

# COMMISSION COMMENT

Fall

2004

## 2005 LICENSE RENEWAL

You may have already received your 2005 real estate license renewal materials, if not, you will very soon. 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 2005. 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 September 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.

### LICENSE FEES REDUCED

The Real Estate Commission reduced the fees for real estate

### Commission Meeting Schedule

September 15-16.....Omaha  
 October 18-19.....Lincoln  
 November 18-19.....Omaha  
 January 12-13.....Lincoln  
 February 15-16.....Lincoln

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licenses effective **January 1, 2005**. License renewals, therefore, reflect the \$10 decrease indicating that **Broker license renewals are now \$90 and Salesperson license renewals are \$65.** Please pay special attention to include this reduced fee when renewing your license for 2005.

### DEADLINE REMINDER

November 30, 2004, 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. *Renewal materials may be post-marked (postal meter marks will NOT be considered) through November 30.* 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.

### INDIVIDUALIZED FORMS

Mailed 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. If you do lose the mailed renewal—Remember you can download a generic renewal from our website at: [www.nrec.state.ne.us](http://www.nrec.state.ne.us). **Please be aware that a downloaded form is NOT individualized, therefore, it is very important that you fill-in the contact information at the top of the form in order to be properly identified.** You can also file directly on-line by going to [www.nrec.state.ne.us](http://www.nrec.state.ne.us). Please see the paragraph on this topic later in this article.

### 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, legible, and in the correct amount. If active, do not forget about the errors & omissions insurance and continuing education.



(Continued on page 4)

Nebraska Real Estate Commission  
**COMMISSION COMMENT**

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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

## LICENSE FEES REDUCED

At its August 17, 2004 Meeting, the Real Estate Commission reviewed the current budget status and the proposed budget for the fiscal year 2005-2007 biennium budget. During discussion it was determined that the strength of the budget could support a license fee reduction while sustaining current and projected services. Therefore, the Commission passed a motion to reduce the fees for real estate licenses by \$10.00 each, effective January 1, 2005.

License renewal forms for 2005 licenses, therefore, reflect the \$10 decrease indicating that **Broker license renewals are now \$90 and Salesperson license renewals are \$65.** Please pay special attention to include the reduced fee when renewing your license for 2005.

License application packets now carry a notice that candidates for original license should be aware that as of January 1, 2005, a license can be obtained at the reduced fee. However, until January 1, 2005, the current fees remain in effect



Les Tyrrell  
Director, Nebraska Real Estate Commission



## DRY CLOSINGS

The Nebraska Real Estate Commission was recently contacted with regard to real estate closings taking place prior to funds becoming available from the buyer or the lender. The Department of Insurance also received the same report and has responded by sending a notice to all title companies, agents, and agencies that contained, among other items, the material quoted below:

### REAL ESTATE "DRY CLOSINGS"

*The Nebraska Department of Insurance has . . . become aware that some title insurance agents may be conducting "dry closings" while acting in the capacity of real estate closing agent. "Dry closings" occur when a closing is conducted before the real estate closing agent receives funds from the buyer or the lender. Nebraska law states that "a person acting as a real estate closing agent shall have received good funds which are available for disbursement at the time of closing a real estate transaction, except that up to five hundred dollars need not be available for disbursement from good funds." This requirement is only subject to three limited exceptions, see Neb. Rev. Stat. §76-2,122(3) (Reissue 2003). For additional information contact Janette Adair at 402-471-2201.*

The complete notice is available on the Department of Insurance's website at: [www.nol.org/home/ndo1](http://www.nol.org/home/ndo1).

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## MEET THE REAL ESTATE COMMISSION STAFF

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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 Burkland*  
InfoTech@nrec.state.ne.us

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

Continuing Education History or  
Inquiries . . . . . *Julie Schuur*  
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 *Melanie Patrick-Heather*  
Applic@nrec.state.ne.us

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

New Licenses in Process . . *Melanie Patrick-Heather*  
Applic@nrec.state.ne.us

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

Transfer of License . . . . . *Marilyn Masters*  
LicTsf@nrec.state.ne.us

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

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

TELEPHONE NUMBER  
(402) 471-2004

ADDRESS:  
Nebraska Real Estate Commission  
P.O. Box 94667  
Lincoln, NE 68509-4667

# Disciplinary Actions Taken by the Real Estate Commission

*(Does Not Include Cases on Appeal)*


**2004-009** - Commission vs. Sharon J. Martin, Salesperson. Hearing held May 19, 2004. License censured; plus an additional three (3) hours of continuing education in the area of agency to be completed by November 25, 2004. [Violated Neb. Rev. Stat. § 81-885.24(29) by identifying the Seller as a customer instead of a client in one of the Acknowledgment of Disclosures dated September 11, 2002, by failing to identify the duties and obligations of a Limited Seller's Agent in the November 26, 2002 Uniform Commercial Listing Contract for Sale, and by adding Buyer No. 2 and Buyer No. 3 to the initial Uniform Commercial Listing Contract for Sale on April 17, 2003, after the initial Uniform Commercial Listing Contract for Sale had expired on March 31, 2002.]

May 26, 2004

**2004-011** - Brian A. Dostal & Russell S. Dostal vs. Thomas J. Haiar, Broker. Stipulation & Consent Order. License censured; 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 ethics, to be completed by December 13, 2004. [Violated Neb. Rev. Stat. § 76-2417(1) A licensee representing a seller or landlord as a seller's agent or a landlord's agent shall be a limited agent with the following duties and obligations: b) to exercise reasonable skill and care for the client; c) to promote the

interests of the client with the utmost good faith, loyalty, and fidelity, including: iii) disclosing in writing to the client all adverse material facts actually known by the licensee; and iv) advising 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; 3) a) a licensee acting as a seller's or landlord's agent owes no duty or obligation to a buyer, a tenant, or a prospective buyer or tenant, except that a licensee shall disclose in writing to the buyer, tenant, or prospective buyer or tenant all adverse material facts actually known by the licensee. The adverse material facts may include, but are not limited to, adverse material facts pertaining to: i) any environmental hazards affecting the property which are required by law to be disclosed; ii) the physical condition of the property; iii) any material defects in the property; iv) any material defects in the title to the property; or v) any material limitation on the client's ability to perform under the terms of the contract, specifically, Respondent failed to contact the owners to obtain their expressed permission to conduct an inspection after being requested to do so.]

June 14, 2004




### 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.

(Continued from page 1)

## LICENSE RENEWAL (Cont'd)

### 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 December 1, 2004; provided that such late application is filed before July 1 of the ensuing year, i.e. by 5:00 P.M. (CDT) June 30, 2005.

### "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 each and every renewal application in the bundle. **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 Online At [www.nrec.state.ne.us](http://www.nrec.state.ne.us)

Our website has been developed to better serve you and we are constantly updating it to even better serve licensees and the public. We hope that you have acquainted yourself with the site and the tremendous amount of material available on it.

We are seeking to bring you greater opportunities in this medium. While everyone will be mailed a renewal in the traditional fashion, the opportunity to submit a renewal online is also available to you. **Should you elect to renew online please remember that all deadlines apply to online renewals just as they would any other. Please also remember that you CANNOT fill out online renewals for anyone but yourself. Once you enter this page, your identification is automatically supplied on the form(s), therefore, any electronic signature besides your own will invalidate the renewal form.**

### CREDIT CARD PAYMENTS

**Visa and Master Card only** may be used to pay fees associated with the renewal of licenses. **Debit cards will NOT be accepted.** Please review forms and supply the indicated information when opting for the credit card method of payment.

### 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.**

### 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. A CHECK RETURNED FOR ANY REASON ACCRUES A \$35.00 PROCESSING FEE.

# 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, the employee list enclosed if applicable, and signed. Make sure your check or payment information is enclosed, signed, and correct. **Remember: the license fee has been reduced! Please submit \$65 when renewing a salesperson license and \$90 when renewing a broker license. These fees are reflected on the front of the 2005 renewal forms.** 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 and, in some cases, an Endorsement 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 or electronically enroll in the Commission-offered plan preferably prior to the time you send your renewal materials to the Commission. **If you wait until the last minute to renew your license and then mail your insurance enrollment at this same late date you will have a delay in processing your renewal**

– **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 and we will not renew your license on active status without it. Please do NOT send continuing education certificates 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 comply 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](http://www.nrec.state.ne.us).**

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

Should you elect to renew online please remember that all deadlines apply to online renewals just as they would any other. Please also remember that you CANNOT fill out online renewals for anyone but yourself. Once you enter this page, your identification is automatically supplied on the form(s), therefore, any electronic signature besides your own will invalidate the renewal form.

Different from a mailed form and an online form, please be aware that a downloaded form is NOT individualized, therefore, it is very important that you fill-in the contact informa-



*(Continued on page 7)*

# Radon Management in Nebraska

(Editor's note: Recently the Commission was contacted by a Broker who reported his experience in researching radon measurement/mitigation services and thought the information would be valuable to all Nebraska real estate licensees. Through this Broker the Commission was put in contact with Mark Versch, Environmental Health Analyst, with the Nebraska Department of Health and Human Services. Mr. Versch prepared the following article for this issue of the Commission Comment. Our thanks to both for sharing their information.)

## "Who you gonna call?"

So you find yourself at a closing and everything is in order, right??

Then the interested buyer smiles and says, "The Home Inspection report says there is 6.5 pCi/L of radon in this house and that homes with a radon test result of 4.0 and above should be mitigated to make them safe."

Was the radon measurement taken by someone authorized to do so? Who are you going to have **install** the mitigation system?

To borrow a line from a popular movie . . . "Who you gonna call?"

Salespersons and brokers are reminded that radon mitigation businesses, just like real estate professionals, are licensed by the State of Nebraska. At this time there are ten businesses licensed by the State of Nebraska to inspect homes, design and install radon mitigation systems to lower the concentration of indoor radon.



Businesses providing either radon measurement or radon mitigation services to the public must be licensed by the State (see the Nebraska Radiation Control Act). As is the case with individuals licensed as real estate salespersons or brokers, businesses engaged in providing radon measurement and radon mitigation services to the public must also demonstrate proficiency and adherence to accepted standard operating procedures.

Below is a listing of the businesses licensed by the State of Nebraska to install radon mitigation systems in homes that have elevated radon levels (as of July 1, 2004):

Arid Resources, Inc 20880  
West Dodge Road  
Elkhorn, NE 68022  
(402) 289-9602  
[dkalina@aridresources.com](mailto:dkalina@aridresources.com)

Capital Inspections Services  
RR 1 Box 116  
Bertrand, NE 68927  
(308) 472-5131  
[gwolfe@swnebr.net](mailto:gwolfe@swnebr.net)

Certified Inspections, Inc.  
816 Ironwood Court  
Council Bluffs, IA  
51503-6725  
(402) 677-7437  
[certifiedinspect.com](http://certifiedinspect.com)

Jerry's Basement Waterproofing  
3030 Keystone Drive  
Omaha, NE 68134  
(402) 392-2211  
[www.jerryswaterproofing.com](http://www.jerryswaterproofing.com)

Lindner Construction  
126 South Main  
Wayne, NE 68787  
(402) 375-1616  
[lindner.construction@hotmail.com](mailto:lindner.construction@hotmail.com)

Nebraska Radon Services  
806 Colorado Street  
Glidden, IA 51443  
(712) 830-0667

[schroeds@win-4-u.net](mailto:schroeds@win-4-u.net)

Otte Construction  
521 S. Centennial Road  
Wayne, NE 68787  
(402) 375-2180  
[jmorlok@otteconstuction.com](mailto:jmorlok@otteconstuction.com)

Professional House Doctors, Inc.  
2728 North 125th Circle  
(402) 493-2580  
Omaha, NE 68164  
[www.prohousedr.com](http://www.prohousedr.com)

Radon Mitigators, Inc  
1322 Pierce St.  
Sioux City, IA 51105  
(712) 252-1662

Senegal Specialty Contracting  
LLC  
6586 South 118th Street  
Omaha, NE 68137  
(402) 933-9830

This list is maintained by the Nebraska Department of Health and Human Services System which *certifies individuals* as specialists to measure and/or mitigate radon in homes and licenses businesses to provide such services to the public.

A list of licensed radon measurement businesses is also available at the Department's Radon website found at: <http://www.hhs.state.ne.us/enh/radon/radon.htm>

If you have any questions regarding radon measurement or radon mitigation don't hesitate to call the Nebraska Radon Program office at 1-800-334-9491. This telephone number is provided as a public service to all Nebraskans.

# IMPORTANT REMINDER VISIT OUR WEBSITE AT WWW.NREC.STATE.NE.US

The Nebraska Real Estate Commission's website publishes a great amount of useful information. Everything that is available from the Commission Office is on the website, and more.

## FORMS/PROCESSES

Forms are available to be downloaded or submitted online. Online payment processing (Visa or MasterCard only, no debit cards) supports electronic submissions. Consider renewing online.

## NEBRASKA LICENSEE AND APPLICANT INFORMATION SEARCH

Under this section of the website licensees can check their license status (see if their transfer has been completed or their license has been issued). Interested parties can check others' license status, with whom they are affiliated, and contact information. Licensee and applicant information can be sorted by any of the fields individually or in combination. For instance, list of applicants with contact addresses in Grand Island could be generated.

## USER NAME AND PASSWORD

The user name (AKA license I.D. number) and password constitute a licensee's digital or electronic signature. This information will be necessary in submitting any forms online. The user name and password are also necessary when accessing personal information from the Nebraska Licensee and Applicant Information Search such as Errors and Omissions Insurance information or a continuing education history.

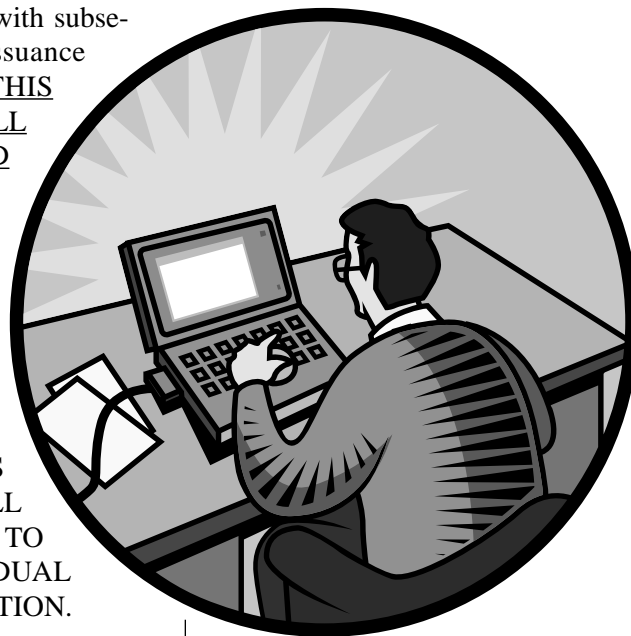
The user name and password was supplied with the 2001 pocket card

or has been supplied with subsequent original issuance pocket cards. THIS INFORMATION WILL NOT BE MAILED AGAIN. If this information has become lost or forgotten please contact the Real Estate Commission at (402)471-2004 and be prepared have identification ready – THIS INFORMATION WILL ONLY BE GIVEN TO THE INDIVIDUAL LICENSEE IN QUESTION.

## Links to Other Resources

Throughout the website are links to other resources besides those the Commission has to offer. The Consumer Information section is particularly useful in this regard and could assist in serving clients and customers.

Access to past newsletters is also available as are Minutes of Commission Meetings and Agendas for future meetings.



Enjoy the convenience the website has to offer. VISIT THE WEBSITE – LET IT WORK FOR YOU.

*(Continued from page 5)*

## MISTAKES (Cont'd)

tion at the top of the form in order to be properly identified.

## 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 transfer fee should be separate from the license renewal as well.

Nebraska Real Estate Commission  
PO Box 94667  
Lincoln, NE 68509-4667  
**Return Service Requested**

PRSR1 STD  
U.S. POSTAGE  
PAID  
STATE OF  
NEBRASKA