Governor Appoints
Mike Poskochil to Commission

Governor Mike Johanns appointed Mike Poskochil to a six-year term as the Salesperson Member on the Real Estate Commission beginning August 2002. Mike received his real estate salesperson license in 1981 and has been a salesperson with Woods Brothers Realty for 20 years receiving the Woods Brothers Realty 2000 Realtor of the Year recognition.

A graduate of Norris High School, Mike has also earned his Certified Residential Specialist (CRS) designation in 1995 and his Accredited Buyer Representation (ABR) designation in 1996. Additionally, Mike has gained experience working in the construction industry both in residential and commercial.

Mike has served the real estate industry in a number of roles. A partial listing of his involvement includes serving actively in the REALTORS Association where he has served several years on the Governmental Affairs and Finance committees among others. Mike has also served on the Mayor’s Task Force for Affordable Housing and Land Availability.

Mike has served his community extensively as well. Some of his activities include: serving as a youth leader and teaching 4th and 5th grade boys in his church; involvement in the construction industry both in residential and commercial.

Paint-A-Thons, Food Drives, Safety Through Songs, and School Safety Tour programs; Mike and his wife, Mary, are also committed to the Special Olympics program through the Nebraska Law Enforcement Torch Run and have ridden across the state on bicycles for that cause!
**DIRECTOR’S DESK**

License Manual and Trust Account Manual

Updates to be Mailed

As you will note in this issue of “Commission Comment” the amendments to the rules and regulations in Title 299 have become effective as have the rule amendments to the provisions of the Seller Property Condition Disclosure Statement as contained in Title 302 of the Commission’s rules and regulations.

Now that these are final, we will be distributing an update to the License Manual and the Trust Account Manual. You can anticipate the arrival of the Manual to be sometime in late October or early November.

**Revised Seller Property Condition Disclosure Statement to be Mailed**

The revised Seller Property Condition Disclosure Statement which will be required for use on and after January 1, 2003, will be mailed to designated, employing, and individual brokers in late October or early November. The document will be sent in a camera-ready format for ease of copying.

Licensees are cautioned that any purchaser who enters into a contract on or after January 1, 2003, must be provided with a completed copy of the revised form.

Licensees may provide the revised Statement to sellers for completion prior to January 1, 2003, and it may be given to purchasers before January 1, 2003, and be in compliance with State Law, provided that: the seller agrees to complete the revised form after being advised that: (1) the current form included information not included on the new form (see Article page 5); and (2) three additional items would need to be addressed in the “Comments Section”, i.e. whether there was a sauna and if it was steam or dry; if there was any exposed wiring; and if there were any other defects which materially affected the value of the property. On or after January 1, 2003, the seller does not have this option, they must complete the revised Statement and do not have to include the three items in the Comments Section mentioned earlier.

Brokers should establish procedures which assure that the revised Statement is completed by all sellers and provided to purchasers on and after January 1, 2003. One procedure which may be utilized would be to have sellers prior to January 1, 2003, complete both the current form and the revised form so that it is ready on the effective date of January 1, 2003.

**Remember:** Current law requires when the seller has knowledge, on or before the effective date of any contract which binds the purchaser to purchase the property, that the information on the disclosure statement is no longer accurate, the seller shall update the information on the disclosure statement.

**E&O**

New this year – you may enroll in the Nebraska Commission-offered group plan. Visit our website at: www.nrec.state.ne.us for details.

Les Tyrrell, Director Nebraska Real Estate Commission
2001–2002 Continuing Education Reminder

This is a reminder notice which is being given since the renewals will be mailed approximately one month later than normal. It is intended to encourage you to plan for the timely completion of your continuing education requirement so that you may renew your license on time and not incur late renewal fees.

If you were licensed in an even-numbered year since 1986 and you wish to renew your license on active status, your current continuing education period began January 1, 2001 and ends with license renewal this year (this does not include those licensed in 2002). You must have completed 12 clock-hours of approved continuing education in order to renew your license for 2003. You can confirm the year of your licensure by checking your license I.D. number. The first two digits (four digits since 2000) indicate the year you were licensed. For example, someone with an I.D. number of 860403 or 20005890 would be in a 2001-2002 continuing education period and would have to complete the requirement before renewing his/her license for the year 2003.

If you have already completed and submitted verification of your 2001-2002 continuing education requirement, we thank you for your timeliness. OR if you hold a Nebraska license as a non-resident and are living in and currently licensed in one of the following jurisdictions, Alberta, AL, AR, CO, CT, GA, IA, ID, IN, KY, MA, MS, MT, NY, NC, ND, OK, OH, OR, SD, TN, or WY you need to comply with the continuing education requirement of your resident jurisdiction only and need not submit evidence of continuing education to the Nebraska Real Estate Commission. If you fall into either of the two categories just described, you need not do anything else regarding continuing education this year unless the license renewal form you receive in October says “Needs Continuing Education”. If your renewal contains this notice, you should immediately contact our office so that our records can be verified.

We strongly encourage you to submit your continuing education certificates as you earn them. You can then reference Licensee Information on the Real Estate Commission’s website (www.nrec.state.ne.us) or call the Commission and access your continuing education records as they are recorded with the Real Estate Commission.

Please remember that three (3) continuing education hours out of the twelve required every two years must be in designated subject matter. Courses that meet this requirement are indicated by the letter “R” following the course content number. Required courses may be duplicated in subsequent continuing education periods, but may not be duplicated during any one continuing education period. Although activity schedules must be obtained through education providers, lists of approved continuing education activities are available from this office upon request.

(Continued on page 7)
Disciplinary Actions Taken by The Real Estate Commission  
(Does Not Include Cases on Appeal)  

Stipulation and Consent Order.  
License suspended for forty-five days from September 15, 2002, through October 29, 2002; plus an additional six (6) hours of continuing education, including three (3) hours in the area of agency and three (3) hours in the area of license law to be completed by February 20, 2003.  
[Violated Title 299, Ch. 5-003.13 by accepting other than cash or an immediately cashable check as earnest money unless such fact is communicated to the owner prior to his or her acceptance of the offer to Purchase, and such fact is shown in the earnest money receipt; Neb.Rev.Stat. § 76-2422(4) in that the Respondent Prall (i) failed before engaging in any of the activities enumerated in Subdivision 2 of Neb.Rev.Stat. § 81-885.01 to obtain the written agreement of the seller and the buyer permitting the designated broker, to serve as a dual agent in the proposed transaction; failed to include a licensee’s duties and responsibilities as specified in Neb.Rev.Stat. § 76-2419; Neb.Rev.Stat. § 81-885.24(29) by demonstrating negligence, to act as a broker, associate broker, or salesperson.]  
August 21, 2002  

Title 299 Amendments Effective September 3, 2002  

The amendments to Title 299 of the Commission’s Rules and Regulations were approved by the Attorney General and the Governor and were effective on September 3, 2002. This article will summarize the changes to the rules and regulations. Obsolete and unnecessary language was deleted throughout Title 299. Punctuation and grammar were corrected and wording was changed to clarify meaning and/or intent of rules. The substantive changes, by chapter are as follows:  

Chapter 1, Section 001–Eliminated the 30-day waiting period after three examination failures.  

Chapter 2, Section 008–Reworded to clarify that authorized closing agents could also close transactions.  

Chapter 3, Section 006–Included language to clarify that all parties with an interest in the earnest money could agree to a different procedure than that set forth in this section and changed the hour limit on depositing earnest money from 48 to 72 hours.  

Chapter 5, Subsection 003.14–Changed the hour limit on the deposit of earnest money from 48 to 72 hours.  

Chapter 5, Subsection 003.19–Inserted new language to require licensees to supervise any personal assistants.  

Chapter 5, Subsection 003.26–A new subsection which prohibits licensees from conspiring with others to misrepresent the price or terms of a transaction.  

Chapter 5, Subsection 003.27–A new subsection which sets forth that it would be a violation of the rules for any licensee who has been delegated supervisory duties by the designated broker, such as branch managers, to fail to supervise the indicated licensees.  

Chapter 5, throughout entire chapter–Wherever signatures were required, new language was inserted to require the signature be “dated”.  

Chapter 7, Subsection 002.04C–Added language to specify that the Commission could reject unacceptable continuing education.  

Chapter 7, Section 004–Inserted language to set out current procedure regarding notification into rule.  

Chapter 7, Section 005 & Subsection 007.01–Eliminates 30-day waiting periods before approved changes may be added to a program and between noticing the schedule of an approved program and offering the program.  

The “Director’s Desk” carries an announcement regarding the mailing of “Updates” to your License Manuals and Trust Account Manuals.  

Should you need additional information or have questions, please feel free to contact the Commission Office.
Seller Property Condition Disclosure Statement to Change Effective January 1, 2003

The amendments to Title 302 of the Commission rules, i.e. the Seller Property Condition Disclosure Statement were approved by the Attorney General and the Governor and will become effective January 1, 2003. See the Director’s Desk for information on mailing and use of the revised form prior to January 1, 2003.

This article will summarize the substantive changes made to the Statement:

Part I:
- Clarified in the instructions for Part I of the form, clarifying that the “None/Not Included” column should be the only column checked, if the item is not part of the property or will not be included in the sale.

Section A. Appliances:
- Added “and Equipment” to “Built-in Vacuum System” to clarify that all the system parts (built-in or not) were included.

Section B. Electrical Systems:
- Where it asks about the capacity of the “Electrical Service Panel”, “if known” was added to clarify that sellers only fill-in the blank if they know the capacity.
- Deleted the item dealing with the “Sauna”.
- Added a question on security systems and a general question on problems the seller may have experienced with the electrical system or its components.

Section C. Heating and Cooling Systems
- Changed reference from “Furnace/Heat” to “Heating System”.
- Deleted the “Gas/Electric” reference in the “Heat Pump” item.
- Deleted the “Solar House Heating” item.

Section D. Water Systems:
- Added question on the presence of a “Backflow preventer” on underground sprinkler systems.

Part II:
- In the instructions, it was clarified that explanations only were needed when “yes” was the answer to items in Sections A, B, and C.

Section A. Structural Conditions:
- Clarified language with regard to damage from natural events and added “hail” as a specific cause.
- Deleted the item on “exposed wiring” because it was unclear as to what was referenced.
- Deleted a reference to a brandname and inserted the generic reference of “insulated windows”.
- Deleted the final general question in this Section regarding defects.

Section B. Environmental Conditions:
- In the instructions clarified that substances, materials, and products were included and that test results only needed to be provided if they were available.
- Clarified the reference to identified hazardous substances, materials or products.

Section C. Title Conditions:
- Deleted unnecessary language regarding shared features.
- Clarified item regarding what is known about any utility or municipal work.
- Clarified item on use of common areas.
- Clarified item on lawsuits.

Section D. Other Conditions:
- Clarified that the dwelling and the improvements were included in the items regarding water, sewer, and septic systems.
- Added question on whether septic system is operational.
- Added question of when radon mitigation occurred if it was mitigated.
- Added item regarding whether property was connected to a “natural gas system”.
- Added an item on the presence of pets in the dwelling.
- Added instructions in the middle of the Section that should the seller answer “yes” to any of the remaining questions, that an explanation be given in the “Comments Section”.
- Added a question regarding if any trees or shrubs are scheduled for removal from the property.
- Added new question regarding any claims made to insurance or manufacturers.
- Clarified item on lawsuits.

Section E. Cleaning/Servicing Conditions:
- Clarified instructions for the Section.
- Added items on testing, servicing and treating well water.

Reiterated in the “Acknowledgment of Receipt” portion that the information provided is the representation of the seller and not of any agent nor was the information intended to be part of any contract between seller and purchaser.

Clarified that the “Date” after where the Purchaser receipts for the “Statement” is the “Receipt Date”.

Set forth that the effective date of the revised form is January 1, 2003.

Should you need additional information or have questions, please feel free to contact the Commission Office.
2003 License Renewal

Although approximately one month later than in previous years, all real estate Brokers or Salespeople WILL be sent a renewal notice along with a partially completed renewal form for use in renewing their license for 2003. Your renewal will be mailed to your broker’s main office address, unless you have informed us of your preferred contact address. Then the renewal will be mailed to the requested contact address. If you do not receive your renewal by the end of October please contact the Real Estate Commission Office as soon as possible. In order for mail to be deliverable, the Post Office must have the names of all persons receiving mail at that address.

DEADLINE REMINDER

November 30, 2002, is the deadline for submitting renewal application materials for all active and inactive salespersons and brokers, along with the proper fees and, if needed, proof of continuing education and errors and omissions insurance. Because November 30 is on a Saturday this year, these materials may be post-marked (postal meter marks will NOT be considered) or received in the Office of the Nebraska Real Estate Commission, 1200 ‘N’ Street, Suite 402, PO Box 94667, Lincoln, NE 68509, as late as December 2, 2002. The Office is open until 5:00 P.M. (CST).

LICENSES HELD ON INACTIVE STATUS MUST BE RENEWED EACH YEAR, TOO.

Renewal forms and renewal instructions specific to inactive licenses will be mailed along with all others and are subject to the same deadlines as described in this article.

RENEWAL FORMS ARE PRODUCED FROM OUR DATABASE AND ARE INDIVIDUALIZED TO THE NAMED LICENSEE. PLEASE TAKE THE TIME TO READ THE SUPPLIED INFORMATION CAREFULLY AND MAKE ANY CORRECTIONS NECESSARY. DO NOT ATTEMPT TO USE SOMEONE ELSE’S FORM, THE BARCODE WILL NOT ACCOMMODATE THIS. PLEASE TAKE CARE NOT TO LOSE YOUR INDIVIDUALIZED FORM. EVERY YEAR WE SPEND A GREAT DEAL OF TIME AND RESOURCES Duplicating the original mailing for those who have misplaced the documents.

INCOMPLETE APPLICATIONS
NO RENEWALS WILL BE ACCEPTED UNLESS THEY ARE FILLED OUT COMPLETELY AND SIGNED BY THE LICENSEE. Make sure your check or credit card information is enclosed, filled out properly, and in the correct amount. If active, do not forget about the errors & omissions insurance and continuing education.

LATE RENEWALS
Any salesperson or broker who fails to file an application for renewal of a license and pay the renewal fee by the November 30 date, as provided in the Nebraska Real Estate License Act and Neb. Rev. Stat. § 49-1203, (and extended to December 2, this year) may file a late renewal application with all required information included and must pay, in addition to the renewal fee, the sum of twenty-five dollars for each month, or fraction thereof, beginning with the third day of December; provided that such late application is filed before July 1 of the ensuing year, i.e. by 5:00 P.M. (CDT) June 30, 2003.

“BUNDLING” OF RENEWAL SUBMISSIONS

Every individual licensee is responsible for the renewal of his or her own license. However, some firms have a practice of holding renewals until they have collected all the renewals of the licensees with the firm and then submitting them to the Commission all together. There are two general approaches to this “bundling” practice. One, all renewals for the firm are collected, with individual checks attached to each renewal, and then all renewals for the firm are sent, under one cover, to our Office. Two, all renewals for the firm are collected with the firm writing one check to cover the total amount needed to renew all licensees in the “bundle” and then they are sent, under one cover, to our Office. Both practices can cause situations to occur where late penalty fees can accrue, if the “bundled” renewals are not sent considerably early, to allow for the review and processing to take place prior to the renewal deadline.

In the first scenario, the licensee may have turned his/her renewal and check into the firm a month or more in advance. The “bundle” arrives at the Commission Office a day or two before the deadline. In processing, it is found that questions have not been answered; the form is unsigned; proof of continuing education or errors and omissions insurance is needed; and/or an individual licensee’s check is not correct. The individual licensee will owe a late penalty fee if the correction cannot be made prior to the renewal deadline.

In the second scenario, the licensee had turned his/her check and form into the firm a month or more in advance and the “bundle” with one check arrives at our Office on or close to the deadline. Again, the review process finds that an individual application, or
more than one, is incomplete or proof of continuing education or errors and omissions insurance is needed. This time, however, if the correction cannot be made by the deadline, all renewal applications covered by the single check are late and the late penalty fee accrues to all the renewal applications. **If the “bundling” option is used, please be sure to mail early!**

**RENEW EARLY**

The processing of renewal applications, as the volume of renewals received increases near the deadline, can be as long as a week to ten days. This being the case, the return of the individual application or “bundled” applications, by mail, in and of itself, will cause late penalties to occur. Therefore, we encourage all licensees to mail renewals early and not wait until the last minute.

**Opportunities TO RENEW On-Line**

At www.nrec.state.ne.us

(Continued from page 3)

**Reminders on Mailing Labels**

Our mailing labels, as appearing on this newsletter, can also help active licensees keep track of how many continuing education hours they have submitted in their current continuing education period. The label indicates a numerical code to the right of the address. The first set of numbers indicates the number of hours of continuing education an active licensee has submitted, the number behind the slash mark indicates the total number of hours required. If this is followed with an asterisk (*) then the licensee has NOT yet submitted the required 3-hours of designated subject matter (the R course). The second set of numbers identifies the licensee’s continuing education period. For example the notation 01-02 indicates a 2001-2002 continuing education period. In this example November 30, 2002, would be the last day to submit continuing education without incurring a late renewal fee. (Please remember that when deadlines with fees fall on a weekend or holiday, materials will be accepted without penalty the next working day i.e. December 2, this year.)

For example if an individual’s continuing education was due this year and the individual had completed 6 hours of continuing education without an R course, the notation on the mailing label would read: 6.00/12.00* 01-02. The notation for an individual who has completed the current continuing education requirement would be: 12.00/12.00 01-02.

**The benefit to regularly submitting your certificates is that you will have up-to-date reminders on your mailings and education history “at your fingertips”. These will assist you in avoiding duplication of subject matter and deficiencies that threaten timely renewals.**

Mailing labels for Inactive licensees do not carry the continuing education information. However, these licensees can review their continuing education history on the Commission’s website or contact the Commission directly to receive the information.

Inactive salesperson or broker licensees have the option of completing the above-noted requirement during the period noted or waiving the requirement and still renewing their licenses. However, if waived, the inactive licensee will need to make up twelve (12) clock hours and meet all other provisions as provided by law pertaining to the activation of a license before their license can be activated.

Should you have any questions or need to verify compliance, please contact our office.
Top Six List Of Renewal Mistakes:

This article is being written to alert you to some of the renewal mistakes that we have seen repeatedly over the years, it is not intended to discourage you from contacting us with your questions and concerns. It is our objective to assist in your efforts to meet your license responsibilities.

We all make mistakes and we all need help correcting these mistakes. Unfortunately, these “little” renewal mistakes are often multiplied by the hundreds and most mistakes, even the little ones, are costly in some way i.e. time and money. It is our hope that by reviewing the “Top Six Mistakes” listed below and by being mindful of them you can avoid these same pitfalls and enjoy a smoother renewal experience.

1. INCOMPLETE OR INACCURATE RENEWALS: Renew early and carefully! Every year we make hundreds of telephone calls to avoid returning incomplete renewals. We endeavor to facilitate the renewal of your license in any way that we can but these calls are costly in time and charges. Please make sure that the application is completed fully and signed. Make sure your check or payment information is enclosed, signed, and correct. If active, do not forget about the errors & omissions insurance and continuing education.

2. NO ERRORS & OMISSIONS INSURANCE: E & O Policies other than the NEBRASKA Commission-offered plan require a current Certification of Coverage Form either already in the file or submitted with the renewal form. When indicating enrollment in the Nebraska Commission-offered plan, the form reads that you have MADE application—key is the fact that you must follow up on this commitment and either send the insurance enrollment materials to Williams Underwriting Group, Inc. prior to or at the same time you send your renewal materials to the Commission. WE CANNOT RENEW YOUR LICENSE ON ACTIVE STATUS WITHOUT PROOF OF INSURANCE.

3. CONTINUING EDUCATION REQUIREMENT NOT COMPLETE OR NOT SUBMITTED: If your renewal form indicates NEEDS CONTINUING EDUCATION—then you have not fulfilled your CE obligation, as of the day the renewals were printed, and we will not renew your license on active status without it. Please do not send continuing education certificates in AFTER you have submitted your renewal, this is too late and may affect your renewal in a way you had not intended. If you need to explore your options we will be happy to discuss this with you PRIOR to you sending in your renewal.

4. POSTAL METER MARKS WILL NOT BE HONORED: State law allows us to recognize U.S. Postmarks as a means to complying with deadlines which involve fees. Postal meters are not sufficient to meet this requirement.

5. LOST RENEWAL MATERIALS: Your renewal materials will be mailed to your broker’s main office address, unless you have informed us of your preferred contact address. Then the renewal will be mailed to the requested contact address. Please take care not to misplace these materials. We send them as early as possible so that you can renew early and not worry about it. Unfortunately, it appears that this lead time gives lots of people time to lose their materials—replacing these materials is expensive. If you do lose the mailed renewal—Remember you can download a renewal, complete it, and send it in or you can file directly on-line by going to www.nrec.state.ne.us.

6. COMBINING RENEWAL WITH TRANSFER PROCESSES: The renewal of your license is a completely separate process from a voluntary transfer of your license. Requests to have your license transferred to another broker or activated to yourself should be sent under separate cover and the $15.00 fee should be separate from the license renewal fee as well.