



# COMMISSION COMMENT

Fall

2005

## 2006 License Renewal

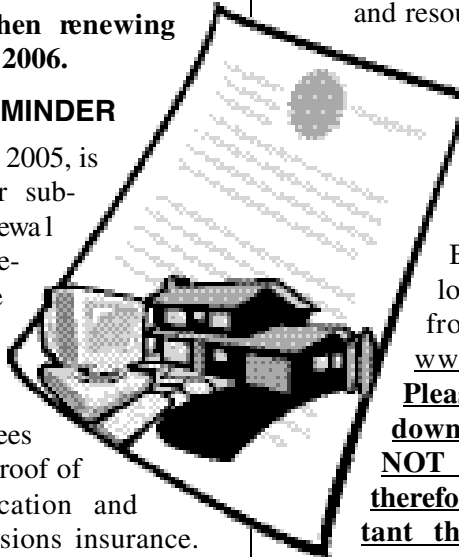
You may have already received your 2006 real estate license renewal materials, if not, you will very soon. All real estate Brokers or Salespeople WILL be sent a renewal notice along with a partially completed renewal form for use in renewing their license for 2006. Your renewal will be mailed to your 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 licenses effective January 1, 2006. License renewals, therefore, reflect the \$10 decrease indicating that Broker license renewals are now \$80 and Salesperson license renewals are \$55. Please pay special attention to include this reduced fee when renewing your license for 2006.**

### DEADLINE REMINDER

November 30, 2005, 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 pro-

duced 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,

*(Continued on page 4)*

### Commission Meeting Schedule

September 22-23 . . . . .Lincoln  
 October 13-14 . . . . .Lincoln  
 November 16-17 . . . . .Lincoln  
 January 18-19 . . . . .Lincoln

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**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**

**RECENT QUESTIONS...**

During the past few months the Commission Office has received multiple inquiries on two issues: pre-approval letters/presenting offers and licensees completing a BPO or CMA for loan purposes.

With regard to the presenting of offers, it appears that some licensees are requiring a pre-approval letter from a lender before they will present a written offer. The Agency Relationships Statutes require that the agent of the buyer and seller present "...all written offers to and from the client in a timely manner ..." There is no exception for requiring a pre-approval letter. The seller may want such a letter prior to accepting an offer, but the licensee must present the written offer without the pre-approval letter.

With regard to a BPO/CMA for loan purposes, here is a quote from the exceptions section of the Appraiser Act dealing with this issue. I believe it is self-explanatory:

"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;**"

If you have any questions, regarding either of these issues, contact our office.



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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**

(Please note changes since September 1, 2005)

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

- Commission Meeting Information . . . .General Staff
- Complaint Procedures . . . . . *Terry Mayrose*  
DDEnf@nrec.ne.gov
- Continuing Education History or  
Inquiries . . . . . *Melanie Patrick-Heather*  
EdEnf@nrec.ne.gov
- Curriculum Design (Education &  
Instructor Approval) . . . . . *Teresa Hoffman*  
DeputyD@nrec.ne.gov
- Errors and Omissions Insurance  
Inquiries . . . . . *Teresa Hoffman*  
DeputyD@nrec.ne.gov
- License Applications Packet  
Requests . . . . . *General Staff*
- License Applications Process . . . . *Marilyn Masters*  
Applic@nrec.ne.gov
- Licensing and Education  
Requirements . . . . . *Teresa Hoffman*  
DeputyD@nrec.ne.gov
- New Licenses in Process . . . . . *Marilyn Masters*  
Applic@nrec.ne.gov
- Specialized Registrations . . . . . *Monica Wade*  
Finance@nrec.ne.gov
- Transfer of License . . . . . *Tawny Snider*  
LicTsf@nrec.ne.gov
- Trust Account Matters . . . . . *Terry Mayrose*  
DDEnf@nrec.ne.gov  
*John Clark*  
*Patricia Stehly*  
*Ron Pierson*
- Webmaster . . . . . *Monica Wade*  
Finance@nrec.ne.gov

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

TELEPHONE NUMBER  
(402) 471-2004  
FAX NUMBER  
(402) 471-4492

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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)*

**2005-008** – Jeffrey E. Williamson & Connie A. Williamson vs. Troy Lynn Musick, Salesperson. Stipulation & Consent Order. License censured; plus three hours of additional continuing education in the area of Agency, to be completed by November 22, 2005. [Violated Neb. Rev. Stat. § 76-2417 (1) (b) by failing to exercise reasonable skill and

care for the client, and (c) by failing to promote the interests of the client with the utmost good faith, loyalty, and fidelity, and, Neb. Rev. Stat. 81-885.24 (29) by demonstrating negligence to act as a salesperson for providing a key to the client's property to a potential buyer.] August 24, 2005

## NOTICE:

### LICENSE FEES REDUCED

At its August 24, 2005 Meeting, the Real Estate Commission reviewed the current budget status. During discussion it was determined that the strength of the budget could support a licensee fee reduction while sustaining current and projected services. Therefore, the Commission passed a motion to reduce the fees for new real estate licenses by \$10.00 each, effective January 1, 2006. The new fee will be \$80.00 for brokers and \$55.00 for salespersons. License renewal forms for 2006 licenses reflect the same \$10.00 decrease. Please pay special attention to include the reduced fee when renewing your license for 2006.

License application packets now carry a notice that candidates for original license should be aware that as of January 1, 2006, a license can be obtained at the reduced fee. However, until January 1, 2006, the current fees remain in effect.

### REPLACE OLD FORMS

The Real Estate Commission has revised forms to reflect the fee reductions referenced above. As of January 1, 2006, forms used should reflect the reduced fees. If you are in possession of application materials and/or license issuance forms which do not reflect the new fees, please plan on replacing them with current materials. You may obtain our forms by downloading them from our website at: [www.nrec.state.ne.us](http://www.nrec.state.ne.us) or by contacting our office.

**WILLIAMS UNDERWRITING GROUP, INC.  
CONTRACTED AS PROGRAM ADMINISTRATOR FOR  
THE 2006 COMMISSION-OFFERED ERRORS &  
OMISSIONS INSURANCE POLICY**

(Continued from page 1)

### Licensee Renewal (Cont'd)

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

### LATE RENEWALS

Any salesperson or broker who fails to file an application for renewal of a license and pay the renewal fee by the November 30 date, as provided in the Nebraska Real Estate License Act and Neb. Rev. Stat. § 49-1203, 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, 2005; provided that such late application is filed before July 1 of the ensuing year, i.e. by 5:00 P.M. (CDT) June 30, 2006.

### “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 On-Line 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. ■

# 10 Work Habits That Reduce Your Risk

*(Editor's note: Williams Underwriting Group, Inc. (WUGI) is the Program Administrator for Nebraska's Commission-offered Errors & Omissions Insurance Policy and has had several years of experience of serving in this capacity. Therefore, the Real Estate Commission approached WUGI with the request that they share their expertise by writing an article addressing recommended practices to reduce real estate licensees' risk. As a result, this article was written by Mr. Richard Williams, CPCU, CEO of Williams Underwriting Group, Inc.)*

This article focuses on risk management for real estate licensees. The Real Estate Commission is encouraging licensees to be more aware of risk management and techniques individual licensees can use to reduce risk. Before I get into the article's topic there are two areas I want to briefly cover.

First, what is risk management? In its basic form, it is the processes, structures, etc. put in place to monitor, reduce and/or eliminate risk. You practice risk management every day, but probably do not realize it. The simple acts of buckling your seat belt or brushing your teeth are ways of reducing risk. The same applies to your daily activities as a real estate licensee. You need to get in a routine of reducing your risk.

Second, you must know that you are ultimately responsible for your actions. Your firm may have risk management guidelines, procedures, etc. for you to follow. Your firm may even have training classes and review files for completeness and accuracy. The bottom line, however, is that you are responsible for your actions and your reputation.

The following are ten work habits you can use on a daily basis to help reduce your risk of a claim. While some of the habits may seem obvious, I can give claim examples for each item where licensees have fallen short. Sometimes it is the obvious items that we take for granted that gets us into trouble. Also, this list is not all encompass-

ing, but designed to get you started thinking about your daily work habits.

1. **DOCUMENTATION:** I cannot emphasize this enough. Proper and consistent documentation can save you an enormous amount of grief. Do it in real time as much as you practically can. The longer you wait the more likely you are not to do it or leave out important information. Documentation not only includes the notes in your file, but consistent con-

something. As sure as death and taxes, that is the item that will come back to bite you. Second, **never** fill out a disclosure form for a client or make any changes to it in your handwriting. If anything is missed all the client has to say is that, "I told you to include it." or, "That is not what I said." If the client, for some reason, cannot complete the form, have them get a friend or family member to complete it. You may think you are providing that extra level of service

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## REDUCE YOUR RISK

1. Documentation
  2. Disclosure
  3. Know what you know and what you do not know
  4. Avoid conflicts of interest
  5. Avoid over commitment of services, warranties, etc.
  6. Always act ethically
  7. Do not recommend specific contractors
  8. Confidential information stays confidential
  9. Communication
  10. Do not accompany inspectors
- 
- 

firmation and verification of information, phone calls, etc. with clients, customers, title agents, banks, etc. A little extra work here will save you time in the long run. Also, be sure to commit all oral agreements to writing. If it is not written, it does not count.

2. **DISCLOSURE:** This is the corollary to the documentation. There are two main points about disclosure that I want to make. The first is that there is no such thing as too much disclosure. When in doubt, disclose. If you know about it or the seller knows about a problem regardless of when it occurred, disclose it. Never tell someone not to disclose

by filling it out, but all you are doing is potentially creating a headache for yourself.

3. **KNOW WHAT YOU KNOW AND WHAT YOU DO NOT KNOW:** There is no way to know everything there is to know about a property. Sooner or later you will be asked a question to which you do not have an answer. It is all right to not know the answer. Do not, under any circumstances, make up an answer or pretend to know the answer. This is actually an opportunity to provide good service. Tell the clients/customers that you do not know the answer and then get back to them

*(Continued on page 6)*

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## 10 Work Habits ... (Cont'd)

quickly with the correct information. Most clients/customers will appreciate the fact that you were honest with them about what you knew and did not know and the fact that you got back to them quickly. Do not let your ego or fears of looking bad in front of a client/customer get in the way of doing your job properly.

**4. AVOID CONFLICTS OF INTEREST:** Try to avoid such conflicts if at all possible. Even an appearance of a conflict of interest can lead to problems. The clients may no longer believe that you were working in their best interest. Should there be a conflict of any type, please refer back to items 1 & 2. The disclosure must contain what the relationship is and what, if any, remuneration you may be receiving. Let the clients make the decision as to what is in their best interest at this point.

**5. AVOID OVER COMMITMENT OF SERVICES, WARRANTIES, ETC.:** This is a trap that is easy to fall into because you want your clients to remember you as the agent who went above and beyond the call of duty for them. Providing great service is a wonderful thing, but make sure the service you are providing is within the scope of services to which you have agreed. Do not assume any liabilities.

**6. ALWAYS ACT ETHICALLY:** This may seem like the most obvious one of all, but we still get claims and the Commission still gets complaints. The usual cause is the licensee becomes more concerned with the sale than making sure things are done the right way. It is usually more about cutting some corners than dishonesty. The bottom line is that your client/customer has to come first. It gets back to the Golden Rule; treat them as you would want to be treated.

**7. DO NOT RECOMMEND SPECIFIC CONTRACTORS:** Recommending a specific contractor

is a sure way to find yourself with some problems. It does not matter if it is your best friend, a family member, etc. As soon as something is not done right, your client/customer will be looking to you to fix the problem. All the clients/customers know, particularly if they are new to the area, is that the contractor you recommended messed up and they want the problem taken care of now. At most, you should give the client/customer a list of contractors. The list should contain some type of wording indicating that previous clients/customers have used these contractors and it is up to the client/customer to contact the contractors to get pricing and references. **You should also advise your clients/customers to verify that the contractor has insurance by getting certificates of insurance.** (Your attorney can come up with wording that best meets your needs.) Let the client/customer decide which contractor to use. Also, please keep in mind item #4 if there is any potential conflict.

**8. CONFIDENTIAL INFORMATION STAYS CONFIDENTIAL:** It must be clearly explained and documented to the buyer/seller what information will be kept confidential (typically motivation and personal secrets). It also must be made clear as to what types of information will be disclosed (property conditions and ability to perform).

**9. COMMUNICATION:** As in disclosure, there is no such thing as too much communication. Keeping all parties informed makes life easier for everyone. Letting people know what is going on helps them feel comfortable and it also lets them adjust plans if given advance notice of changes. The lack of communication is one of the leading causes of claims.

**10. DO NOT ACCOMPANY INSPECTORS:** Under no circumstances should you or your client accompany inspectors. You do not want to give any impression that you are supervising or influencing the inspections. It is the kiss of death in a claim to be in that position. If your client is uncomfortable with an inspector being in the house alone, see if a friend or family member can be there. Just be sure they know not to answer any questions. You should wait for the written report to start dealing with any issues brought up.

All of us at Williams Underwriting Group are committed to educating you in risk management. Should you have any questions about this article or about risk management in general, please feel free to contact us at 800-222-4035. We will be glad to assist you in any way we can.

*This article is not intended as legal advice. All legal advice needs to be tailored to your specific circumstances. The general information provided in this article is not a substitute for the advice of professional counsel. ■*



# Top Seven 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 Seven Mistakes” listed below and by being mindful of them you can avoid these same pitfalls and enjoy a smoother renewal experience.

**1. NO ERRORS & OMISSIONS INSURANCE: The Commission-offered E&O Insurance plan for 2006 will be administered by Williams Underwriting Group, Inc.** 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 in conjunction with the renewal form. Please enroll for any equivalent policies far enough in advance that verification of coverage will not delay the renewal of your license.

Similarly, when indicating enrollment in the Nebraska Commission-offered plan, the renewal form reads that you have MADE application – key is the fact that you must follow up on this commitment and send the insurance enrollment materials to Williams Underwriting Group, Inc. preferably prior to the time you send your renewal materials to the Commission. **Whether enrolling in the Commission-offered plan where coverage is verified directly to the Commission or enrolling in an**

**equivalent policy which necessitates your coordination of the verification, if you wait until the last minute to renew your license and then send 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.**

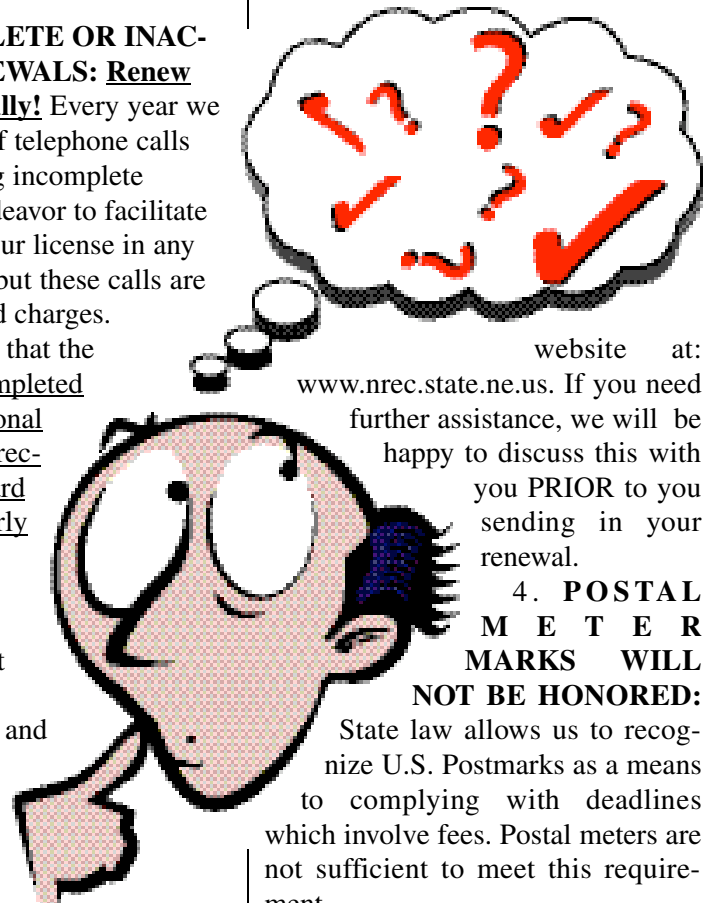
**2. INCOMPLETE OR INACCURATE RENEWALS: Renew early and carefully!** Every year we make hundreds of telephone calls to avoid returning incomplete renewals. We endeavor to facilitate the renewal of your license in any way that we can but these calls are costly in time and charges.

Please make sure that the application is completed fully, your additional explanations, corrections, or credit card numbers are clearly legible, and the form is signed. Make sure your check or payment information is enclosed, signed, and correct. If active, do not forget about the errors & omissions insurance and continuing education.

**3. CONTINUING EDUCATION REQUIREMENT NOT COMPLETE OR NOT SUBMITTED:** If your renewal form indicates NEEDS CONTINUING EDUCATION – then you had not fulfilled your CE obligation as of the date the renewal was printed. We will not renew your license on active status without it. Please do NOT send continuing education certificates in AFTER you have submitted your renewal, this is too late and may

affect your renewal in a way you had not intended.

Sometimes the mailing of the renewal form and your submission of continuing education certificates cross in the mail. You can verify our receipt of your certificates by looking up your information under the “Nebraska Licensee and Applicant Information Search” section of our



website at: [www.nrec.state.ne.us](http://www.nrec.state.ne.us). If you need further assistance, we will be happy to discuss this with you PRIOR to you sending in your renewal.

## **4. POSTAL METER MARKS WILL NOT BE HONORED:**

State law allows us to recognize U.S. Postmarks as a means to complying with deadlines which involve fees. Postal meters are not sufficient to meet this requirement.

**5. LOST RENEWAL MATERIALS:** Your renewal materials will be mailed to your broker’s main office address, unless you have informed us of your preferred contact address. Then the renewal will be mailed to the requested contact address. Please take care not to misplace these materials. We send them as early as possible so that you can renew early and not worry about it. Unfortunately, it appears that this lead time gives lots of people time to lose their materials

*(Continued on page 8)*



*(Continued from page 7)*

**Renewal Mistakes ... (Cont'd)**

– 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).

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

**6. ILLEGIBLE AND/OR INCOMPLETE CREDIT CARD INFORMATION.** Please be careful and accurate when writing your credit card information. Remember too, to supply the expiration date of the credit card used AND supply your signature authorizing the charge

in addition to signing the renewal form, itself.

**7. 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 fee as well. ■

