Rule and Regulation Hearing To Be Held

On September 20, at 9:30 a.m. the Commission will consider the following additions and changes to the Rules of the Commission. The public hearing will be held at the Ramada Inn (Airport), located at 1101 West Bond Street in Lincoln, Nebraska, as a part of the September Commission Meeting.

The proposed amendments to Title 299, Chapter 2 require written consent to receive other valuable consideration from parties other than the employing broker, and make a technical reference change. The proposed amendments to Chapter 5 will make it an unfair trade practice to not: 1) identify the estimated closing costs to a customer to whom such service is offered; and 2) include a disclosure on any written broker price opinions or comparative market analyses. Also, there is a proposed amendment to exempt third-party relocation companies from the requirement to receive estimated closing costs, and to delete an unnecessary word.

The following excerpts of the two chapters set forth only the sections of the Rules which are proposed for amendment or are being added and excludes any sections in the two Chapters to which no amendments are proposed. Proposed new language is underlined, and proposed deleted language is shown as struck.

Title 299
Chapter 2

010 The consent required from the broker employing, i.e. employing broker, for an associate broker or salesperson to represent another real estate broker or to accept a commission or other valuable consideration from anyone other than the employing broker as set forth in Neb. Rev. Stat. 81-885.24(7) and (8), respectively, shall be given in writing by the broker in advance of the licensee representing the other broker or the acceptance of the commission or other valuable consideration from the other party. A copy of the consent shall be maintained by the employing broker for five years following the date of such consent.

013.01 For the purpose of 044 013 above, the word "close" refers to services as an independent party to perform the ministerial actions necessary to complete the transaction, which may include the receipt and disbursement of funds. When providing only the above ministerial actions, the broker shall disclose, in writing, to all parties to the transaction, prior to the closing of the transaction, that the broker is only providing this ministerial service and is not acting as an agent for either party. The disclosure shall be signed by both parties and a copy shall be maintained in accordance with 299 NAC 3-001.

Title 299
Chapter 5

003.10 Failure of the licensee to identify in writing to the seller-client, or to a seller-customer if offered pursuant to Neb. Rev. Stat. § 76-2421(3)(b), in writing, at the time the offer is presented and accepted, those categories of costs the seller will be expected to pay at closing. At the same time, the licensee shall prepare a written estimate of the costs the seller will be expected to pay at closing, to the extent the necessary cost information is reasonably available. Said written information shall be signed by the seller and a copy of the signed document(s) shall be maintained in the transaction file in accordance with 299 NAC 3-001. This subsection shall not apply to the sale of new construction, lots, agricultural or commercial property, including residential property with five or more dwelling units, or to third-party relocation companies acting as sellers. For the purposes of this subsection, the term "agricultural property" shall mean property zoned agricultural by a county in which any part of

(Continued on page 3)
Charging for BPO/CMA Authorized

Beginning August 28, 1999, real estate licensees may begin charging separately for a Broker Price Opinion (BPO) or a Comparative Market Analysis (CMA). This is the result of the passage by the Legislature and approval by the Governor of LB 618.

The new law sets forth the following:

“A person licensed under the Nebraska Real Estate License Act who, in the ordinary course of his or her business, gives a broker’s price opinion or comparative market analysis, except that such opinion or analysis shall not be referred to as an appraisal. No compensation, fee, or other consideration shall be charged for such opinion or analysis other than a real estate commission or brokerage fee charged or paid for brokerage services rendered in connection with the sale of the real estate involved unless the opinion or analysis is in writing and carries the following disclosure in bold fourteen-point type: This opinion or analysis is not an appraisal. It is intended only for the benefit of the addressee for the purpose of assisting buyers or sellers or prospective buyers or sellers in deciding the listing, offering, or sale price of the real property and not for any other purpose, including, but not limited to, lending purposes. This opinion or analysis is not governed by the Real Estate Appraiser Act, but is subject to enforcement through the Nebraska Real Estate License Act;”

The Commission as a part of the September 20 Rule Hearing is proposing a new rule which will require real estate licensees to place the fourteen-point, bold disclosure on any BPO/CMA whether charged for separately or as a service as a part of the commission or even if the BPO/CMA is done for free. (See Article page 1.)

Licensees can begin using the fourteen-point, bold disclosure any time they so choose, some, as I understand it, are already using it. You just cannot charge separately for the BPO/CMA until August 28.

Affiliated licensees, i.e. associate brokers and salespersons, are reminded that, under Neb. Rev. Stat. § 81-885.24(8), it is a violation of the Nebraska Real Estate License Act to accept “...a commission or other valuable consideration...from anyone other than..."your"...employing broker without the consent...” of the employing broker. A separate fee for a BPO/CMA would be “other valuable consideration”.

Should licensees have questions on this matter, please contact the Commission Office.

Les Tyrrell, Director Nebraska Real Estate Commission
the property is located, or, if a county does not zone land agricultural, then property any part of which is assessed as agricultural property by a county assessor.

003.25 Failure by a licensee, who knows of an error, inaccuracy or omission in a Seller Property Condition Disclosure Statement completed pursuant to Neb. Rev. Stat. Section 76-2,120 to not disclose the error, inaccuracy or omission, in writing, to a potential purchaser and the seller. Such disclosure shall be attached to the Seller Property Condition Disclosure Statement. This subsection shall become effective January 1, 1995.

003.26 Failure to include the following disclosure in fourteen point type on any written broker price opinion or comparative market analysis, as defined in Neb Rev. Stat. § 81-885.01: This opinion or analysis is not an appraisal. It is intended only for the benefit of the addressee for the purpose of assisting buyers or sellers in deciding the listing, offering, or sale price of the real property and not for any other purpose, including, but not limited to, lending purposes. This opinion or analysis is not governed by the Real Estate Appraiser Act, but is subject to enforcement through the Nebraska Real Estate License Act.

Your comments are welcomed either in person at the Hearing or in writing prior to the Hearing as long as such written comments are received in the Commission Office no later than 5:00 p.m. on September 3, 1999.

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 feel free to contact us by phone, mail, or e-mail, so that we may be of assistance.
Commission Considering License Act Amendments

The Commission is considering the proposal of amendments to the License Act regarding the written buyer/tenant brokerage relationship agreements. Please review the proposed amendments. Should you have any comments, please take time to send them to the Commission Office.

The proposed amendments are set out in legislative style, underlining indicates proposed new language.

81-885.24
(19) Failing to include a fixed date of expiration in any written listing agreement or written buyer or tenant agency agreement in which the licensee agrees to perform brokerage services for which a license is required and failing to leave a copy of the agreement with the principal;

81-885.24 - New Subsections
(31) Negotiating to represent or attempting to represent a buyer or tenant if he or she knows that the buyer or tenant has granted, in writing, an exclusive buyer or tenant agency to another broker, or breaking or attempting to break the exclusive agency for the purpose of substituting in lieu thereof a new buyer or tenant agency relationship;
(32) Discussing with a buyer or tenant, if he or she knows that the buyer or tenant has a written exclusive buyer or tenant agency relationship with another broker, or soliciting a discussion with such a person of the terms upon which the licensee would accept a future exclusive buyer or tenant agency upon the expiration of the present written agreement, unless the buyer or tenant initiates the discussion; or
(33) Failing to deliver within a reasonable time a completed and dated copy of any written buyer or tenant agency agreement to the buyer or tenant.

Disciplinary Actions Taken by The Real Estate Commission

(Does Not Include Cases on Appeal)

1999-006 - David and Juanita Benson vs. Paul L. Gondringer, broker. Stipulation and Consent Order. License censured. (Violated Neb.Rev.Stat. § 81 885.24(29) for negligently failing to identify, on the purchase agreement, the personal property to be retained by the sellers of the real estate.) June 29, 1999

1999-010 - Roger Rozeboom vs. John D. Sorensen, salesperson, and Ronald Edwin Stock, broker. Stipulation and Consent Order. Sorensen: License censured plus three hours of continuing education in the area of agency to be completed by September 27, 1999. (Violated Neb.Rev.Stat. § 81-885.24(22) by making a substantial misrepresentation when stating the property had to sell for $55,000 because of liens against the property; Neb.Rev.Stat. § 76-2417 by failing to promote the interest of the client with the utmost good faith, loyalty and fidelity when he failed to present a written offer to the seller in a timely manner.) Stock: License censured. (Violated Neb.Rev.Stat. § 81 885.24(26) by violating any rule or regulation adopted and promulgated by the Commission in the interest of the public and consistent with the Nebraska Real Estate License Act, to wit: Title 299 N.A.C. Ch. 5-003.22 by failing to supervise his salesperson.) June 29, 1999

1999-012 - Judy Wiles vs. Albert T. Schmuckecker, salesperson. Stipulation and Consent Order. License censured. (Violated Neb.Rev.Stat. § 76-2417 and § 76 2422 by failing to obtain the written agreement of the seller and buyer permitting him to act as a dual agency.) June 29, 1999
Continuing Education Reminder

This is a reminder notice. It is intended to encourage you to plan for the timely completion of your continuing education requirement and replaces the individual letters mailed in previous years. If you have already completed and submitted verification of your 1998-1999 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 states: AL, AR, CT, GA, IL, IN, IA, KY, MA, MS, MT, NY, NC, ND, OK, SD, TN, or WY you need to comply with the continuing education requirement of your resident state 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.

For those who have not yet completed and submitted continuing education please take note: If you were licensed originally at your present license status of salesperson or broker in 1985 or prior, 1987, 1989, 1991, 1993, 1995 or 1997, you will need to complete your twelve hours of continuing education prior to renewing your license for calendar year 2000. These hours must be taken between January 1, 1998 and November 30, 1999. (Renewal Deadline without late penalty fees is November 30, 1999.) You can confirm the year of your licensure by checking your license I.D. number. The first two digits indicate the year you were licensed. For example, someone with an I.D. number of 820403 or 975890 would be in a 1998-1999 continuing education period and would have to complete the requirement before renewing his/her license for the year 2000.

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.

If your continuing education is due this year and you have not completed and submitted your continuing education certificates to this office, we would recommend that you complete these hours as soon as possible and, after fully completing the twelve hours, that you mail the proof of completion to this office. This will enable us to update your records prior to renewal time.

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.
2000 License Renewal

In September, all persons holding a Real Estate Broker or Salesperson license will be sent a renewal notice along with a partially completed renewal form for use in renewing their license for 2000. If you do not receive your renewal by the end of September please contact the Real Estate Commission 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, 1999, is the deadline for submitting renewal application materials for salespersons and brokers, along with the proper fees and, if needed, proof of continuing education and errors and omissions insurance. These materials must be postmarked or received in the Office of the Nebraska Real Estate Commission, 1200 ‘N’ Street, Suite 402, PO Box 94667, Lincoln, NE 68509 by November 30, 1999. 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.

NO RENEWALS WILL BE ACCEPTED UNLESS THEY ARE ON THE COMPUTER PREPARED FORMS WHICH HAVE BEEN SUPPLIED, AND ARE FILLED OUT COMPLETELY AND SIGNED BY THE LICENSEE. THIS IS THE FIRST YEAR THAT THESE FORMS WILL BE PRODUCED FROM OUR NEW DATABASE. PLEASE TAKE THE TIME TO RECALCULATION CAREFULLY AND MAKE ANY CORRECTIONS NECESSARY.

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, 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 first 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, 2000.

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 December 1.

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 November 30 at 5:00 P.M.

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” 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.

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 each of you, and those of you who “bundle”,

(Continued on page 8)
Technology and Its Impact on Real Estate Education

This article is an update on a project that the Association of Real Estate License Law Officials (ARELLO) has just completed in the area of distance education, the resulting certification program, and the influence this work is having on real estate education in Nebraska.

We are all familiar with the changing face of education—we pride ourselves in staying fluid enough to serve our communities and to make education accessible. In Nebraska excellent real estate education has been delivered for both pre-license and continuing education purposes. In Nebraska we have been able to approve education experiences that were conducted with accountability and integrity. Our citizens have benefitted from a more knowledgeable real estate industry and for this our educators can enjoy a good deal of the credit.

Over the last few years it has become quite evident that technology is having, and will continue to have, a significant impact on education. Its impact on education delivery has been of particular concern as the Commission has been approached by more and more program providers to approve seminars and courses offered in a variety of distance education formats, everything from audio-only to on-line programs. Distance education is defined to mean courses in which instruction does not take place in a traditional classroom setting but rather through other media where the instructor and the student are separated by distance and sometimes by time.

Real Estate Regulators have researched distance education delivery and know that it has many strengths and can provide an excellent education experience when administered with integrity. They have also been exposed to enough to know that there are distance-delivered programs that claim to be educational and have very little, if any, integrity. A set of accepted standards by which to measure and evaluate these programs was needed. After an extensive search and many discussions with regulators from other states and provinces, and educators from various institutions; it was discovered that, apparently, a comprehensive set of standards for distance education delivery did not exist.

Real estate regulators took their concerns to the Association of Real Estate License Law Officials (ARELLO) and received approval to expend funds from the Education and Research fund to hire a qualified consultant and to support a task force in developing standards for the approval of distance education. ARELLO has succeeded in this endeavor with the significant input and guidance of Dr. Robert Meyer, a Fulbright Scholar in Distance Education. By all reports ARELLO is quite proud of the results of the task force’s extensive efforts. The Standards were completed last Fall, approved by ARELLO’s Board of Directors, and made available for purchase.

An obvious compliment to this body of work was the creation of an ARELLO Distance Education Certification program. Applicants for Certification will fill out a course-assessment document and will receive the benefit of the Consultant’s expertise to affirm or strengthen various aspects of their course. Certification has already been granted to a few courses since it was launched in January. Reports from the Certification Council and the Course Developers have been very supportive and complimentary of the process. Certified programs are to receive a prestigious recognition on ARELLO’s website at www.arello.org and will be entitled to display the Certification Council’s logo on their course materials.

The Certification is proving very valuable, indeed. Well-designed distance education courses have legitimacy and serve a valuable purpose. It is important to evaluate these courses using a comprehensive and consistent set of criteria, i.e. ARELLO’s Standards, to protect the quality of education that we have enjoyed to this date. Because in many cases it would require the services of a consultant who has particular knowledge of distance education delivery to measure a program’s compliance with the Standards and because those services are available through ARELLO’s Certification program, many jurisdictions are preparing to require that distance education courses have first attained ARELLO Certification before applying for approval from their regulatory body. Nebraska just conducted a Rule Hearing to that effect at the June meeting. Proposed language was published in the last issue of this newsletter. The proposed Rules, with 3 technical changes, were unanimously adopted by the Commission and have been filed with the Attorney General’s Office. The
to mail your renewals early and not wait until the last minute.

INSUFFICIENT FUNDS CHECKS

It should also be pointed out that the License Act provides that the issuance of an insufficient funds check may be grounds for denial or revocation of a license - this includes the renewal of a license. Any check returned by your financial institution will be subject to a $20.00 fee.

REMEMBER:

LICENSE RENEWAL FEES CANNOT BE COMBINED WITH TRANSFER FEES OR EXAMINATION FEES. THESE ARE SEPARATE PROCESSES. PLEASE SEND SUCH REQUESTS AND THE APPROPRIATE FEE UNDER SEPARATE COVER.

RENEW EARLY!

MAKE SURE THAT THE APPLICATION IS COMPLETED FULLY AND SIGNED. MAKE SURE YOUR CHECK IS ENCLOSED AND IN THE CORRECT AMOUNT. IF ACTIVE, DO NOT FORGET ABOUT THE ERRORS & OMISSIONS INSURANCE AND CONTINUING EDUCATION.

WE ASK YOUR COOPERATION

THIS YEAR IS THE FIRST YEAR WE WILL BE UTILIZING THE NEW DATABASE IN OUR LICENSE RENEWAL PROCESS. IF YOU HAVE NOT RECEIVED A RENEWAL FORM BY THE END OF SEPTEMBER, PLEASE CONTACT US IMMEDIATELY. UPON RECEIVING YOUR FORM, PLEASE REVIEW IT CAREFULLY AND MAKE CORRECTIONS AS NEEDED. POCKET CARDS WILL BE MAILED AT THE END OF DECEMBER. PLEASE REVIEW YOURS CAREFULLY AND CONTACT US IF CORRECTIONS ARE NEEDED. WE ANTICIPATE FEW PROBLEMS, BUT EXPECT THAT SOME ADJUSTMENTS MAY BE NECESSARY. WE REGRET ANY INCONVENIENCE THIS MAY CAUSE AND APPRECIATE YOUR ASSISTANCE IN THIS PROCESS.

(Continued)

(Continued)

Rules are expected to become effective sometime this Fall.

Anyone who has interest in real estate education, particularly in distance education, is encouraged to review ARELLO's Standards and the Certification program. Copies of both publications are available through ARELLO and may be ordered by accessing www.arello.org or by using the order form appearing on page 9.
Distance Education Standards Manual

Looking for a good measuring stick to demonstrate that your course delivery deserves approval for credit?

The new Distance Education Standards Manual contains a comprehensive set of criteria which can be used to assess the unique components of distance education courses.

ARELLO’s manual contains extensive appendices comprising the latest research and recommended guidelines that are fast becoming credit requirements.

STANDARDS

$149.00 (U.S.)

Each additional Standards Manual may be purchased for only $99.

Distance Education Certification Manual

How can your organization demonstrate that delivery of your course meets required standards?

Submit an application for certification and ARELLO’s Distance Education Certification Council will review your program based on its Distance Education Standards. Certification will open doors for your programs.

Certified courses are easier to market to students and the organizations charged with approving credit.

CERTIFICATION

$25.00 (U.S.)

Cost of certification manual is subtracted from Certification Application Fee.

ORDER FORM

Organization __________________________________________________________

Contact Name _______________________________________________________  

Street Address ______________________________________________________ 

City ________________________________________________________________  

State/Province/Country ______________________________________________ 

Postal Code __________ Phone # ________________________________

Payment Method: [ ] Check [ ] VISA [ ] MasterCard [ ] AMEX

Card # ____________________________ Exp. Date ________________

Signature __________________________________________________________________

After receiving payment, please send:

1. STANDARDS MANUAL ($149 US)

2. ADDITIONAL MANUALS ($99 US EACH)

3. CERTIFICATION MANUAL ($25 US)

8% SALES TAX (ALABAMA ONLY)

TOTAL DUE ________________________________________________________

Send to: ARELLO Publication Fulfillment Center
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