

# Nebraska Real Estate Commission

# COMMISSION COMMENT

Summer

2005

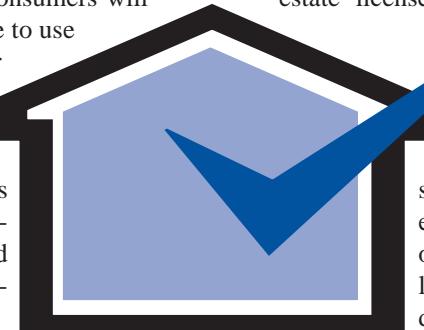
## What Are the Licensee's Duties

*(Editor's note: The following article was written by Special Assistant Attorney General Abbie Widger to clarify the duties and obligations for which licensees will be held responsible. The Real Estate License Act and the Agency Relationships statutes have served as the major resources for this article, it is recommended that all licensees remain familiar with these statutes in their entirety. Should you have any questions feel free to contact the Commission Office.)*

In recent months there has been much discussion nationally about the "minimum service" contract and the "discount" broker. Using a "minimum service" contract, the licensee offers to represent a client for a "reduced" fee if the licensee is not required to perform all tasks associated with a "full-service" broker, calling the agreement a "limited service" listing agreement. According to various sources, one instance of a "limited service" listing agreement is a listing agreement in which the listing broker offers no services other than placement of the listing in the multiple listing service. The licensee then charges a "reduced" or flat-fee for the service.

Another instance is when the real estate licensee will offer consumers a menu of real estate services and the client may choose to purchase only those services that meet his or her needs.

A few states are in the process of examining legislation, or have recently passed legislation, that requires a licensee to perform certain tasks. For example, Texas and Oklahoma proposed amendments to their regulations which would outline changes to a broker's obligation to a client. The United States Department of Justice (DoJ) has taken an interest in the legislation in several states arguing that the legislation is not "fee-structure neutral." In other words, the DoJ claims that by requiring licensees to perform certain tasks, licensees may not be able to afford to offer discounts and consumers will then not have a choice to use a "discount" or "limited services" broker. The DoJ sent letters to the regulatory bodies asking that the regulatory changes be held for further investigation.



various rules and regulations regarding disclosure of who pays the commission or fee but there is no rule or regulation on who must pay the commission and how much. An examination of the market illustrates that consumers are being offered a variety of choices and are exercising those choices.

The Nebraska Legislature and the Nebraska Real Estate Commission have adopted statutes and rules and regulations, respectively, to protect the public and require various disclosures at various times in the real estate transaction. One of the stated purposes of the License Act is to allow the Real Estate Commission to grant licenses to persons who bear a good reputation for honesty, trustworthiness, integrity and competence to transact the business of a real estate licensee in a

manner as to safeguard the interest of the public. As a result, the Commission has the ability to enforce due diligence oversight on the licensees. In exercising due diligence, the Nebraska Real Estate

### Commission Meeting Schedule

August 24-25 ..... Lincoln  
September 22-23 ..... Lincoln

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As a result of the discussion in other states, the Nebraska Real Estate Commission reviewed the Agency Statutes and the License Act to assure itself that the laws administered by the Commission are "fee-structure neutral." The determination is that all laws impacting the licensee are "fee-structure neutral." The laws apply equally to all licensees, commercial and residential, and do not impact whether a flat-fee or commission is charged.

In Nebraska, the Commission does not involve itself in what the licensee chooses to charge for his or her services, if anything. The Commission does have

Commission expects licensees to perform in a manner consistent with the License Act and the Agency Relationships statutes.

One of the most important cornerstones of the License Act and the Agency statutes is disclosure. With a strong emphasis on disclosure, the Nebraska Legislature and the Nebraska Real Estate Commission have allowed licensees and customers to enter into various arrangements for services and financial compensation. When a licensee enters into an arrangement with a client,

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The Nebraska Real Estate Commission often solicits articles from outside experts or reprints articles with permission. While we feel that these articles may offer a broader perspective and will be of interest to the reader, it should be remembered that the views expressed are those of the author and not necessarily those of the Commission.

# **DIRECTOR'S DESK**

## **REFERRAL FEES**

Over the past few months we have had several inquiries regarding the payment of referral fees to unlicensed persons.

Section 81-885.01(2) sets forth in part that:

"Broker (includes associate brokers and salespersons) shall mean any person who for a fee, a commission, or any other valuable consideration, or with the intent or expectation of receiving the same from another. . .assists in procuring prospects or holds himself or herself out as a referral agent for the purpose of procuring prospects for the listing, sale, purchase, exchange, renting, leasing, or optioning of any real estate."



Section 81-885.24(18) of the License Act sets forth that disciplinary action could be taken if a licensee is found guilty of:

"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."

Therefore, paying an unlicensed seller, buyer, tenant, landlord, next-door neighbor, friend, bankteller, personnel officer, etc. for a referral could cause disciplinary action to be taken against the licensee, AND, according to Neb.Rev.Stat. § 81-885.45, the unlicensed person has committed a Class II misdemeanor.

Should you have any questions about paying a referral fee, please contact the Commission Office.

## **MULTIPLE TRADE NAMES**

The amendments to Title 299, Chapter 2, of the Commission Rules and Regulations, which authorize designated brokers to operate under more than one trade name, became effective on June 22, 2005. For an explanation of the amendments, consult the Spring 2005 "Commission Comment." A text of the amendments appears in that issue and on the Commission's website at: [www.nrec.state.ne.us](http://www.nrec.state.ne.us)

If you would like more information on this issue, please contact the Commission Office.

## MEET THE REAL ESTATE COMMISSION STAFF

The Real Estate Commission Staff is here to serve the public and the licensee population. It is our goal to be helpful and forthright in a courteous and professional manner. We hope that when you contact our office, you always receive useful, accurate information and/or are referred to the proper authority.

Following is a communication resource to assist you when contacting our office. If the indicated person is unavailable to take your call, please share the purpose for the call and your call will be routed to someone else who can help you.

We take pride in having a skilled staff, if you have comments or suggestions as to how we may better serve you, please contact our office.

## COMMUNICATIONS GUIDE

Ask for person indicated if you have questions in the following areas.

Commission Meeting Information . Heidi Burklund  
InfoTech@nrec.state.ne.us

Complaint Procedures ..... Terry Mayrose  
DDEnf@nrec.state.ne.us

Continuing Education History or  
Inquiries ..... Melanie Patrick-Heather  
EdEnf@nrec.state.ne.us

Curriculum Design (Education &  
Instructor Approval) ..... Teresa Hoffman  
DeputyD@nrec.state.ne.us

Errors and Omissions Insurance  
Inquiries ..... Teresa Hoffman  
DeputyD@nrec.state.ne.us

License Applications Packet  
Requests ..... General Staff

License Applications Process ..... Marilyn Masters  
Applic@nrec.state.ne.us

Licensing and Education  
Requirements ..... Teresa Hoffman  
DeputyD@nrec.state.ne.us

New Licenses in Process ..... Marilyn Masters  
Applic@nrec.state.ne.us

Specialized Registrations ..... Monica Wade  
Finance@nrec.state.ne.us

Transfer of License ..... Tawny Snider  
LicTsf@nrec.state.ne.us

Trust Account Matters ..... Terry Mayrose  
DDEnf@nrec.state.ne.us  
John Clark  
Patricia Stehly  
Ron Pierson

Webmaster ..... Monica Wade  
Finance@nrec.state.ne.us

WEBSITE: [www.nrec.state.ne.us](http://www.nrec.state.ne.us)

TELEPHONE NUMBER  
(402) 471-2004

ADDRESS:  
Nebraska Real Estate Commission  
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Lincoln, NE 68509-4667

# Disciplinary Actions Taken by the Real Estate Commission

*(Does Not Include Cases on Appeal)*

**2004-017** – Woods Bros. Real Estate Group Inc. vs. Forrest Pollard, Broker. Stipulation & Consent Order dated January 12, 2005. License censured. [Neb. Rev. Stat. 81-885.24 (2) Intentionally using advertising which is misleading or inaccurate in any material particular or in any way misrepresents any property, terms, values, policies, or other services of the business conducted.]

January 12, 2005

**2004-051** – Timothy E. Kuchta vs. Donald Christopher Miller, Broker. Stipulation & Consent Order dated March 3, 2005. License censured. [Neb. Rev. Stat. 81-885.24(14) Negotiating a sale, exchange, listing, or lease of real estate 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.] March 3, 2005.

May 16, 2005

**2005-010** – Commission vs. Lisa Marie (McGuire) Kelly, Salesperson. Stipulation & Consent Order accepted May 9, 2005. License censured; plus an additional three (3) hours of continuing education in the area of Agency, to be completed by September 7, 2005. [Violated Neb. Rev. Stat. 76-2418(1) by failing under subparagraph (b) to exercise reasonable skill and care for clients and under subparagraph (c) to promote the interest of the clients with the upmost good faith, loyalty and fidelity and violated Neb. Rev. Stat. 81-885.24(29) by demonstrating negligence to act as a salesperson as Respondent failed to exercise appropriate care in disclosing the effect of the written contract.]

June 13, 2005

of brokerage relationships the designated broker and affiliated licensees are offering to that person or disclose in writing to that person which party the licensee is representing.]

May 16, 2005

**2004-061** – Commission vs. Stuart B. Mills, Broker. Hearing held May 16, 2005. License suspended for a period of twenty four (24) months commencing on July 1, 2005 with the last 23 month served on probation. The balance of said suspension served on probation commencing on August 1, 2005. [Violated Neb. Rev. Stat. 81-885.24(29) by demonstrating negligence, incompetency or unworthiness to act as a broker by engaging in illegal conduct involving moral turpitude, engaging in conduct involving dishonesty, fraud, deceit or misrepresentation, by failing to act competently, by knowingly using perjured testimony or false evidence, by knowingly making a false statement of law or fact and by violating the duties of a notary.]

May 16, 2005

**2005-009** – Commission vs. Constance J. Nordhues, Salesperson. Stipulation & Consent Order. License censured; plus an additional three (3) hours of continuing education in the area of Agency, to be completed by September 7, 2005. [Violated Neb. Rev. Stat. 76-2418(1) by failing under subparagraph (b) to exercise reasonable skill and care for clients and under subparagraph (c) to promote the interest of the clients with the upmost good faith, loyalty and fidelity and violated Neb. Rev. Stat. 81-885.24(29) by demonstrating negligence to act as a salesperson as Respondent failed to exercise appropriate care in disclosing the effect of the written contract.]

June 13, 2005



### We've Got Mail!!

E-mail, that is. The Commission is focusing on technology. Our goal is to enhance our accessibility and service to the Public and to our Licensee Population.

With that in mind, let us call your attention to the addition of e-mail addresses in the "Communications Guide" located on page 3. If you have any questions, please free to contact us by phone, mail, or e-mail, so that we may be of assistance.



(Continued from page 1)

## **Licensee's Duties (Cont'd)**

he or she has certain obligations and duties, however, none of the obligations and duties circumvent the basic ability of the client and the licensee to negotiate the financial arrangement. Clients are not being locked into any specific type of service contract. As evidenced by the wide variety of services available in the real estate market, Nebraska clients are able to choose from a variety of services.

The requirements set forth by the Nebraska Real Estate Commission and the Nebraska Legislature set forth the practices the licensee should follow to protect the public. Agency disclosure is necessary and appropriate. Customers should be informed and need to understand the nature of the relationship with the broker as well as the differences between the various types of relationship. The Agency statutes impose a duty of confidentiality, disclosure, good faith, fidelity and promoting the best interest of the client. The broker is required to provide services within the scope of the agency agreement. This allows for flexibility and different types of agency agreements. The broker is required to use reasonable skill and care when providing the services. This means the broker is required to provide to the client the standard care for any service being provided by the licensee.

Following is an outline of the various obligations of the licensee from the Agency statutes and the License Act. This list is not exhaustive and the statutes should be consulted to determine all of the licensee's duties and obligations. The following highlights many of the most important duties required of a licensee when dealing with the public.

Duties from the Agency Relationship Statutes include the following:

**A.** For the Limited Seller's or Landlord's Agent:

**1.** Perform pursuant to the terms of the written agreement. Section 76-2417 (1)(a).

**2.** Exercise reasonable skill and care for the client. Section 76-2417(1)(b).

**3.** Promote the interest of the client with the utmost good faith, loyalty and fidelity including:

**a.** Seeking a price and terms which are acceptable to the client;

**b.** Present all written offers to the client;

**c.** Disclose to client all adverse material facts actually known by the licensee; and

**d.** Advise the client to obtain expert advice as to material matters about which the licensee knows but the specifics of which are beyond the expertise of the licensee. Section 76-2417(1)(c).

**4.** Account in a timely manner for all money and property received.

**5.** Comply with all laws.

**6.** Disclose to a prospective buyer or tenant all adverse material facts actually known by the licensee. The adverse material facts include:

**a.** Environmental hazards affecting the property;

**b.** The physical condition of the property;

**c.** Any material defects in the property;

**d.** Any material defects to the title of the property; or

**e.** Any material limitation on the client's ability to perform.

**B.** For the Limited Buyer's or Tenant's Agent:

**1.** Perform, pursuant to the terms of the written agreement. Section 76-2418.

**2.** Exercise reasonable skill and care for the client. Section 76-2418(1)(b).

**3.** Promote the interest of the client with the utmost good faith, loyalty and fidelity including:

**a.** Seeking a price and terms acceptable to the client;

**b.** Presenting all written offers to and from the client;

**c.** Disclosing in writing adverse material facts actually known by the licensee; and

**d.** Advising the client to obtain expert advice.

**4.** Account in a timely manner for all money and property received.

**5.** Comply with the law.

**C.** Other duties which apply to any licensee:

**1.** Provide a written copy of the Brokerage Disclosure Pamphlet to anyone who is not represented and disclose in writing the types of brokerage relationships the licensee is offering.

**2.** Identify for whom the licensee is an agent.

If the licensee is performing as a dual agent, a combination of the above duties are required and are not listed in this article.

Duties from License Act (does not include the broker's responsibility as it relates to the trust account) may include the following:

**A.** The licensee must disclose the accepting, giving or charging of any form of compensation, consideration, rebate or direct profit on expenditures made for a principal.

**B.** The licensee must have the written consent of the owner before placing a sign on the property.

**C.** The licensee may not offer real estate for sale or lease without the knowledge and consent of the owner.

**D.** The licensee may not induce any party to a contract to break the contract for the purpose of substituting a new contract with the principal.

**E.** The licensee may not negotiate a sale, exchange, listing or lease of real estate directly with an owner or lessor if he or she knows that such owner has a written outstanding listing contract.

**F.** The licensee may not negotiate directly with an owner to withdraw from or break a listing contract for the purpose of substituting a new listing.

**G.** The licensee must 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.

**H.** The licensee has to deliver to the seller, in every transaction, a complete, detailed closing statement showing all the receipts and disbursements handled by the broker.

**I.** The licensee is responsible for making known, in writing, to any purchaser or seller of any interest the licensee has in the property.

**J.** The licensee must disclose in writing all forms of compensation, rebates or direct profits.

**K.** Identify in writing to the seller at the time the offer is presented, those categories of cost the seller would be expected to pay at closing and a written estimate of the cost, if reasonably available, the seller would be expected to pay.

**L.** The licensee is to identify in writing to the purchaser at the time the

(Continued on page 5)

# 2004–2005 Continuing Education Reminder

This is a reminder notice which 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 1985 or prior or in an odd-numbered year since 1986 and you wish to renew your license on active status, your current continuing education period began January 1, 2004 and ends with license renewal this year (this does not include those licensed in 2005). You must have completed 12 clock-hours of approved continuing education in order to renew your license for 2006. 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 840403 or 20035890 would be in a 2004-2005 continuing education period and would have to complete the requirement before renewing his/her license for the year 2006.

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## **Licensee's Duties (Cont'd)**

offer is written or a counter-offer is accepted, the categories of cost the purchaser will be expected to pay at closing and prepare a written estimate of the cost, if reasonably available, the purchaser will be expected to pay at closing.

**M.** The licensee is required to reduce an offer in writing where a prospective purchaser requests such offer be submitted.

**N.** Deliver a copy of the Seller Property Condition Disclosure Statement to the purchaser or the agent of the purchaser if you are the seller's agent.

**O.** If you are the agent of the purchaser, you are to assure that a copy of the Seller Property Condition Disclosure Statement is delivered to the purchaser.

The Nebraska Real Estate Commission does not concern itself with the amount of compensation being charged to any client or customer; the Commission is concerned that licensees are performing according to industry standards, following the various statutes affecting them and making the proper disclosures.

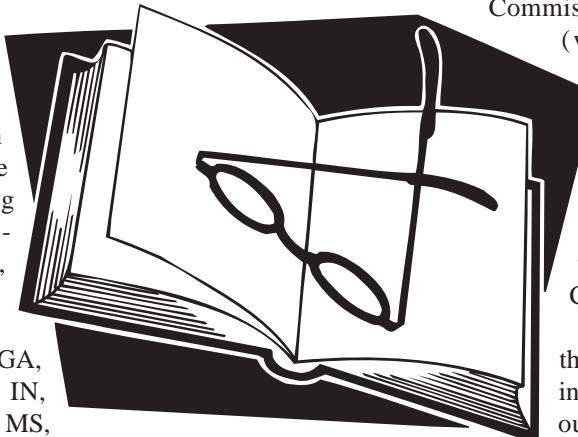
If you have already completed and submitted verification of your 2004-2005 continuing education requirement, we thank you for your timeliness. OR if you hold a Nebraska license as a non-resident and are living in and currently licensed in one of the following jurisdictions, Alberta, AL, AR, CO, CT, GA, IA, ID, IN, KY, MA, MS,

MT, NY, NC, ND, OK, OH, OR, PA, 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 September 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](http://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.



# States' Attorneys General Warn of Counterfeit Cashier's Checks

*(Editor's note: Both Nebraska's Attorney General, Jon Bruning and South Dakota's Attorney General, Larry Long, have cautioned citizens regarding cashier check fraud.)*

*The following article combines excerpts of an article supplied to the Commission Comment by Attorney General Jon Bruning and a Consumer Alert issued by South Dakota's Attorney General Larry Long which appeared in a recent issue of the South Dakota Real Estate View.*

*Additionally, the editor of the South Dakota Real Estate View reported that: the U.S. Secret Service has issued a public awareness advisory regarding these scams. They caution that along with the traditional internet schemes, fraudulent cashier's checks are being used to pay for real estate transactions including vacation rentals and home purchases. In some cases, the deed has been transferred before the parties learn that the buyer used a fraudulent cashier's check. The excess balance of the cashier's check is then wired back to the "buyer" for "moving expenses" and other reasons.*

*Together, these articles provide various ways you might detect cashier's check fraud and various strategies you might employ to protect yourself against such fraud.)*

Attorney General Bruning warns Nebraskans of yet another type of consumer fraud—counterfeit cashier's check fraud. Unfortunately, our Consumer Protection Division has seen a significant increase in the number of cases being reported.

In this scam, the targeted victim is offered a cashier's check for a product or service and is then asked to provide up-front or advance fees to cover handling costs, taxes, attorney fees and transaction fees. Some con artists have taken this old scam and applied it to the Internet, responding to on-line offers selling cars or auctioning high-dollar items.

South Dakota's Attorney General Larry Long describes a typical cashier's

check scam in the following manner:

"A legitimate seller is advertising an item over the internet, such as a car, computer, or other valuable item. A "buyer," often from a foreign country, contacts the seller about purchasing the item and states that he plans to use a cashier's check issued from a bank in the U.S. The buyer tells the seller that he either mistakenly sent too large of a check, or that he will be sending a check for more than the purchase price. In either event, the seller is instructed to immediately wire the "balance" back to the buyer. The unsuspecting seller then deposits the cashier's check in his or her bank account and wires the balance to the buyer. But then the cashier's check turns out to be counterfeit and the seller loses the money that was wired. "The counterfeit cashier's check scam is so effective because of the authentic look of the check," said Long. "These fraudulent checks look so authentic that even banks can be fooled. This scam's success also depends on the wire transfer. Wiring money is the simplest way for a crook to steal money and it is untraceable. If no one wired money, we would have no victims."

As Attorney General Bruning points out, not only is the seller out the "extra" cash, the seller has probably also conveyed the goods and is now out of both the goods and the money.

Following is a combined list of tips contributed by both Attorney General's Offices:

- Do NOT bid on auctions that do not show the other bidder's names.
- Never accept a cashier's check for an amount greater than the purchase price.
- Do NOT take an out-of-state cashier's check.

- Request that the cashier's check be drawn on a local bank, preferably your own.
- Call the bank that issued the cashier's check when you receive it. Locate the bank's telephone number from a reliable source, such as directory assistance or a phone book.
- If you receive a cashier's check, ask your bank to verify that the check is good and discuss with them the possibility of this being a scam.
- Be sure to wait until you can verify the authenticity of the check prior to giving the buyer the goods.
- Most banks have distinctive cashier's checks with logos and borders. If you receive a plain-looking check it could be a phony.
- All cashier's checks should be perforated on one edge. If you get a check that is not perforated on at least one side, the Federal Reserve Board says that indicates it is most likely a bad check.
- Be leery of buyers who show little interest or no concern as to the condition of items they are purchasing and are mostly worried about payment.
- Do not wire money to an unfamiliar source, EVER—it is untraceable and you will never see the money again.
- Have your bank flag your account so that no checks can ever be mailed in and deposited into your account on your behalf without your endorsement, knowledge or permission. Also have the bank verify the signature they have on file.

Attorney General Bruning instructs Nebraskans that for additional information on this scam or other types of consumer fraud, contact his office's Consumer Protection Division at 800-727-6432 or 402-471-2682. En Espanol, 402-471-3891 o llamada gratuita, 888-850-7555.

# What the Department of Natural Resources Does And How it Pertains to You

*(Editor's note: The Department of Natural Resources has written the following article and requested that we publish it in our newsletter. We believe that it contains information of which licensees should be aware. All inquiries should be made to the Department of Natural Resources. See contact information at the end of the article.)*

People who use Nebraska's surface water resources are required in most instances to obtain a permit from Nebraska Department of Natural Resources (DNR). These permits are approved for a specific area of land, and are appurtenant to this land. These permits are administered by DNR, but most are NOT recorded with the Deed. People who use ground water are required to have their water wells registered with the DNR, except for domestic and stock wells that were drilled prior to September 9, 1993.

Neb.Rev.Stat. §46-230, §46-202(6) and §76-2,124 require certain landowners to file with the Department written notice of changes of ownership, and changes of address. This includes when the land is transferred to a trust, partnership or corporation.

## CHECK IT OUT

DNR's web site: [www.dnr.state.ne.us](http://www.dnr.state.ne.us) has downloadable forms and data retrieval. When looking up surface water permit information please note that the legal description listed on the page above the owners name, is the point of diversion, not where irrigation occurs.

## REQUIRED FORMS

There are two forms that are used for notifying the DNR of ownership. The **Water Resources Update Notice** or **WRUN** is required in most cases. Please note that the only version of this form that is accepted is the one found on the DNR website. Previous versions may be floating around, that will not be accepted. So be sure it is the version that has shaded areas, and is the exact version available on the website. It requires the

signature of the transferor, and the transferee. This is so that all parties are aware of the transfer of ownership of all registered wells and surface water permits. The back of the WRUN has a grid to show where the property lines fall in the section, and to mark the placement of any wells.

When the land is located within the boundaries of a municipality, or the transfer of ownership has occurred prior to July of 2002, the Notice of Change of Ownership form is required.

## TIPS

Be sure to include the correct and entire legal description of the subject property on or attached to the form. In the event that you are not sure which wells or surface water permits are located on the subject land, a complete legal description provided on the form will allow DNR staff to determine if one or both are present.

## SURFACE WATER PERMITS

A surface water permit allows the appropriator (in most cases the owner of the land) the right to divert water at a set rate, a certain amount of water, from an approved point of diversion, to irrigate a certain area of land. Permits are also granted for the right to impound a number of acre-feet of water in a reservoir. The permit (water appropriation) number if known is written on the WRUN in 3c. Holders of water rights must use the water in accordance with the provisions written on the permit. Failure to do so use the water will result in the Department conducting a hearing to cancel or annul the permit. This process is called "adjudication" and is subject to review by the Nebraska Court of Appeals.

## MULTIPLE OWNERS

In the case where the land under a surface water permit is divided, and owned by separate parties, the Depart-

ment will issue an Order splitting the permit according to lands owned. This is done after written notice from all owners has been received. In this case, the approved point of diversion may not be accessible to one or more owners. Access to another's property is not granted with the permit. The owners are encouraged to get an agreement (preferably in writing) with the landowner of where the approved point of diversion is located. If this cannot be obtained, but their land offers access to the same source of water, a Petition for Relocation of the Point of Diversion may be sought after with the Department. If an owner does not have access to a point of diversion, and the water is no longer diverted under the permit for 5 or more consecutive years, the permit is subject to cancellation. If desired, an owner may relinquish their portion of the surface water permit.

## IRRIGATION DISTRICT PERMITS

An irrigation district, reclamation district or mutual canal company may be the appropriator of a surface water permit. See the WRUN 3b. In that case, when a person purchases land that has such a permit covering all or part of the land that is in the name of an irrigation district, a public power and irrigation district, or a mutual irrigation company, located on it, they must contact the district. These permits remain in the district's name, and the district is responsible for the water diverted under the permit.

DNR desires to inform all who are involved with land ownership transactions of the procedures necessary to be in compliance with Nebraska Law concerning the DNR. The DNR main phone number is (402)471-2363, or you can contact me: Beth Eckles at (402)471-3949, email: [beckles@dnr.state.ne.us](mailto:beckles@dnr.state.ne.us). A direct link to the WRUN form is: <http://www.dnr.state.ne.us/wellforms/WRupdatenotice.pdf>.

Nebraska Real Estate Commission  
PO Box 94667  
Lincoln, NE 68509-4667

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## 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 04-05 indicates a 2004-2005 continuing education period. In this example Wednesday, November 30, 2005, would be the last day to submit continuing education without incurring a late renewal fee.

For example if an individual's contin-

uing 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\* 04-05. The notation for an individual who has completed the current continuing education requirement would be: 12.00/12.00 04-05.

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.

