

# State of South Dakota

NINETY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2019

535B0080

## HOUSE BILL NO. 1126

Introduced by: Representatives Howard, Beal, Frye-Mueller, Goodwin, Gosch, Johns, Latterell, Livermont, Marty, Perry, Peterson (Sue), Qualm, Randolph, St John, Weis, and Wiese and Senators Jensen (Phil), Maher, Nelson, and Partridge

1 FOR AN ACT ENTITLED, An Act to revise real estate licensure requirements for the sale of  
2 businesses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-21A-6 be amended to read:

5 36-21A-6. For the purposes of this chapter, a broker or a real estate broker is any person who  
6 ~~does any of the following:~~

7 (1) For another, and for compensation or consideration, or with the intention or  
8 expectation of receiving compensation or consideration, directly or indirectly, lists,  
9 sells, exchanges, buys, rents, manages, offers or attempts to negotiate a sale, option,  
10 exchange, purchase, lease, or rental of an interest in real property; or of an interest  
11 in a mobile or manufactured home which has been registered under the provisions  
12 of in accordance with chapters 32-3 to 32-5B, inclusive, unless the person is licensed  
13 under in accordance with chapter 32-7A to sell used mobile or manufactured homes; ;  
14 or advertises or holds himself or herself out as engaged in ~~such~~ the activities under



1           this subdivision;

2           (2) For another, and for compensation or consideration, or with the intention or  
3           expectation of receiving compensation or consideration, directly or indirectly,  
4           negotiates ~~or,~~ offers, or attempts to negotiate a loan, secured or to be secured by a  
5           mortgage or other encumbrance, on real property;

6           (3) For another and for compensation or consideration, or with the intention or  
7           expectation of receiving compensation or consideration, directly or indirectly, lists,  
8           sells, exchanges, buys, rents, manages, offers or attempts to negotiate a sale, option,  
9           exchange, purchase, lease, or rental of any business opportunity or business, or its  
10          goodwill, inventory or fixtures, or any interest ~~therein~~ in the business opportunity or  
11          business, if the business opportunity or business includes real estate ownership or  
12          interest;

13          (4) For another, and for compensation or consideration, or with the intention or  
14          expectation of receiving compensation or consideration, directly or indirectly, offers,  
15          sells, or attempts to negotiate the sale of property that is subject to the registration  
16          requirements concerning subdivided land;

17          (5) Charges a fee for undertaking to promote the sale or lease of real property by means  
18          of listing in a publication primarily for ~~such~~ the purpose of promoting the sale or  
19          lease of real property;

20          (6) Engages wholly or in part in the business of selling real property to the extent that a  
21          pattern of selling real property is established, unless exempted under ~~the provisions~~  
22          of this chapter;

23          (7) Is employed by or on behalf of any owner of lots or other parcels of real property for  
24          compensation or consideration to sell the real property or any part ~~thereof~~ of the real

- 1           property;
- 2       (8)   Appraises, offers, attempts, or agrees to appraise real property unless licensed or
- 3           certified to appraise under ~~some~~ any other ~~provision of South Dakota law. Any law;~~
- 4           provided the person performing an appraisal pursuant to under this subdivision shall
- 5           comply with the uniform standards of professional appraisal practice established by
- 6           the secretary ~~pursuant to under~~ § 36-21B-3;
- 7       (9)   For another, and for compensation or consideration, or with the intention or
- 8           expectation of receiving compensation or consideration, directly or indirectly,
- 9           prepares or offers to prepare a broker price opinion or a comparative market analysis;
- 10      (10)   Auctions, ~~or~~ offers, attempts, or agrees to auction real estate unless the person is
- 11           licensed to auction real property under ~~some other provision of South Dakota~~ any
- 12           other law of this state; or
- 13      (11)   Buys ~~or~~, offers to buy or sell, or otherwise deals in options to buy real property.