

Commercial Real Estate Brokerage Laws and Customs: Nebraska

by Martin P. Pelster and Richard Anderson, Croker, Huck, Kasher, DeWitt, Anderson & Gonderinger, L.L.C., with Practical Law Real Estate

Status: **Law stated as of 28 Nov 2023** | Jurisdiction: **Nebraska, United States**

This document is published by Practical Law and can be found at: content.next.westlaw.com/w-000-2958

Request a free trial and demonstration at: tr.com/practicallaw-home

A Q&A guide to state laws and customs on brokerage laws relating to commercial real estate transactions in Nebraska. This Q&A addresses the state-specific guidance on several questions relating to brokerage laws and customs, including licensing requirements, legal restrictions on a broker's role in a real estate transaction, brokerage agreements, commission payments, and brokers' lien rights. This Q&A guide also provides guidance on any licensing requirements for managing commercial real estate. Answers to questions can be compared across a number of jurisdictions (see Commercial Real Estate Brokerage Laws and Customs: State Q&A Tool).

Licensing Laws and Requirements

1. Does your state regulate real estate brokers? If so:

- What statutes or laws regulate licensing requirements for brokers?
- What department oversees the licensing and regulations of brokers?
- Are different types of brokers or other roles recognized by the regulations? If so, specify the scope of responsibilities of these different roles.

Licensing Laws

The Nebraska Real Estate License Act (NRELA) (Neb. Rev. Stat. §§ 81-885 to 81-885.56) regulates licensing requirements for real estate brokers, associate brokers, and real estate salespersons.

A person who collects a fee or commission on the sale of real estate must be licensed as a real estate broker or salesperson unless an exemption applies (*In re Estate of Ronan*, 763 N.W.2d 704, 707-08 (Neb. 2009)).

Regulator

The Nebraska Real Estate Commission (NREC) has full power to regulate the issuance of licenses and activities of licenses. NREC may:

- Revoke or suspend licenses issued under NRELA.
- Censure licenses
- Enter into consent decrees.
- Issue cease and desist orders to violators.

(Neb. Rev. Stat. § 81-885.10.)

Regulations adopted by NREC can be found at 299 Neb. Admin. Code §§ 1-001 to 9-003.

Types of Brokers and Their Roles

Neb. Rev. Stat. § 81-885.01 identifies and defines the following real estate professionals:

- Broker (see Broker).
- Associate broker (see Associate Broker).
- Designated broker (see Designated Broker).
- Salesperson (see Salesperson).

Nebraska law also defines a "team" as two or more persons licensed by the NREC who fulfill all of the following requirements:

- Work under the supervision of the same broker.
- Work together on real estate transactions to provide brokerage services.
- Represent themselves publicly as a team.
- Are designated by a team name.

(Neb. Rev. Stat. § 81-885.01(9).)

Designated team leaders are responsible for supervising the real estate activities of their teams and are subject to overall supervision by the designated broker and team members. (Neb. Rev. Stat. §§ 81-885.01(9).)

Teams and their leaders are also subject to regulation by the NREC.

Broker

A broker is a person that does or holds themselves out as doing any of the following in dealing with real estate for compensation or consideration or with the intent 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 in real estate.
- Assists in procuring prospects or holds themselves 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.
- Collects or attempts to collect rents.
- Gives a broker's price opinion or comparative market analysis.
- Working for or on behalf of the owner of real estate for any form of compensation or consideration to sell or dispose of the real estate, in whole or in part.
- Auctioning, offering, attempting, or agreeing to auction real estate.
- Buying, offering to buy or sell, or otherwise dealing in options to buy real estate.

(Neb. Rev. Stat. § 81-885.01(2).)

A broker also includes any person:

- Employed by or on behalf of the owner or owners of lots or other parcels or 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.
- Who auctions, offers, attempts, or agrees to auction real estate.
- Who buys or offers to buy or sell or otherwise deals in options to buy real estate.

(Neb. Rev. Stat. § 81-885.01(2).)

In addition, the NREC considers a business broker to be a real estate broker if the attempted sale or lease involves the transfer of any interest in real estate (*Ford v. Am. Med. Int'l*, 422 N.W.2d 67, 70-71 (Neb. 1988)). Although

Nebraska law does not define the term, a business broker is one who assists in the buying and selling of a business.

Associate Broker

An associate broker is a person with a broker's license who is employed by another broker to participate in any of the broker's activities (Neb. Rev. Stat. § 81-885.01(3)).

Designated Broker

A designated broker is an individual who is a licensed broker with full authority to conduct the real estate activities of a real estate business. In a partnership, limited liability company, or corporation, the partners, limited liability company members, or board or directors will identify the designated broker by filing a statement with the commission subordinating the designated broker full authority to conduct the real estate activities of the partnership, limited liability company, or corporation. The designated broker also supervises the real estate activities of associate brokers and salespersons. (Neb. Rev. Stat. § 81-885.01(4).)

Salesperson

A salesperson is any person, other than an associate broker, who is employed by a broker to participate in any of the broker's activities (Neb. Rev. Stat. § 81-885.01(6)). In practice, there is little difference between an associate broker and a salesperson.

2. What are the licensing requirements for brokers and other roles listed in Question 1?

The [Nebraska Real Estate Commission](#) (NREC) has the power to issue licenses (Neb. Rev. Stat. § 81-885.10). Licensees must renew their licenses every two years (Neb. Rev. Stat. § 81-885.14(3)).

There are special requirements for non-resident brokers and salespersons (Neb. Rev. Stat. § 81-885.17).

Applications and other forms are available on the NREC Licensing and Forms [webpage](#).

Broker

A real estate broker or associate broker must:

- Be at least 19 years old.
- Have obtained a high school degree or a certificate of high school equivalency (GED).
- Complete either:

- 120 hours (four courses) of pre-license education approved by the NREC, with 2 years of full-time experience as a real estate salesperson experience or part-time equivalent; or
- 18 credit hours in subjects related to real estate at an accredited university or college or 180 hours (six courses) in real estate at an accredited university or college of pre-license education approved by NREC. This option requires special approval by the NREC.
- Submit to fingerprinting and a check of their criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol.
- Complete six class hours in NREC-approved courses related to professional practices and standards.
- Pass a written examination covering matters faced by real estate brokers with a score of at least 75%.
- Pay the necessary application, examination, and licensing fees.

(Neb. Rev. Stat. §§ 81-885.13 to 81-885.14; [NREC General Salesperson/Broker License Requirements.](#))

The original application for a real estate broker or salesperson must include:

- The applicant's social security number.
- A passport-type photo of the applicant taken within the past year.

(299 Neb. Admin. Code § 1-003.)

The fee schedule for a broker application, examination and license is available on the NREC's [website](#).

Associate Broker

A person who has a broker's license and who is employed by another broker to participate in any of the broker's activities (Neb. Rev. Stat. § 81-885.01(3)).

Salesperson

A real estate salesperson must:

- Be at least 19 years old.
- Have obtained a high school degree or a certificate of high school equivalency (GED).
- Complete 60 hours (two courses) of pre-license education approved by the NREC.

- Complete six class hours in NREC-approved courses related to professional practices and standards.
- Submit to fingerprinting and a check of their criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol.
- Pass a written examination covering matters faced by real estate salespersons with a score of at least 75%.
- Pay the necessary application, examination, and licensing fees.

(Neb. Rev. Stat. §§ 81-885.13 to 81-885.14; [NREC General Salesperson/Broker License Requirements.](#))

The fee schedule for a salesperson application, examination, and license is available on the Nebraska Real Estate Commission's [website](#).

3. What are the ongoing requirements for maintaining a license for brokers and other roles listed in Question 1?

In Nebraska, every licensee must complete in each two-year period:

- 12 hours of continuing education.
- Six hours of broker-approved training.

(Neb. Rev. Stat. § 81-885.51.)

Any license not renewed prior to December 1st of its renewal year will be cancelled and the inactive broker or salesperson will be prohibited from engaging in any activities that require a license. The license may be renewed as provided in Neb. Rev. Stat. § 81-885.14 (299 Neb. Admin. Code §§ 1-007 to 1-009).

Renewal forms are available on the Nebraska Real Estate Commissions' continuing education [webpage](#).

Broker

Brokers have the same continuing education requirements as all other types of licensees (Neb. Rev. Stat. § 81-885.51; 299 Neb. Admin. Code §§ 7-001 to 7-003.07).

Salesperson

Salespersons have the same continuing education requirements as all other types of licensees (Neb. Rev. Stat. § 81-885.51; 299 Neb. Admin. Code §§ 7-001 to 7-003.07).

4. What is the best way to determine if a real estate professional is duly licensed?

The Nebraska Real Estate Commission's website contains a licensee and [information search page](#), which can be used to verify whether a particular real estate broker or salesperson is duly licensed.

5. What is the best way to file a complaint against a real estate professional for fraud, material misrepresentations, negligent acts, or intentional misconduct?

A formal [complaint](#) can be filed with the Nebraska Real Estate Commission.

Neb. Rev. Stat. § 81-885.24 and 299 Neb. Admin. Code § 5-003 include prohibited conduct that may result in disciplinary action under the Nebraska Real Estate License Act. The misconduct includes but is not limited to:

- Preparing a land contract or trust deed for use in closing a real estate transaction without approval by an attorney.
- Conspiring to misrepresent to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents:
 - an amount in excess of the true and actual sale price of the real estate; or
 - terms differing from those actually agreed upon.
- Failing to make known, in writing, to any purchaser or seller any interest the licensee has in the property he or she is buying or selling.
- Failing to disclose dual agency.

(Neb. Rev. Stat. § 81-885.24; 299 Neb. Admin. Code § 5-003.)

Customs in Practice for Brokers

6. With regard to brokers in your jurisdiction, please briefly describe:

- The broker's customary involvement in a transaction.
- Whether there are any restrictions on the broker's role.

Broker's Involvement

In practice, the customs for brokers in commercial real estate transactions vary throughout Nebraska. A broker is typically involved in the following key transactions:

- **Transfers of commercial real property.** Brokers are typically involved in preparing and negotiating the letter of intent, which is usually expressly non-binding. Depending on the transaction, real estate attorneys are often involved in the letter-of-intent stage. Brokers often stay involved throughout the contract period.
- **Leases of commercial real property.** Real estate brokers are typically involved in negotiating and preparing the term sheet or letter of intent, which is usually expressly non-binding. Depending on the transaction, real estate attorneys are often involved in the term sheet or letter-of-intent stage. Brokers stay actively involved in the lease negotiations with the attorneys.

Restrictions on Broker's Involvement

Nebraska prohibits the unlawful practice of law, which includes preparing or selecting legal documents which impact the person or entity's legal rights (Neb. Ct. R. § 3-1001).

However, Neb. Ct. R. § 3-1004 provides several exceptions or exclusions that apply to licensed real estate brokers and salespersons, specifically that licensed real estate brokers and their affiliated licensees may prepare:

- Purchase agreements and contracts for sale as agents for the seller or buyer.
- Deeds.
- Releases which do not affect judgment liens.
- Deeds of reconveyance.
- Title affidavits.
- Closing statements.
- Related documents, if the documents:
 - are on standardized forms which may contain various blanks for the licensees to fill in; and
 - do not require the knowledge, judgment, or skill of one trained as a lawyer to select or complete.

(Neb. Ct. R. § 3-1004(A)(3), (5), and (6).)

Customs in Practice for Attorneys

7. With regard to real estate attorneys in your jurisdiction, please briefly describe:

- When an attorney becomes involved in the transaction, if at all.
- If an attorney can receive commission without a real estate broker license?
- Whether the attorney is exempt from the licensing regulations in Question 1.
- Whether an attorney can act as broker and legal counsel in the same transaction? If so, are any disclosures required?

Involvement

In commercial acquisitions in Nebraska, attorneys are usually involved in the letter-of-intent stage. Attorneys usually:

- Negotiate the purchase agreement.
- Review the title commitment and survey to identify and resolve any title defects or issues and otherwise coordinate and oversee the due diligence process.
- Coordinate the closing with a closing agent.

In commercial leasing transactions, the real estate attorney is usually involved in completing the term sheet or letter of intent. The attorney then negotiates and drafts the lease agreement and any ancillary instruments.

Commissions

In Nebraska, an attorney cannot obtain a commission payment without a real estate broker's or salesperson's license (Neb. Rev. Stat. § 81-885.03(1)). An attorney may receive a legal fee for legal services in connection with a real estate transaction.

Exemption from Licensing Regulations

The Nebraska Real Estate License Act (NRELA) does not apply to a licensed attorney when the attorney is performing duties as an attorney at law. For example, an attorney is exempt from the NRELA if the attorney is acting as legal counsel for a party to the transaction. (Neb. Rev. Stat. § 81-885.04(2).)

Acting as Broker and Legal Counsel

If the attorney is acting as a broker or salesperson in the transaction, the NRELA governs the attorney's conduct. For example, the NRELA governs an attorney's active listing or selling of real property. (Neb. Rev. Stat. §§ 81-885.03(1) and 81-885.04(2).)

Brokerage Agreements

8. Please describe different brokerage agreements commonly used in your jurisdiction between individuals selling or leasing their property and the brokers.

Although Nebraska permits various types of brokerage agreements, most brokerage agreements in commercial transactions are exclusive right to sell or lease agreements in which the broker receives a commission no matter who the buyer or tenant is. The broker earns a commission even if the broker did not find the buyer or tenant. For commercial listings, brokers typically submit information about each listed property to the local Multiple Listing Service (MLS). The MLS then publishes the listings to all MLS members, any of whom may sell any listed property. If someone other than the listing broker closes the sale of property, the listing and selling broker divide the commission.

Nebraska law does not address net listing agreements. In a net listing agreement, the broker:

- May list the property for sale at a specified net amount the seller or landlord will be paid.
- Is authorized to retain as commission the difference between the price for which the property sells and the specified net amount the seller or landlord receives.

However, due to the potential for abuse or unfair dealing by the broker, sellers are cautioned against entering into a net listing agreement.

9. Is there a customary tail period for exclusive brokerage agreements?

The customary tail period for commercial transactions in Nebraska is between one and six months. The seller or landlord and the broker negotiate the tail periods

for exclusive brokerage agreements. Factors affecting negotiations for the tail period include:

- The specifics of each transaction.
- Each party's leverage.
- Market conditions.

Generally, brokers want a six-month tail period, and the seller or landlord will try to negotiate for a shorter tail period.

It is also customary that brokerage agreements require the broker to submit to their principal a list of all interested parties that the tail period will capture.

Commission Payments

10. With regard to commission in your jurisdiction:

- Does a broker need a written brokerage agreement to claim its commission?
- When is a broker entitled to its commission?
- May a commission be earned if the closing does not occur?
- Are there any statutory restrictions on commission rates?
- If the parties are permitted to negotiate a commission, what is the customary range for commission rates.

Written Brokerage Agreement

All contracts for the sale of land between the owner and any broker or agent employed to sell the land must:

- Be in writing.
- Be signed by the owner and the broker or agent.
- Describe the land to be sold.
- Specify the compensation that the owner must pay if the broker or agent sells the property.

(Neb. Rev. Stat. § 36-107.)

However, in some instances a broker may still recover even if the contract is not in writing. For example:

- The US Court of Appeals for the Eighth Circuit, applying Nebraska law, held that Neb. Rev. Stat. § 36-107 does not preclude recovery under an oral agreement for a sales commission where the broker has fully performed under the oral agreement (*Kaus v. Bideaux*, 709 F.2d 1221, 1222-23 (8th Cir. 1983)).

- A promissory note made by the seller to a real estate broker and accepted by the broker in payment for commission is enforceable, even if there is no written sales contract (*Peterson & Vogt v. Livingston*, 295 N.W.2d 106, 109 (Neb. 1980)).

Timing of Commission Payment

Absent an agreement to the contrary, the broker may be entitled to a commission once a broker has found a prospective buyer who is ready, willing, and able to purchase the real estate on the terms set by the seller (*McCully, Inc. v. Baccaro Ranch*, 816 N.W.2d 728, 737 (Neb. 2012); *Marathon Realty Corp. v. Gavin*, 398 N.W.2d 689, 692 (Neb. 1987)). Therefore, a closing need not occur for a broker to earn a commission.

For a commercial lease, the broker and the landlord often agree to pay the commission over the first few years of the lease term after certain conditions are satisfied. Though the specifics of each transaction govern the specific agreement between the parties, conditions to paying the broker's commission may include the following:

- Signing and delivery of the lease by the landlord and the tenant.
- Completion of any tenant improvements.
- Commencement of the tenant's rental payments, which cannot start for some time after the signing of the lease agreement.

Commission Payment Without Closing

A broker can earn a commission without a closing (see Timing of Commission Payment).

It is common practice for the seller or landlord to enter into a written brokerage agreement as soon as possible. The agreement usually expressly states that the closing of the transaction is a condition on the broker's commission payment.

Statutory Restrictions

Nebraska law does not regulate commission rates. The parties negotiate the commission terms.

Range of Negotiated Rates

The commission rates in Nebraska are based on market factors and case-by-case conditions. The broker and the seller or landlord often negotiated these rates. The commission rate for commercial transactions is customarily 6%, with lower rates negotiated on higher listing prices.

11. Is it customary for the seller or the landlord to pay the commission? If so, how is payment to the purchaser's or tenant's broker usually ensured?

It is customary for the seller or landlord to pay the commission on the sale or lease of real estate in commercial real estate transactions. The custom differs depending on the type of transaction:

- **Commercial acquisitions.** The seller commonly pays the commission in the sale of commercial real estate, though this may be negotiated. The commission is usually paid at the closing. The seller's broker usually enters into a co-broker agreement with the purchaser's broker. The seller's broker provides the purchaser's broker with its commission payment.
- **Commercial leasing transactions.** The landlord typically pays the commission, though the parties may negotiate this so that the tenant and the landlord share responsibility for the payment. The landlord usually pays the commission over time as outlined in a schedule attached to the commission agreement. If there is a free rent period, the commission cannot be paid until the tenant's rent payments commence. The landlord's broker usually enters into a co-broker agreement with the tenant's broker. The landlord's broker provides the tenant's broker with its commission payment.

12. Is fee splitting permitted or customary in your state? If so, are there any restrictions?

Nebraska law permits fee splitting. In commercial transactions, the commission is generally split 50/50 between the listing broker and the broker for the buyer or tenant.

The Nebraska Real Estate Commission does not get involved in disputes between licensees over:

- The payment of commissions.
- The division of commissions.

(299 Neb. Admin. Code § 5-001.)

13. When real property is sold, is the grantor deemed released from any deferred commission payment obligations that are scheduled to come due after the transfer of fee title to the grantee or must there be an express release? Are deferred commission payments automatically assumed by the grantee or must the assumption be express?

Grantor Release from Deferred Commission

In Nebraska, a grantor is not typically released from its obligation to pay any deferred commission payments unless the purchase agreement contains express language providing otherwise. The grantor's ongoing liability depends in part on the specific details of the case.

Grantee's Assumption of Deferred Commission

The purchaser is not deemed to have assumed the obligation to pay the deferred commission payments unless the purchase agreement contains express language providing otherwise. Whether the grantee assumed the obligation to pay the deferred commission payments depends in part on the specific details of the case.

Costs

14. With regard to the marketing and advertising costs associated with the listing:

- Does a broker typically pass on these costs to the seller or the landlord?
- Are provisions dealing with these costs usually found in exclusive or non-exclusive agreements, or both?

Reimbursement of Costs

Local customs and market conditions govern reimbursement in Nebraska.

Generally, in commercial transactions, the seller or landlord does not reimburse the broker for its ordinary marketing and advertising costs. However, the brokerage agreement may require the seller or landlord to pay extraordinary advertising or marketing costs if the seller or landlord request extraordinary advertising or marketing for the type of transaction at issue. The broker and the seller or landlord generally negotiate extraordinary marketing and advertising costs and specify the terms in the listing agreement.

Cost Provisions

Provisions dealing with marketing and advertising costs are more likely contained in exclusive brokerage agreements. However, these provisions are usually negotiable.

Disclosure Laws

15. Describe any disclosure laws affecting real estate brokers or salespersons. Is a broker required to disclose its dual agency?

General Disclosure Laws

Brokers, associate brokers, and salespersons must disclose the type of brokerage relationship they have with the buyers, tenants, sellers, or landlords with which they are conducting business (Neb. Rev. Stat. § 76-2421(1)). Types of brokerage agency relationships which may occur include:

- A buyer limited agency, where a licensed broker or salesperson enters into an agreement to represent the buyer. The broker or salesperson's duties and obligations are set out in Neb. Rev. Stat. § 76-2418.
- A tenant limited agency, where a licensed broker or salesperson enters into an agreement to represent the tenant. The broker or salesperson's duties and obligations are set out in Neb. Rev. Stat. § 76-2418.
- A seller limited agency, where a licensed broker or salesperson enters into an agreement to represent the seller. The broker or salesperson's duties and obligations are set out in Neb. Rev. Stat. § 76-2417.
- A landlord limited agency, where a licensed broker or salesperson enters into an agreement to represent the landlord. The broker or salesperson's duties and obligations are set out in Neb. Rev. Stat. § 76-2417.
- A dual limited agency, where, with the written informed consent of all parties, the agent enters into a brokerage relationship with either the seller and buyer or the landlord and tenant.
- The dual agent's duties and obligations are set out in Neb. Rev. Stat. § 76-2419.
- A common law agency, which is an agency relationship under common law.

Seller's or Landlord's Agent

In addition, a seller's or landlord's agent:

- Cannot disclose confidential information about a client, unless:
 - the disclosure is legally required; or
 - the failure to disclose the information would constitute fraudulent representation.
- Must disclose all adverse material facts about the real property that the agent actually knows to the buyer,

tenant, or potential buyer or tenant, including but not limited to:

- environmental hazards that legally must be disclosed;
- the property's physical condition;
- material defects in the property;
- material defects in the title to the property;
- material limitations on the client's ability to perform under the terms of the contract.

(Neb. Rev. Stat. § 76-2417(2), (3)(a).)

Buyer's or Tenant's Agent

A buyer's or tenant's agent:

- Cannot disclose confidential information about a client, unless the disclosure:
 - is required by law; or
 - failure to disclose the information would constitute fraudulent representation.
- Must disclose all adverse material facts that the agent actually knows, including, but not limited to, adverse material facts on the client's financial ability to perform the terms of the transaction.

(Neb. Rev. Stat. § 76-2418(2), (3)(a).)

Disclosure of Interest in Transaction

Brokers and salespersons must disclose in writing any interest that the broker or salesperson has in the property to the purchaser or seller. The broker or salesperson must make the written disclosure before the buyer must purchase the property if the broker has any interest in the property for sale. If a broker is purchasing property for themselves or for an entity in which they have any interest, the broker must make the written disclosure before the seller must sell the property. The other party must sign and date the written disclosure. The broker must maintain a copy of the signed and dated disclosure five years from the date of the receipt by the other party. (299 Neb. Admin. Code § 5-003.04.)

Dual Agency Disclosure

A real estate broker or salesperson may represent both the buyer and seller, or landlord and tenant, only with both parties' written informed consent (Neb. Rev. Stat. § 76-2419(1)). The broker or salesperson:

- May disclose any information from one client to the other client if the information is relevant to the transaction or client.

- Must disclose to both clients all adverse facts that the broker or salesperson actually knows.
- Cannot disclose to one client confidential information about the other client unless non-disclosure would constitute fraudulent misrepresentation.
- Cannot disclose any of the following without the client's written consent:
 - that the buyer or tenant is willing to pay more for the purchase price or lease rate.
 - that the seller or landlord is willing to accept less than the purchase price or lease rate.
 - why the client is buying, selling, or leasing the property.
 - that a client will agree to financing terms other than that offered.

(Neb. Rev. Stat. § 76-2419.)

Broker's Liens

16. Can a broker file a lien against real property if it has a claim for its commission? Is a broker's lien an inchoate lien?

Filing a Lien

A Nebraska commercial real estate broker shall have a lien on commercial real estate or any interest in that commercial real estate that is the subject of a purchase, lease, or other conveyance to a buyer or tenant of an interest in the commercial real estate in the amount of commissions that the commercial real estate broker is due (Neb. Rev. Stat. § 52-2103(1)(a)).

A broker's lien attaches to the property when the broker:

- Is entitled to a commission specified in a commission agreement that is signed by the owner, buyer, or the owner or buyer's agents.
- Files a notice of the lien in the office of the registrar of deeds in the county where the commercial real estate is located. The broker must file the lien before the commercial real estate is transferred or conveyed, unless Nebraska law provides otherwise.

The lien attaches on the date when the notice of lien is recorded and does not relate back to the commission agreement. (Neb. Rev. Stat. § 52-2103(2).)

Brokers' Liens as Inchoate Liens

A broker's lien is not an inchoate lien.

17. How can a real property owner remove a broker's lien?

To remove a broker's lien, an owner must:

- Settle the dispute with the broker that filed the lien.
- Arrange for record by the broker of a release of the lien in the county real estate records.
- Deposit funds equal to the full amount of the lien plus 15% either in escrow or with the clerk of the district court by the filing of an interpleader (Neb. Rev. Stat. § 52-2108).

Managing Real Estate

18. Is a broker's license required to manage real estate and collect rents on behalf of a landlord? If so, what are the statutes regulating the licensing requirements?

The [Nebraska Real Estate Commission](#) (NREC) defines property management as "the management of either residential, commercial or farm accounts," which includes "leasing, collection of rents, and security deposits and disbursements to vendors and to owners" ([NREC: Frequently Asked Questions for Real Estate Licensees](#)).

The scope of duties may vary depending on the management agreement or the listing to lease.

The NREC states that a broker's license is required to manage real estate for a third party in most circumstances ([NREC: Frequently Asked Questions for Real Estate Licensees](#)). In addition, the Nebraska Real Estate License Act's definition of a broker includes activities that are often performed by a property manager or management company, for example:

- Collecting rent.
- Negotiates the listing.
- Assists in securing prospects for the sale, purchase, exchange, renting, leasing, or optioning property.

(Neb. Rev. Stat. § 81-885.01(2).)

However, there are exclusions to the broker's license requirement, including:

- A person or entity that owns or leases property and does any act under Neb. Rev. Stat. § 81-885.01(2), when the acts are performed in the regular course of or incident to managing the property. An equitable interest in real

Commercial Real Estate Brokerage Laws and Customs: Nebraska

property is not considered an ownership interest for the purposes of this law. (Neb. Rev. Stat. § 81-885.04(1).)

- A person who acts as the resident manager to an apartment building where the person lives on premises and leases the property as part of the person's employment (Neb. Rev. Stat. § 81-885.04(4)).

About Practical Law

Practical Law provides legal know-how that gives lawyers a better starting point. Our expert team of attorney editors creates and maintains thousands of up-to-date, practical resources across all major practice areas. We go beyond primary law and traditional legal research to give you the resources needed to practice more efficiently, improve client service and add more value.

If you are not currently a subscriber, we invite you to take a trial of our online services at legalsolutions.com/practical-law. For more information or to schedule training, call 1-800-733-2889 or e-mail referenceattorneys@tr.com.