been registered under the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701 et seq., as such act existed on January 1, 1973, or real estate located out of this state which is divided or proposed to be divided into twenty five or more lots, parcels, or units;~~

~~(12) Subdivider means any person who causes land to be subdivided into a subdivision for himself, herself, or others or who undertakes to develop a subdivision but does not include a public agency or officer authorized by law to create subdivisions;~~

~~(13) Purchaser means a person who acquires or attempts to acquire or succeeds to an interest in land;~~

~~(14) Commission means the State Real Estate Commission;~~

~~(15) Broker's price opinion means an analysis, opinion, or conclusion prepared by a person licensed under the Nebraska Real Estate License Act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property for the purpose of (a) listing, purchase, or sale, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;~~

~~(16) Comparative market analysis means an analysis, opinion, or conclusion prepared by a person licensed under the act in the ordinary course of his or her business relating to the price of specified interests in or aspects of identified real estate or identified real property by comparison to other real property currently or recently in the marketplace for the purpose of (a) listing, purchase, or sale, (b) originating, extending, renewing, or modifying a loan in a transaction other than a federally related transaction, or (c) real property tax appeals;~~

~~(17) Distance education means courses in which instruction does not take place in a traditional classroom setting, but rather through other media by which instructor and student are separated by distance and sometimes by time;~~

~~(18) Regulatory jurisdiction means a state, district, or territory of the United States, a province of Canada or a foreign country, or a political subdivision of a foreign country, which has implemented and administers laws regulating the activities of a broker;~~

~~(19) Federal financial institution regulatory agency means (a) the Board of Governors of the Federal Reserve System, (b) the Federal Deposit Insurance Corporation, (c) the Office of the Comptroller of the Currency, (d) the Consumer Financial Protection Bureau, (e) the National Credit Union Administration, or (f) the successors of any of those agencies; and~~

~~(20) Federally related transaction means a real estate related transaction that (a) requires the services of an appraiser and (b) is engaged in, contracted for, or regulated by a federal financial institution regulatory agency.~~

Sec. 31. Section 81-885.10, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.10 (1) The commission shall have the full power to regulate the issuance of licenses and the activities of licensees and may impose sanctions pursuant to this section for the protection of the public health, safety, or welfare. The commission may revoke or suspend licenses issued under the Nebraska Real Estate License Act, censure licensees, enter into consent decrees, and issue cease and desist orders to violators of section 81-885.03. The commission may, alone or in combination with such disciplinary actions, impose a civil fine on a licensee for each violation alleged in a complaint for which the commission has made a finding of guilt. The total civil fine for each complaint, except that the total fine for such violations shall not exceed the greater of five two thousand five hundred dollars or the total amount of commission earned by the licensee in each transaction that is subject to the complaint per complaint. The commission may also impose a civil fine on violators of section 81-885.03 subject to the limits in such section.

(2) The commission shall retain its powers under this section with respect to the actions of a licensee, whether or not he or she continues to be licensed under the act.

Sec. 32. Section 81-885.17, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-885.17 (1)(a) A nonresident of this state who is actively engaged in the real estate business, who maintains a place of business in his or her resident regulatory jurisdiction, and who has been duly licensed in that

contact with this state for the exercise of personal jurisdiction over the licensee in any action arising out of the licensee's activity in this state.

(3) Prior to the issuance of any license to a nonresident applicant, he or she shall: (a) File with the commission a duly certified copy of the license issued to the applicant by his or her resident regulatory jurisdiction or provide verification of such licensure to the commission; (b) pay to the commission a nonresident license fee equal to the fee for obtaining a broker's or salesperson's license, whichever is applicable, as provided in section 81-885.14; and (c) provide to the commission adequate proof of completion of a three-hour class approved by the commission specific to the Nebraska Real Estate License Act and sections 76-2401 to 76-2430.

(4) An applicant for an original nonresident broker's or salesperson's license shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. After filing application for a license, each applicant shall furnish directly to the Nebraska State Patrol, or to a fingerprint processing service that may be selected by the commission for this purpose, a full set of fingerprints to enable a criminal background investigation to be conducted. The applicant shall request that the Nebraska State Patrol submit the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The applicant shall pay the actual cost, if any, of the fingerprinting and check of his or her criminal history record information. The applicant shall authorize release of the national criminal history record check to the commission.

(5) Nothing in this section shall preclude the commission from entering into reciprocal agreements with other regulatory jurisdictions when such agreements are necessary to provide Nebraska residents authority to secure licenses in other regulatory jurisdictions.

(6) Nonresident licenses granted as provided in this section shall remain in force for only as long as the requirements of issuing and maintaining a license are met unless (a) suspended or revoked by the commission for just cause or (b) lapsed for failure to pay the ~~annual~~ renewal fee.

(7) Prior to the issuance of any license to a nonresident applicant, he or she shall file an affidavit with the commission certifying that the applicant has reviewed and is familiar with the Nebraska Real Estate License Act and the rules and regulations of the commission and agrees to be bound by the act, rules, and regulations.

Sec. 33. Section 81-885.24, Revised Statutes Cumulative Supplement, 2022, is amended to read:

81-885.24 The commission may, upon its own motion, and shall, upon the sworn complaint in writing of any person, investigate the actions of any broker, associate broker, salesperson, or subdivider, may censure the licensee or certificate holder, revoke or suspend any license or certificate issued under the Nebraska Real Estate License Act, or enter into consent orders, and, alone or in combination with such disciplinary actions, may impose a civil fine on a licensee pursuant to section 81-885.10, whenever the license or certificate has been obtained by false or fraudulent representation or the licensee or certificate holder has been found guilty of any of the following unfair trade practices:

(1) Refusing because of religion, race, color, national origin, ethnic group, sex, familial status, or disability to show, sell, or rent any real estate for sale or rent to prospective purchasers or renters;

(2) Intentionally using advertising which is misleading or inaccurate in any material particular or in any way misrepresents any property, terms, values, policies, or services of the business conducted;

(3) Failing to account for and remit any money coming into his or her possession belonging to others;

(4) Commingling the money or other property of his or her principals with his or her own;

(5) Failing to maintain and deposit in a separate trust account all money received by a broker acting in such capacity, or as escrow agent or the temporary custodian of the funds of others, in a real estate transaction unless all parties having an interest in the funds have agreed otherwise in writing;

(6) Accepting, giving, or charging any form of undisclosed compensation, consideration, rebate, or direct profit on expenditures made for a principal;

(7) Representing or attempting to represent a real estate broker, other

directly with an owner or lessor if he or she knows that such owner has a written outstanding listing contract in connection with such property granting an exclusive agency or an exclusive right to sell to another broker or negotiating directly with an owner to withdraw from or break such a listing contract for the purpose of substituting, in lieu thereof, a new listing contract;

(15) Discussing or soliciting a discussion of, with an owner of a property which is exclusively listed with another broker, the terms upon which the broker would accept a future listing upon the expiration of the present listing unless the owner initiates the discussion;

(16) Violating any provision of sections 76-2401 to 76-2430;

(17) Soliciting, selling, or offering for sale real estate by offering free lots or conducting lotteries for the purpose of influencing a purchaser or prospective purchaser of real estate;

(18) Providing any form of compensation or consideration to any person for performing the services of a broker, associate broker, or salesperson who has not first secured his or her license under the Nebraska Real Estate License Act unless such person is (a) a nonresident who is licensed in his or her resident regulatory jurisdiction or (b) a citizen and resident of a foreign country which does not license persons conducting the activities of a broker and such person provides reasonable written evidence to the Nebraska broker that he or she is a resident citizen of that foreign country, is not a resident of this country, and conducts the activities of a broker in that foreign country;

(19) Failing to include a fixed date of expiration in any written listing agreement and failing to leave a copy of the agreement with the principal;

(20) Failing to deliver within a reasonable time a completed and dated copy of any purchase agreement or offer to buy or sell real estate to the purchaser and to the seller;

(21) Failing by a broker to deliver to the seller in every real estate transaction, at the time the transaction is consummated, a complete, detailed closing statement showing all of the receipts and disbursements handled by such broker for the seller, failing to deliver to the buyer a complete statement showing all money received in the transaction from such buyer and how and for what the same was disbursed, and failing to retain true copies of such statements in his or her files;

(22) Making any substantial misrepresentations;

(23) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts;

(24) Failing by an associate broker or salesperson to place, as soon after receipt as practicable, in the custody of his or her employing broker any deposit money or other money or funds entrusted to him or her by any person dealing with him or her as the representative of his or her licensed broker;

(25) Filing a listing contract or any document or instrument purporting to create a lien based on a listing contract for the purpose of casting a cloud upon the title to real estate when no valid claim under the listing contract exists;

(26) Violating any rule or regulation adopted and promulgated by the commission in the interest of the public and consistent with the Nebraska Real Estate License Act;

(27) Failing by a subdivider, after the original certificate has been issued, to comply with all of the requirements of the Nebraska Real Estate License Act;

(28) Conviction of a felony or entering a plea of guilty or nolo contendere to a felony charge by a broker or salesperson;

(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section;

(30) Inducing or attempting to induce a person to transfer an interest in real property, whether or not for monetary gain, or discouraging another person from purchasing real property, by representing that (a) a change has occurred or will or may occur in the composition with respect to religion, race, color, national origin, ethnic group, sex, familial status, or disability of the owners or occupants in the block, neighborhood, or area or (b) such change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area;

(36) Failing to provide a copy of section 81-885.04 or written instructions explaining the provisions of the exemption from licensure as set forth in subdivision (9) of section 81-885.04 to any unlicensed person who assists in procuring a potential client or customer as defined in sections 76-2407 and 76-2409, respectively, for the purpose of the listing, sale, purchase, exchange, renting, leasing, or optioning of any real estate; or -

(37) Offering or entering into a right-to-list home sale agreement.

Sec. 34. Section 81-885.55, Reissue Revised Statutes of Nebraska, is amended to read:

81-885.55 (1) Every licensee under the Nebraska Real Estate License Act, except an inactive broker or salesperson, shall have errors and omissions insurance to cover all activities contemplated under the act. The commission shall make the errors and omissions insurance available to all licensees by contracting with an insurer for a group errors and omissions insurance policy after competitive bidding. Any group errors and omissions insurance policy obtained by the commission shall be available to all licensees with no right on the part of the insurer to cancel any licensee. Licensees may obtain errors and omissions insurance independently if the coverage complies with the minimum requirements established by the commission.

(2) The commission shall establish the minimum required ~~determine the~~ terms and conditions for errors and omissions insurance ~~of coverage required under this section~~, including the minimum limits of coverage, the permissible deductible, and permissible exemptions. Each licensee shall be notified of such ~~the~~ required terms and conditions at least thirty days prior to the annual ~~annual~~ license renewal date.

(3) A certificate of coverage showing compliance with the minimum required terms and conditions shall be on file ~~filed~~ with the commission for ~~by the~~ annual license renewal date ~~by~~ each licensee who does not participate in the group errors and omissions insurance policy ~~program~~ administered by the commission. If such a licensee fails to have the certificate described in this subsection on file with the commission, the commission shall place the licensee's license on inactive status until the commission receives such certificate. Transfer to active status pursuant to this subsection shall be subject to the fee provided for in section 81-885.14.

(4) ~~(3)~~ If the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the group errors and omissions insurance policy ~~program~~ at a reasonable premium not to exceed five hundred dollars, the errors and omissions insurance requirement of this section shall not apply during the year for which coverage cannot be obtained.

Sec. 35. Section 87-302, Revised Statutes Cumulative Supplement, 2022, is amended to read:

87-302 (a) A person engages in a deceptive trade practice when, in the course of his or her business, vocation, or occupation, he or she:

- (1) Passes off goods or services as those of another;
- (2) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
- (3) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;
- (4) Uses deceptive representations or designations of geographic origin in connection with goods or services;
- (5) Represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he or she does not have;
- (6) Represents that goods or services do not have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they have or that a person does not have a sponsorship, approval, status, affiliation, or connection that he or she has;
- (7) Represents that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand, except that sellers may repair damage to and make adjustments on or replace parts of otherwise new goods in an effort to place such goods in compliance with factory specifications;
- (8) Represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they

based upon purchases of goods, services, or intangible property by participants for personal use, consumption, or resale so long as the plan or operation does not promote or induce inventory loading and the plan or operation implements an appropriate inventory repurchase program;

(14) With respect to a sale or lease to a natural person of goods or services purchased or leased primarily for personal, family, household, or agricultural purposes, uses or employs any referral or chain referral sales technique, plan, arrangement, or agreement;

(15) Knowingly makes a false or misleading statement in a privacy policy, published on the Internet or otherwise distributed or published, regarding the use of personal information submitted by members of the public;

(16) Uses any scheme or device to defraud by means of:

(i) Obtaining money or property by knowingly false or fraudulent pretenses, representations, or promises; or

(ii) Selling, distributing, supplying, furnishing, or procuring any property for the purpose of furthering such scheme;

(17) Offers an unsolicited check, through the mail or by other means, to promote goods or services if the cashing or depositing of the check obligates the endorser or payee identified on the check to pay for goods or services. This subdivision does not apply to an extension of credit or an offer to lend money;

(18) Mails or causes to be sent an unsolicited billing statement, invoice, or other document that appears to obligate the consumer to make a payment for services or merchandise he or she did not order;

(19)(i) Installs, offers to install, or makes available for installation or download a covered file-sharing program on a computer not owned by such person without providing clear and conspicuous notice to the owner or authorized user of the computer that files on that computer will be made available to the public and without requiring intentional and affirmative activation of the file-sharing function of such covered file-sharing program by the owner or authorized user of the computer; or

(ii) Prevents reasonable efforts to block the installation, execution, or disabling of a covered file-sharing program;

(20) Violates any provision of the Nebraska Foreclosure Protection Act;

(21) In connection with the solicitation of funds or other assets for any charitable purpose, or in connection with any solicitation which represents that funds or assets will be used for any charitable purpose, uses or employs any deception, fraud, false pretense, false promise, misrepresentation, unfair practice, or concealment, suppression, or omission of any material fact; ~~or~~

~~(22)(i) (22)~~ In the manufacture, production, importation, distribution, promotion, display for sale, offer for sale, attempt to sell, or sale of a substance:

(A) ~~(i)~~ Makes a deceptive or misleading representation or designation, or omits material information, about a substance or fails to identify the contents of the package or the nature of the substance contained inside the package; or

(B) ~~(ii)~~ Causes confusion or misunderstanding as to the effects a substance causes when ingested, injected, inhaled, or otherwise introduced into the human body.

~~(ii)~~ A person shall be deemed to have committed a violation of the Uniform Deceptive Trade Practices Act for each individually packaged product that is either manufactured, produced, imported, distributed, promoted, displayed for sale, offered for sale, attempted to sell, or sold in violation of this section. A violation under this subdivision shall be treated as a separate and distinct violation from any other offense arising out of acts alleged to have been committed while the person was in violation of this section; ~~or~~

(23) Offers or enters into a right-to-list home sale agreement as defined in section 81-885.01.

(b) In order to prevail in an action under the Uniform Deceptive Trade Practices Act, a complainant need not prove competition between the parties.

(c) This section does not affect unfair trade practices otherwise actionable at common law or under other statutes of this state.

Sec. 36. The Revisor of Statutes shall assign section 28 of this act to Chapter 76, article 2.

Sec. 37. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of this act become operative on January 1, 2025. Sections 16, 17, 18, 20, 21, 22, 23, 24, 25, 29, 31, 32, 34, and 39 of this act become operative three