



# COMMISSION COMMENT



Commissioner Joe Gehrki Signs Oath of Office


## Joe Gehrki Appointed to the Commission

Governor Pete Ricketts has appointed Joe Gehrki as the second district broker member of the Commission. Gehrki was appointed in November of this year and was sworn in at the January meeting of the Commission. He currently works as an associate broker for Berkshire Hathaway HomeServices Ambassador Real Estate in Omaha.

Gehrki was first licensed as a salesperson in 1987 and received his broker's license in 2008. He has served in numerous capacities with the Omaha Area Board of Realtors and the Nebraska Realtor's Association, including

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## Robert Evnen Begins Term as Chairman of the Nebraska Real Estate Commission

Robert "Bob" Evnen (full biography in the Winter 2018 Commission Comment) was sworn in as Nebraska's new Secretary of State on January 10, 2019, beginning his term of office as Nebraska's 27th Secretary of State. The Office of State has traditionally had little turnover, Evnen has become only the 5th Secretary of State since 1953. He chaired his first meeting for the Commission on January 24, 2019 and was presented with his Commissioner pin. 



New Commission Chair Bob Evnen Presented with Commissioner Pin by Commissioner Andy Alloway

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### Commission Meeting Schedule

April 18-19 .....	Lincoln
May 23-24 .....	Lincoln
June 27-28 .....	Lincoln
August 15 .....	Lincoln

## COMMISSION COMMENT

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# DIRECTOR'S DESK

## New Real Estate Exam

The Commission has worked with Applied Measurement Professionals ("AMP") out of Kansas City on our real estate examination services continually since 1991, through their computerization of the exam in 1998, through today. However, with the merger of AMP and PSI in late 2015, AMP has been focusing more on medical examinations while moving the real estate testing services to PSI. Although the Commission could continue with AMP for a few more years under the terms of our contact, upon consultation with the Commission and the exam company, we felt it made more sense to migrate to the PSI exam services now. The differences and advantages of the new service are outlined below.



Director Greg Lemon

The differences and advantages of the new service are outlined below.

- PSI has greater agility in removal of obsolete questions and addition of newly legislated questions into the banks.
- PSI has higher cognitive level questions for exams. Questions stop at the application/analysis levels with AMP. PSI provides 36% of the Broker exam at the evaluation/synthesis level.
- New scenario based items on the PSI broker exam are scored in a more easy to understand method vs. AMP's broker simulation exam which uses a statistical process called equating.

The new exam for both brokers and salespersons will be implemented May 1, 2019. Detailed changes to the exam and test taking process are found in the most current edition of the candidate handbook, which is available on our website. <http://www.nrec.ne.gov/pdf/psicandidatehandbookjan2019.pdf>

While detail and process may have some slight changes, the subject matter of the test and testing objectives remain the same, real estate laws, regulations and real estate practice. Pre-license education does not need to be altered or updated to accommodate the new test with regards to substantive learning.

Greg Lemon, Director  
Nebraska Real Estate Commission



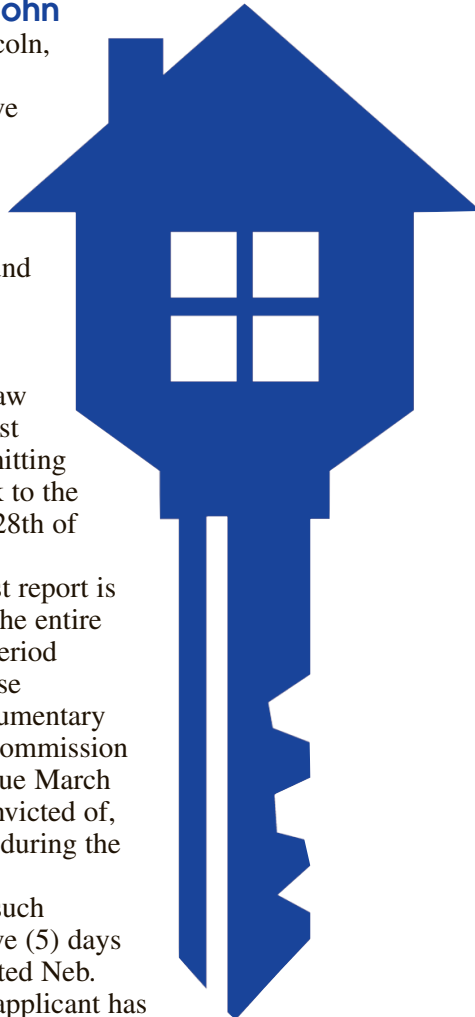
# Disciplinary Actions Taken by the Real Estate Commission

*(Does Not Include Cases on Appeal)*

**2017-029 - Commission vs. Dirk Conrad Blume;** Salesperson; Omaha, NE. Hearing held November, 15, 2018. License revoked. [Blume violated Neb. Rev. Stat. § 81-885.12(2) When an applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction of this or any other state, district, or territory of the United States or of a foreign country, such untrustworthiness of the applicant and the conviction may in itself be sufficient ground for refusal of a license, when he was convicted of two (2) felonies, manslaughter and the use of a deadly weapon to commit a felony; violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section; in that he was convicted of two (2) felonies, manslaughter and the use of a deadly weapon to commit a felony.]

**2017-026 - Commission vs. John Robert Knopp;** Salesperson; Lincoln, NE. Hearing held October 18, 2018. License suspended for a period of five (5) years all stayed and served on probation. Probation commences on December 16, 2018 and continues through December 16, 2023; plus submit to a yearly criminal background check, by having his fingerprints captured by anyone qualified to take finger prints and submitting the fingerprint cards to the appropriate law enforcement authority, paying the cost of such background check, and submitting the results of such background check to the Commission no later than February 28th of each year during the five (5) year Suspension/Probation period, the first report is due February 28, 2019; plus during the entire five (5) year Suspension/Probation period attend weekly alcohol/substance abuse treatment or groups and provide documentary evidence of such attendance to the Commission every 3 months. The first report is due March 16, 2019; plus If charged with or convicted of, another criminal offense at any time during the entirety of the five (5) year Suspension/Probation period report such offense to the Commission within five (5) days following the incident. [Knopp violated Neb. Rev. Stat. § 81-885.12(2) When an applicant has

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## MEET THE REAL ESTATE COMMISSION STAFF

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

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

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

### COMMUNICATIONS GUIDE

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

Commission Meeting Information . . . *Alane Roubal*  
alane.roubal@nebraska.gov

Complaint Procedures . . . . . *Duran Cell*  
duran.cell@nebraska.gov

Continuing Education History or  
Inquiries . . . . . *Tawny Snider*  
tawny.snider@nebraska.gov

Curriculum Design (Education &  
Instructor Approval) . . . . . *Alane Roubal*  
alane.roubal@nebraska.gov

Errors and Omissions Insurance  
Inquiries . . . . . *Monica Rut*  
monica.rut@nebraska.gov

Financial Officer . . . . . *Beth Plants*  
elizabeth.plants@nebraska.gov

License Applications Packet  
Requests . . . . . *General Staff*  
realestate.commission@nebraska.gov

License Applications Process . . . . . *Marilyn Masters*  
marilyn.masters@nebraska.gov

Licensing Requirements . . . . . *Monica Rut*  
monica.rut@nebraska.gov

New Licenses in Process . . . . . *Patricia Menousek*  
patricia.menousek@nebraska.gov

Specialized Registrations . . . . . *Monica Rut*  
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Transfer of License . . . . . *Patricia Menousek*  
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Trust Account Matters . . . . . *John Clark*  
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president of the Omaha Board in 2009 and the Nebraska Realtors in 2012. He has also served on the Douglas County Zoning Board of Adjustment and many non-profit committees and boards in the Omaha area.

Gehrki will serve a six year term on the Commission, and replaces Herb Freeman, who we would like to thank for his service to the Commission and the industry. 



## New Rules Regarding Education Procedures Adopted


Recent regulatory changes which went into effect on March 6, 2019, eliminate certain reporting requirements related to continuing education and broker approved training. The amendments eliminate the annual reports currently required from continuing education providers, those reports were redundant, as all continuing education is required to be reported by providers within ten days after completion. The Amendments also eliminate the broker approval requirement for what used to be called broker approved training and will now be called Commission approved training. Broker approved training was originally envisioned to be training activity primarily offered by a designated broker only to the licensees they supervise, in practice it is often offered by trade associations and schools and open to licensees from all brokers. This often lead to classes being taken without designated broker approval through oversight. The regulation as amended would eliminate the broker approval step and allow all licensees who take training activities approved by the Commission to get credit for those classes.

Please note that the change does not completely do away with the TRG2 Form, that form will still need to be completed to show when courses are being offered—but will only need to be filled out by the provider, and will not have to be signed by individual brokers whose affiliated licensees attend the training. 

*(Continued from page 3)*

been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction of this or any other state, district, or territory of the United States or of a foreign country, such untrustworthiness of the applicant and the conviction may in itself be sufficient ground for refusal of a license, in that he engaged in and was convicted of two (2) Class IV Felony violations for possession of a controlled substance; violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section; in that he engaged in and was convicted of two (2) Class IV Felony violations for possession of a controlled substance.]

### 2017-028 - Commission vs. Matthew Richard Lindauer; Salesperson; Omaha, NE.

Hearing held November, 15, 2018. License suspended for a period of three (3) years with the first ninety (90) days served on suspension, and the remainder to be stayed and served on probation. Suspension begins January 6, 2019, and continues through April 6, 2019. Probation commences on April 7, 2019 and continues through January 6, 2022; plus pay a civil fine of \$1,000.00 due January 6, 2019; plus If charged and/or convicted of another criminal offense at any time during the entirety of the three (3) Suspension/Probation period shall report such offense to the Commission within five (5) days following the incident. [Lindauer violated Neb. Rev. Stat. § violated Neb. Rev. Stat. § 81-885.12(4) When an applicant has made a false statement of material fact on an application, such false statement may in itself be sufficient ground for refusal of a license, by making a false statement of material fact on an application, violated Neb. Rev. Stat. § violated Neb. Rev. Stat. § 81-885.24(29) Demonstrating negligence, incompetency, or unworthiness to act as a broker, associate broker, or salesperson, whether of the same or of a different character as otherwise specified in this section, in that he engaged in and was convicted of a misdemeanor for "disorderly conduct", failed to notify the Commission of said conviction as required by the conditions of the June 18, 2015 Informal Special Appearance, and provided a false statement on his 2017 renewal application.] 



# Legislative Changes

Though the Nebraska Legislative Session is far from over, there have been two bills passed and approved by the governor that are of interest to the Commission and licensees.


**LB55**—Changes the statutes relating to the age of majority. A person under nineteen is still legally a minor, but under the bill an exception is made to this rule and a person eighteen years of age or older may acquire or convey title to real property. You may recall a similar bill changing the age to eighteen for entering into leases or other legally binding contracts was passed in 2010. The new law will go into effect 90 days after the end of the legislative session (to be determined, approximately late August/early September 2019).

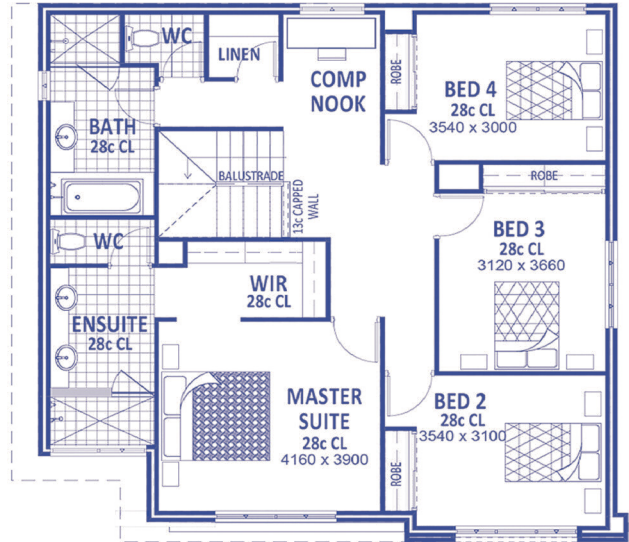
**LB384**—This legislation makes various changes related to pre-license and post license education, as well as requirements to become a broker or designated broker. The bill will require an additional six hour pre-license class related to professional standards and professionalism, and an additional twelve hours of post license education related knowledge and skills used in day to day real estate practice for all Nebraska real estate license applicants. The bill also requires an additional class for those who wish to become a designated broker and run their own real estate company.

The bill also changes requirements for getting licensed as a real estate broker. The current law relating to the two year experience requirement (the route most licensees take to becoming a broker) and 60 additional hours of education remains in place. However, the law changes the provisions relating to becoming a broker based on an additional one hundred twenty hours of education, and this can only be done under the new bill if a hardship is shown in finding a designated broker for an existing brokerage, or if the applicant has two years of relevant, non-licensed real estate experience and appears before the Commission and provides satisfactory evidence of such hardship or experience.

Lastly, before an individual can become a designated broker they will need to take additional classes to be developed and determined by the Commission related to trust accounting, brokerage management and financing, business ethics and risk management.

Please note that these changes apply to prospective salespersons and brokers only, and current licensees are exempt from the new requirements (unless they want to

change their license status). The bill goes into effect on July 1, 2020. 



## Let's Talk Trust Accounts


Receipting for earnest money deposits.

The question has come up as to whether a licensee needs to receipt for an earnest money deposit that is payable to a third party closer. The simple answer is that any client funds coming into the licensee's possession should be receipted for.

Here are a few of the possibilities: The normal transaction in which the buyer's agent receives an earnest money check payable to the brokerage with the offer to purchase. The licensee would receipt for the deposit in the purchase contract prior to presenting the offer to the seller's agent. If the deposit is not received with the offer, the purchase contract should clearly spell out how and when it is to be paid and a written receipt should be completed upon receipt. You should not go back to the purchase agreement and alter anything above the final signatures. The receipt can be in any format, but should include the check information, the amount, and the transaction as well as being signed by the agent.

If the check is payable to a third party closer per the terms of the contract, the same procedures would apply. The difference is that you will receipt for a deposit "payable to the third party". You would also need to get a receipt from the third party closer for the deposit. Any and all receipts should be maintained in the transaction file.

Only when the earnest money check does not come into the licensee's possession, would a written receipt not be required from them.

As always, if there are any questions or concerns, feel free to contact Greg Lemon, Duran Cell or John Clark. 

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*Nebraska Real Estate Commission: Seated (l to r): Sheri Bourne, Robert Eynen (Chair), Darlene Starman, Standing: Joe Gehrki, Andy Alloway, Ann Dover, Jim Titus*