Governor Appoints Robert R. Moline To Commission

Governor Mike Johanns appointed Robert R. Moline to a six-year term on the Real Estate Commission beginning September 1999. Mr. Moline is the Chief Financial Officer of Woods Brothers Realty, Inc. which serves Lincoln and surrounding cities. Mr. Moline first became involved in real estate in Salt Lake City, Utah while working for a large real estate brokerage. Upon moving back to Nebraska in 1990, Robert became a real estate salesperson in February 1992 and received his broker's license in June 1994.

Robert grew up in Hastings, NE and went to the University of Nebraska, Lincoln. He holds a Bachelors Degree in Accounting and has received his Nebraska Certified Public Accountant Certificate. Robert is involved in many activities outside of his career. He is currently the Council President of the Cornhusker Council of the Boy Scouts of America and was the Chairman of the Lincoln Lights Holiday Spectacular in Lincoln the last two years. He is currently Past-President of the Downtown Lincoln Lion's Club, serves on the Board of Directors of the Lincoln Trap & Skeet Club, and is a youth group leader and a Trustee for Southview Christian Church.

He has been actively involved with the Lincoln Board of Realtors in many committees including currently serving as the President of Midlands Multiple Listings Service. He has participated in many committee activities in the Nebraska Realtors Association including chairing the Regulatory Liaison Committee, and the Affinity Task Force. He is a Director of the Real Estate Services Providers Council (RESPRO) and has spoken nationally on RESPA and affiliated business practices in the real estate marketplace. Robert is also a member of the Nebraska Land Title Association and holds a title agent's license.

Robert has been married to Deb for twenty years and they have three sons ages 15, 13, and 11. Robert enjoys the shooting sports, hunting, working with kids, and their small acreage where he gets to drive his old tractor.
Holiday Message From Chairperson Moore

I hope that this message finds you enjoying the holiday season and looking forward to the New Year.

One year ago when I wrote this annual letter, I told you that in 1999 the Real Estate Commission would be looking at ways to conduct business the way business should be conducted in the new century. If one looks back on the last 12 months, I think we have made great progress, yet still have more to do.

Internally, in the office, we are in a much better position to conduct business in the digital age. All Commission Staff have received e-mail addresses and Internet access in March. During the last year we have disconnected the State Mainframe and have completed the process of bringing all of our records in-house. With the New Year we will have the Commission website up and running and our trust account examiners will be equipped with lap-top computers.

In the last year the Commission approved rule changes that allow for education providers to engage in different forms of distance education. With this process now in place on both the State and National level we will see the fruits of our labor in the next 12 months. This development will not only increase opportunities in rural Nebraska but also increase course offerings and options in urban Nebraska as well.

None of these developments in the last year are necessarily front-page news but I feel, when taken in total show the commitment of the Commission to maximizing the benefits of technology. The next big step that I hope the Commission can accomplish in the next twelve months is providing the opportunity for licensees to file and pay their annual renewals on line.

The State of Maryland, here, in the United States and the province of Alberta in Canada already have on-line licensing. Here in Nebraska, the Collection Agency Licensing Board, which I also Chair, is ready for on-line re-licensing for the next cycle. I am confident that the Nebraska Real Estate Commission will have this service ready for the November 2000 license renewal.

I am proud that the Nebraska Real Estate Commission has a reputation of being on the cutting edge of technology. Our challenge is to move forward while maintaining the personal service we have been known for and you expect and deserve. In an effort to assure this occurs the Commission has also implemented a “Service Satisfaction” survey to solicit comments from individuals who have conducted business with us. Surveys are being sent out randomly, during the months of September and June, you may have already received one. Here, at the Nebraska Real Estate Commission, we are proud of what we do and we want to continue to serve you well. If we can assist you in any way, please contact us.

On behalf of my fellow Commissioners and the Staff at the Real Estate Commission Office, I wish you a happy holiday season and a prosperous New Year!
Omissions on the Seller Property Condition Disclosure Statement

The Commission recently addressed several situations regarding the Seller Property Condition Disclosure Statement (SPCD). The SPCD Statement is a document required by statute to be completed by the seller of residential real estate consisting of one to four dwelling units. The SPCD Statement discloses the condition of the real estate, any improvements on the real estate and other items including the appliances, structure, electrical system, sewer system and utilities.

When completing the SPCD Statement, the seller must complete the document to the best of the seller’s ability. If the seller does not know the response to a certain question or series of questions, the seller is to indicate the lack of knowledge on the form by checking the “Do Not Know” option. While there are certain exceptions in the statute regarding the disclosure, this article will discuss transactions when a SPCD Statement is required.

The seller is required to deliver a copy of the SPCD Statement to the prospective purchaser or the agent of the prospective purchaser prior to entering into any contract that binds the purchaser to purchase the real estate [Neb. Rev. Stat § 76-2,120 (7)]. When the seller is represented by a licensee, the licensee has additional obligations. The agent of the seller is required to assure that a copy of the SPCD Statement is delivered to the purchaser before the effective date of a contract (Title 299 N.A.C., Chapter 5-003.23). The agent of the purchaser is required to assure that a copy of the SPCD Statement is delivered to the purchaser prior to the effective date of a contract and obtain the signed receipt of the purchaser (Title 299 N.A.C., Chapter 5-003.24).

Whether the licensee is the agent of the seller or the agent of the buyer if the licensee knows of an error, inaccuracy or omission in a SPCD Statement, the licensee must disclose the error, inaccuracy or omission, to the potential purchaser and the seller by attaching a written disclosure to the SPCD Statement (Title 299 N.A.C., Chapter 5-003.25). Thus, if the licensee is aware that the seller did not disclose the leaking roof or the water in the basement, the licensee is under an obligation to disclose the error or inaccuracy. Implicit in the requirement that the licensee disclose the error or inaccuracy is the requirement that the licensee review the SPCD Statement.

At issue is whether the licensee has the responsibility to review the SPCD Statement and disclose an omission. The Commission has determined the licensee does have an obligation to review the SPCD Statement and disclose an omission.

(Continued to page 4)
When the seller fails to complete a section(s) or a question(s), the listing agent has the obligation to disclose the omission, in writing, to the seller and any prospective purchaser. The disclosure to the seller is as simple as informing him or her that there is an omission and it requires completion. If the seller does not correct the omission, the licensee should attach a notation to the SPCD Statement regarding the omission. When the buyer’s agent presents the SPCD Statement to the prospective purchaser, the buyer’s agent should also review the document and disclose any omission.

Since the licensee has an obligation to disclose known errors, inaccuracies or omissions, the only way to determine if an error, inaccuracy or omission exists is to review the document. The review is not long, nor is it complicated. The review will allow the licensee the opportunity to make the disclosure as required pursuant to the regulation. This review and disclosure is NOT the same as an inspection or independent verification of the contents of the SPCD Statement. The licensee is NOT required to inspect the property or independently verify the condition of the property to insure the seller accurately disclosed matters and conditions on the SPCD. However, to remain in compliance with the Statute which requires the licensee to disclose known errors, inaccuracies or omissions, the licensee should review the form. When the seller has completed the document, the seller usually presents it to the licensee, either the buyer’s agent or the seller’s agent. The licensee should then review the form. If the licensee observes that the seller states the roof does not leak, yet the licensee knows, based on statements made by the seller (or other evidence), that the roof leaked the last time it rained, and the seller has not repaired the leak, the licensee should inform the seller and any prospective purchaser, in writing, of the error or inaccuracy in the SPCD Statement.

Some licensees state they deliberately do not review the SPCD Statement because they assume the issue may be avoided. Deliberately avoiding the issue is not a defense and does not protect the licensee from his or her responsibility to inform the seller and prospective purchaser of the error, inaccuracy or omission on the SPCD Statement.

**Disciplinary Actions Taken by The Real Estate Commission**

(Does Not Include Cases on Appeal)

1999-015 - Teresa D. Reed vs. Marlene Ann Whitaker, broker, and D. Doreen Gulizia, salesperson. Gulizia — Dismissal; Whitaker — Stipulation and Consent Order. License censured; plus three (3) hours of continuing education in the area of disclosure to be completed by February 13, 2000. (Violated Neb. Rev. Stat. § 81-885.24 (26) by violating a 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. 5-003.25 by failing to disclose an omission on the Seller Property Condition Disclosure Statement, in writing, to a potential purchaser and the seller; Neb. Rev. Stat. § 81-885.24 (29) by demonstrating negligence to act as a broker.)

August 13, 1999

1999-022 - Commission vs. Robert Dean Rowan, salesperson. Stipulation and Consent Order. License censured; plus three (3) hours of continuing education in the area of disclosure to be completed by March 20, 2000. (Violated Neb. Rev. Stat. § 81-885.24(26) by violating a 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, Ch. 5-003.25 by failing to disclose an omission on the Seller Property Condition Disclosure Statement, in writing, to a potential purchaser and the seller; Neb. Rev. Stat. § 81-885.24(29) by demonstrating negligence to act as a salesperson.)

September 20, 1999
License Recognition With Colorado

The Nebraska Real Estate Commission and the Colorado Real Estate Commission have entered into a License Recognition Agreement. The Agreement extends full license recognition to licensees from both states.

With this Agreement, a person holding a Nebraska real estate license will be granted an equivalent Colorado real estate license upon completing the application process, including the payment of license fees, with the Colorado Real Estate Commission. Since Colorado has three levels of broker licenses and no salesperson license, an equivalent license would be as follows:

- A Nebraska salesperson license is equivalent to a Colorado broker associate license.
- A Nebraska broker license is equivalent to a Colorado employing broker license.

Since the Colorado Errors and Omissions Insurance coverage is equivalent to our Nebraska coverage and Colorado has agreed to accept our coverage, there is no additional premium for Colorado coverage. However, Nebraska licensees will need to contact our Errors and Omissions Insurance Program Administrator, Williams Underwriting Group, to have verification of coverage forwarded to the Colorado Commission.

Finally, Nebraska licensees, and Colorado licensees, will only need to comply with continuing education requirements in their resident state.

Please refer to the following table of information for a list of jurisdictions with which Nebraska has licensure recognition and the general provisions regarding issuance of the license in that jurisdiction.

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**Licensure Recognition with Other Real Estate Regulatory Jurisdictions**

This is general information pertaining to Nebraska resident licensees who are interested in obtaining a real estate license in any of the following real estate regulatory jurisdictions.

Below are the major provisions of qualifying for a non-resident license under the licensure recognition agreement entered into with that jurisdiction. In some cases you will note the licensure recognition extends to situations where licensees may be moving to that jurisdiction.

These are only general provisions and are subject to change, so immediate contact with that jurisdiction is recommended.

<table>
<thead>
<tr>
<th>Real Estate Regulatory Jurisdiction</th>
<th>General Provisions for Issuance of Non-Resident License</th>
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<tbody>
<tr>
<td>Alabama Real Estate Commission</td>
<td>✓ issue based on active Nebraska license&lt;br&gt;✓ certification required&lt;br&gt;✓ continuing education - resident jurisdiction requirement only&lt;br&gt;✓ if move with current non-resident license, then issue resident</td>
</tr>
<tr>
<td>1201 Carmichael Way&lt;br&gt;Montgomery, AL 36106-3674&lt;br&gt;(334) 242-5544</td>
<td></td>
</tr>
<tr>
<td>Arkansas Real Estate Commission</td>
<td>✓ issue based on active Nebraska license&lt;br&gt;✓ certification required&lt;br&gt;✓ continuing education - resident jurisdiction requirement only&lt;br&gt;✓ if move with current non-resident license, then issue resident</td>
</tr>
<tr>
<td>612 South Summit Street&lt;br&gt;Little Rock, AR 72201-4740&lt;br&gt;(501) 683-8020</td>
<td></td>
</tr>
<tr>
<td>Colorado Department of Regulatory Agencies, Division of Real Estate</td>
<td>✓ issue based on Nebraska license (salesperson to broker's associate and broker to employing broker)&lt;br&gt;✓ certification required&lt;br&gt;✓ continuing education - resident jurisdiction requirement only&lt;br&gt;✓ if move with current Nebraska license, then issue resident</td>
</tr>
<tr>
<td>1900 Grant Street, Suite 600&lt;br&gt;Denver, CO 80203&lt;br&gt;(303) 894-2166</td>
<td></td>
</tr>
<tr>
<td>Real Estate Regulatory Jurisdiction</td>
<td>General Provisions for Issuance of Non-Resident License</td>
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<td>------------------------------------------------------</td>
</tr>
</tbody>
</table>
| **Connecticut Dept. of Consumer Protection, Real Estate and Professional Trades Division**  
165 Capitol Avenue, Room 110  
Hartford, CT 06106  
(860) 566-3290 | ✓ issue based on Nebraska license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only |
| **Florida Division of Real Estate**  
400 W Robinson Street, N309  
Orlando, FL 32801  
(407) 245-0800 | ✓ must take Florida’s law-specific examination  
✓ must have acquired Nebraska license by meeting educational, examination, and, if applicable, experience requirements  
✓ certification required  
✓ current license must be active |
| **Georgia Real Estate Commission**  
Suite 1000, International Tower  
229 Peachtree Street NE  
Atlanta, GA 30303-1605  
(404) 656-3916 | ✓ issue based on Nebraska license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only  
✓ if move with current Nebraska license, then issue resident license |
| **Illinois Office of Banks and Real Estate**  
500 E Monroe Street, Suite 200  
Springfield, IL 62701  
(217) 785-9300 | ✓ Broker – licensed immediately preceding two years  
✓ Salesperson – based on Nebraska license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only |
| **Indiana Professional Licensing Agency**  
302 W Washington Street, E034  
Indianapolis, IN 46204  
(317) 232-2980 | ✓ issue based on Nebraska license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only  
✓ if move with current Nebraska license, then issue resident license |
| **Iowa Real Estate Commission**  
1918 SE Hulsizer Avenue  
Ankeny, IA 50021-3941  
(515) 281-3183 | ✓ issue based on Nebraska license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only  
✓ if move with current Nebraska license, then issue resident license |
| **Kansas Real Estate Commission**  
Three Townsite Plaza, Suite 200  
120 SE 6th Avenue  
Topeka, KS 66603-3511  
(785) 296-3411 | ✓ Broker – licensed immediate preceding two years  
✓ Salesperson – issue based on Nebraska license  
✓ certification required |
| **Kentucky Real Estate Commission**  
10200 Linn Station Road, Suite 201  
Louisville, KY 40223  
(502) 425-4273  
(888) 373-3300 (toll free) | ✓ issue based on Nebraska license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only  
✓ if move with current Nebraska license, then issue resident license |
| **Maine Real Estate Commission**  
35 State House Station  
Augusta, ME 04333-0035  
(207) 624-8603 | ✓ must take Maine Non-Resident Examination  
✓ certification required |
<table>
<thead>
<tr>
<th>Real Estate Regulatory Jurisdiction</th>
<th>General Provisions for Issuance of Non-Resident License</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Address/Phone</strong></td>
<td></td>
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</tbody>
</table>
| Massachusetts Board of Registration of Real Estate Brokers & Salespersons, Real Estate Board | ✓ issue based on Nebraska license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only  
✓ if move with current Nebraska license, then issue resident license |
| 239 Causeway Street  
Boston, MA 02114  
(617) 727-2373 |                                                          |
| Michigan Consumer & Industry Services, Office of Commercial Services | ✓ Non-Resident Letter of Understanding Agreement  
✓ Contact Michigan |
| PO Box 30243  
Lansing, MI 48909  
(517) 241-9288 |                                                          |
| Minnesota Commerce Department | ✓ Broker – (1) active licensee 2 years; 60 hours of real estate education; & Brokers examination passed OR (2) 3 years licensee immediately preceding & Broker examination passed  
✓ Salesperson – issued based on Nebraska license |
| 133 E 7th Street  
St. Paul, MN 55101  
(612) 296-4026 |                                                          |
| Mississippi Real Estate Commission | ✓ issue based on Nebraska license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only  
✓ if move with current Nebraska license, then issue resident license |
| PO Box 12685  
Jackson, MS 39236-2685  
(601) 987-3969 |                                                          |
| Missouri Real Estate Commission | ✓ issue based on Nebraska license  
✓ certification required  
✓ if move with current Nebraska license, then issue resident license |
| PO Box 1339  
Jefferson City, MO 65102  
(573) 751-2628 |                                                          |
| Montana Board of Realty Regulation | ✓ issue based on Nebraska license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only |
| PO Box 200513  
Helena, MT 59634  
(406) 444-2961 |                                                          |
| New York Department of State, Division of Licensing Services | ✓ issue based on Nebraska license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only |
| 84 Holland Avenue  
Albany, NY 12208-3490  
(518) 473-2728 |                                                          |
| North Carolina Real Estate Commission | ✓ issue based on active Nebraska license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only  
✓ if move with current non-resident license, then issue resident | |
| PO Box 17100  
Raleigh, NC 27619-7100  
(919) 875-3700 |                                                          |
| North Dakota Real Estate Commission | ✓ issue based on Nebraska active license  
✓ certification required  
✓ continuing education – resident jurisdiction requirement only  
✓ if move with current Nebraska license, then issue resident license |
| 314 E Thayer Avenue, PO Box 727  
Bismarck, ND 58502-0727  
(701) 328-9749 or  
(701) 328-9737 |                                                          |
<table>
<thead>
<tr>
<th>State Real Estate Commission</th>
<th>General Provisions for Issuance of Non-Resident License</th>
</tr>
</thead>
</table>
| Oklahoma Real Estate Commission | ✓ issue based on Nebraska license  
| 4040 N Lincoln Boulevard, Suite 100  
| Oklahoma City, OK 73105  
| (405) 521-3387 | ✓ certification required  
| ✓ continuing education – resident jurisdiction requirement only  
| ✓ if move with current Nebraska license, then issue resident license |
| South Dakota Real Estate Commission | ✓ issue license based on Nebraska license  
| 118 W Capitol  
| Pierre, SD 57501-2000  
| (605) 773-3600 | ✓ certification required  
| ✓ continuing education – resident jurisdiction requirement only |
| Tennessee Real Estate Commission | ✓ Salesperson – issue based on Nebraska license  
| 500 James Robertson Parkway  
| Davy Crockett Bldg, Suite 180  
| Nashville, TN 37243-1151  
| (615) 741-2273 | ✓ Broker – 3 years of real estate experience prior to application  
| ✓ certification required  
| ✓ continuing education – resident jurisdiction requirement only  
| ✓ if move with current Nebraska license, then issue resident license  
| (Broker must have 3 years of real estate experience prior to application) |
| West Virginia Real Estate Commission | ✓ issue license based on Nebraska license  
| 1033 Quarrier Street, Suite 400  
| Charleston, WV 25301-2315  
| (304) 558-3555 | ✓ certification required  
| ✓ if move with current Nebraska license, then issue resident license if within one year of move |
| Wyoming Real Estate Commission | ✓ issue license based on Nebraska license  
| 2020 Carey Avenue, Suite 100  
| Cheyenne, WY 82002  
| (307) 777-7141 | ✓ certification required  
| ✓ continuing education – resident jurisdiction requirement only  
| ✓ if move with current Nebraska license, then issue resident license |

**COMMISSION TO REVIEW STATUTES**

During the next year, the Nebraska Real Estate Commission will be reviewing the statutes which it administers dealing with real estate licensees. Those are the Nebraska Real License Act, the Agency Relationships Act and the Seller Property Disclosure Act. The purpose of the review will be to determine if these statutes need to be amended in any fashion in order to clarify provisions, delete obsolete provisions, etc.

We are asking for assistance in this process from you. Should you have any recommendations please forward them to the Commission Office. Please be specific as to which statute and sections(s) you are referring. Also please indicate how you may be contacted if we have any questions or need clarification on your suggestion.
After-the-Fact Referral Fees Update

(Editor’s note: Since the matter of after-the-fact referral fees has been of interest to many of our Nebraska real estate licensees, we thought that we would share with you this very recent information from the Association of Real Estate License Law Officials.)

At the annual meeting of the Association of Real Estate License Law Officials (ARELLO) in Savannah, Georgia, attendees were given an update by Sandy Taraszki and Brian Pray, co-chairpersons of the Controlled Business Practices Task Force. An overview of ARELLO’s involvement with the Employee Relocation Council (ERC) as members of the “Coalition” was given along with the introduction of the “Coalition’s” recently introduced “Interchange” during the meeting.

The “Coalition”

The Relocation Coalition for Cooperative Business Practices, the “Coalition”, was formed by ERC in 1998. It is comprised of representatives from the relocation service firms, corporations, and regulators who are committed to creating and implementing effective business practices for the relocation industry.

The Coalition’s first efforts have been focused on eliminating the incidents of “after-the-fact” referral fee demands. This led to a mutual agreement to devise business procedures that create an equitable obligation for the remittance of referral fees. In cooperation with ARELLO, one of the Coalition’s primary objectives is to educate and inform the relocation industry, regulators, and state real estate organizations on referral fee issues. A Policy Statement was adopted and ARELLO and the Coalition are working to encourage states interested in regulating referral fees to use this recommended policy.

The “Interchange”

The Coalition’s “Interchange” was created to facilitate the communication of “after-the-fact” referral fee concerns and the collection of information that will aid in the Coalition’s efforts. The objective of the Interchange is to ensure swift and equitable problem resolution by bringing the issue to the attention of the appropriate executive from relocation service firms. The Interchange provides for resolution within a 10-day time frame, with most being resolved within a few days. The Interchange has accommodated and resolved several requests in the first weeks of activity. The establishment of the Interchange is good news for real estate professionals and transferees, which now have a central point to which they can direct their issues, receive a reply and, in turn, beneficially impact the process. ERC and the Coalition serve only as a conduit of information to the member. The Interchange is not a forum to mediate or to otherwise intervene in any disputes.

Website

For up-to-date information of the Coalition and the Interchange, access is available on the Coalition’s Website at http://coalition.erc.org. This will allow users to access the Interchange, download the Coalition’s pledge and other communication about the Coalition’s efforts.

Season's Greetings and Best Wishes

for a Happy and Prosperous New Year

Nebraska Real Estate Commission
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Lincoln, NE 68509-4667