

**Title 305 - NEBRASKA REAL ESTATE COMMISSION**

**Chapter 1 - Rules of Practice and Procedure for Negotiated Rulemaking**

**001 General Information**

**001.01 Application of Rules.** These rules are promulgated pursuant to Neb. Laws 1994, LB 446, and 53 Nebraska Administrative Code, Chapter 1.

**002 Negotiated rulemaking generally.** The purpose of these regulations is to establish a framework for the conduct of negotiated rulemaking consistent with the Administrative Procedure Act and the Negotiated Rulemaking Act. The negotiated rulemaking process can be used by the Commission, whenever appropriate, to resolve controversial issues prior to the commencement of formal rulemaking. Negotiated rulemaking is not a substitute for the requirements of the Administrative Procedure Act, but may be used as a supplemental procedure to permit the direct participation of affected interests in the development of new rules or the amendment or repeal of existing rules. The negotiated rulemaking process also does not preclude other Commission efforts or processes designed to reach consensus with affected or interested persons concerning the content of rules or regulations. A consensus agreement on a proposed rule reached by a negotiated rulemaking committee may be modified by the Commission as a result of a subsequent formal rulemaking process.

**003 Definitions.** For purposes of this Chapter:

**003.01** APA shall mean the Administrative Procedure Act, NEB. REV. STAT. sections 84-901 et seq., Revised Statutes of Nebraska, 1943, as amended.

**003.02** Agency shall mean the Commission and its employees, including the Director, any Deputy Directors and staff.

**003.03** Commission shall mean the State Real Estate Commission of the State of Nebraska.

**003.04** Consensus shall mean unanimous concurrence among the interests represented on a negotiated rulemaking committee unless the committee agrees upon another specified definition.

**003.05** Convener shall mean a person who impartially assists the Commission in determining whether establishment of a negotiated rulemaking committee is feasible and appropriate for a particular rulemaking procedure.

**003.06** Director shall mean the person appointed as the Director of the Commission by the Commission pursuant to section 81-885.07(4), Revised Statutes of Nebraska, 1943, as amended.

**003.07** Facilitator shall mean a person who impartially aids in the discussion and negotiations among the members of a negotiated rulemaking committee to develop a proposed rule. A facilitator shall not have decision-making authority.

**003.08** Interest shall mean, with respect to an issue or matter, multiple parties that have a similar point of view or that are likely to be affected in a similar manner.

**003.09** Negotiated rulemaking shall mean rulemaking through the use of a negotiated rulemaking committee.

**003.10** Negotiated rulemaking committee or committee shall mean an advisory committee established to consider and discuss issues for the purpose of

reaching a consensus in the development of a proposed rule.

**003.11** Person shall mean an individual, partnership, limited liability company, corporation, association, governmental subdivision, agency, or public or private organization of any character.

**003.12** Rule or regulation shall mean any rule, regulation, or standard issued by the Commission, including the amendment or repeal thereof, whether with or without prior hearing, and designed to implement, interpret, or make specific the law enforced or administered by it or governing its organization or procedure, but not including rules and regulations concerning the internal management of the Commission not affecting private rights, private interests, or procedures available to the public, and any rules of interpretation thereof, and for the purpose of the APA, every rule and regulation which shall prescribe a penalty shall be presumed to have general applicability or to affect private rights and interests.

**004 Establishment of a Negotiated Rulemaking Committee; Criteria.** The Commission may establish a negotiated rulemaking committee to negotiate and develop a proposed rule if the Commission determines that the use of the negotiated rulemaking procedure is in the public interest. In making that determination, the Commission shall consider whether:

**004.01** There is a need for the rule.

**004.02** There are a limited number of identifiable interests that will be significantly affected by the rule.

**004.03** There is a reasonable likelihood that a committee can be convened with a balanced representation of persons who:

**004.03A** Can adequately represent the interests identified; and

**004.03B** Are willing to negotiate in good faith to reach a consensus on the proposed rule.

**004.04** There is a reasonable likelihood that a committee will reach a consensus on the proposed rule within a fixed period of time.

**004.05** The negotiated rulemaking procedure will not unreasonably delay the notice of proposed formal rulemaking and the issuance of the final rule pursuant to the APA.

**004.06** The Commission has adequate resources and is willing to commit those resources, including technical assistance, to the committee.

**004.07** The Commission, to the maximum extent possible consistent with the legal obligations of the Commission, will use the consensus of the committee as the basis of the rule proposed by the Commission in the formal rulemaking process of the APA.

**005 Conveners; selection; duties.** The Commission, at its discretion, may use the services of the convener.

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**005.01** The Commission may employ or contract for an organization or an individual to serve as a convener, or may use the services of a state employee to act as a convener. A convener shall not have a financial or other interest that would preclude him or her from serving in an impartial and independent manner. The Commission shall determine whether a person under consideration as a convener has such an interest. A person disqualified under this criterion shall be dropped from further consideration.

**005.02** The convener may assist the Commission in making the determination of need for a negotiated rulemaking process discussed in section 004 above. The convener may also assist the Commission in:

**005.02A** Identifying persons who will be significantly affected by a proposed rule.

**005.02B** Conducting discussions with affected persons on the issues of concern and ascertaining whether the establishment of a negotiated rulemaking committee is feasible and appropriate for the particular rulemaking.

**005.03** The convener shall report findings and make recommendations to the Commission. Upon request of the Commission, the convener shall ascertain the names of persons who are willing and qualified to represent the interests that will be significantly affected by the proposed rule. That report by the convener and any recommendations of the convener shall be public records and made available to the public for review upon request.

**006 Petitions for the use of a negotiated rulemaking committee.** Any person may petition the Commission to request the use of a negotiated rulemaking committee in the development or revision of a rule, as provided below.

**006.01** A negotiated rulemaking process may be requested on any topic appropriate for a rule or regulation by the Commission.

**006.01A** A negotiated rulemaking process may be requested only to develop or revise rules which carry out statutes that are within the authority of the Commission to implement.

**006.01B** A negotiated rulemaking process may not be requested to develop a rule or regulation to vary or change the specific terms of a statute.

**006.01C** A negotiated rulemaking process may not be requested to negotiate a rule on a matter which is not within the definition of a rule or regulation as set forth in subsection 003.12 above.

**006.02** A request for the use of a negotiated rulemaking procedure shall be made by a petition that meets the requirements of form set out in this subsection. In the event that it does not, the Commission may refuse to accept it.

**006.02A** A petition may be in the form of a pleading that contains

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a caption, heading, and name as set forth on "Attachment 1," which is attached to these model rules and made a part of them by reference.

**006.02B** A petition may also be made in the form of a letter so long as the letter contains all of the information required by these regulations and is clearly delineated as a petition for negotiated rulemaking.

**006.02C** All petitions must be on white, letter sized paper (8 ½ by 11) of standard weight.

**006.02D** Petitions must be legible, and may be typewritten, photostatically reproduced, printed, or handwritten. If handwritten, petitions must be in ink. Only one side of a page of a petition shall contain any writing.

**006.02E** Any documents that are intended to accompany a petition shall be securely fastened, clearly marked as attachments to the petition, and meet the other requirements of this section as to size, print and legibility.

**006.03** A petition for a negotiated rulemaking procedure shall meet the following requirements for content and substance. In the event that it does not, the Commission may refuse to accept it.

**006.03A** The petition must identify the general subject matter about which the negotiated rulemaking procedure is requested, including the statutes or legislative bill(s) which provide authority for the desired regulation, and, if amendments to existing regulations are sought, identification of the regulations by title, chapter and name.

**006.03B** The petition must identify the specific issue(s) proposed for inclusion in the negotiated rulemaking process.

**006.03C** The petition must discuss the facts surrounding each problem or issue proposed for inclusion in the negotiated rulemaking process.

**006.03D** The petition must discuss why a negotiated rulemaking process is in the public interest, including information on each of the criteria set out in subsections 004.01 through 004.05 above. The petition may also include information on the criteria included in subsections 004.06 and 004.07 above, to the extent such information is available to the petitioner. The petitioner may also submit such other information as may assist the Commission in making a decision.

**006.03E** The petition must identify persons who will be significantly affected by any rule which might result from the proposed negotiated rulemaking process, to the extent known by the petitioner. The petitioner may also suggest the names of persons who are willing and qualified to represent the interests that will be significantly affected by the negotiated rulemaking process and the proposed rule.

**006.04** A petition for a negotiated rulemaking process shall be filed

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with the Agency. Filing may be made by personal delivery during regular Agency office hours or by mail.



**006.05** The Director or Agency employee or convener designated by the Commission may recommend to the Commission whether a negotiated rulemaking process should be initiated after the filing of a petition for a negotiated rulemaking procedure.

**006.06** Within sixty (60) days after submission of a petition for a negotiated rulemaking procedure, the Commission shall:

**006.06A** Deny the petition in writing, stating the reason(s) for denial; or

**006.06B** Initiate the negotiated rulemaking process as provided in these rules.

**006.07** The decision of the Commission with respect to a petition for a negotiated rulemaking procedure may be made in the form of a pleading or a letter clearly designated as the decision on the petition. The petitioner shall be served with a copy of the Commission's final decision by certified mail, return receipt requested.

**006.08** A decision by the Commission with respect to a petition for a negotiated rulemaking procedure is not subject to judicial review, although nothing herein shall bar a judicial review if such is otherwise provided by law.

**007 Notice of a Negotiated Rulemaking Committee; Comment; Applications for Membership.** If the Commission decides to go forward with the establishment of a negotiated rulemaking committee, the Commission shall proceed with the following process.

**007.01** The Agency shall give notice to the Secretary of State, publish notice in a newspaper having general circulation in the state, and, as appropriate, publish notice in other newspapers and publications. The notice shall include:

**007.01A** An announcement that the Commission intends to establish a negotiated rulemaking committee to negotiate and develop a proposed rule.

**007.01B** A description of the subject and scope of the rule to be developed and the issues to be considered.

**007.01C** A list of interests likely to be significantly affected by the proposed rule.

**007.01D** A list of the persons proposed to represent the affected interests and the Agency.

**007.01E** A proposed schedule for completing the work of the committee.

**007.01F** An explanation of how a person may apply for or nominate another person for membership on the committee.

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**007.02** Persons interested in making comments upon the formation of a particular proposed negotiated rulemaking committee shall have thirty (30)

days from the date of publication of the notice concerning that committee to do so. Such comments shall be in writing, and shall either be personally delivered or mailed to the Agency at its business office.

**007.03** Persons interested in applying for membership on a particular proposed negotiated rulemaking committee or in nominating other persons for such membership shall have thirty (30) days from the date of publication of the notice concerning that committee to do so. Persons making application for membership or nominations for membership shall do so on "Attachment 2" which is attached to these regulations and made a part of these regulations by reference, and which shall be provided by the Agency. Persons making application for membership or nominations for membership may also do so by letter, so long as the letter contains all of the information set out in "Attachment 2" and is clearly delineated as an application or nomination for membership on a specific negotiated rulemaking committee.

**008 Establishment of a Negotiated Rulemaking Committee; Procedure.** After publication of notice and termination of the comment and membership application period, the Commission will consider the comments and membership applications for a particular negotiated rulemaking committee and determine whether such a committee can adequately represent the interests of the persons that will be significantly affected by a proposed rule, and whether such a committee is feasible and appropriate in the particular rulemaking. In making the final determination as to creation of a negotiated rulemaking committee, the Commission may use the services of a convener as set out in Section 005 above. In making the final determination as to creation of a negotiated rulemaking committee, the Commission and its Director will apply the criteria set out in 004 above.

**008.01** If, after such a determination, the Commission decides that a negotiated rulemaking procedure is feasible, it shall establish a negotiated rulemaking committee as provided in these regulations. The committee will negotiate issues and develop proposed rules for use by the Commission in formal rulemaking.

**008.02** If, after such a determination, the Commission decides not to establish a negotiated rulemaking committee, the Agency shall:

**008.02A** Notify the persons who commented on, applied for membership on or nominated persons for membership on the particular negotiated rulemaking committee of the reasons for the decision not to establish such a committee.

**008.02B** Publish notice of the decision not to establish the particular negotiated rulemaking committee in a newspaper having general circulation in the state, and, as appropriate, in other newspapers and publications.

**009 Negotiated Rulemaking Committee; membership.** All members of a negotiated rulemaking committee shall participate in the deliberations of the committee with the same rights and responsibilities as other members.

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**009.01** Members of a negotiated rulemaking committee may include:

**009.01A** A Commissioner or employee of the Agency designated by the Commission to represent the Agency. This person shall be authorized

to fully represent the Agency in the discussions and negotiations of the committee.

**009.01B** Persons selected by the Commission as willing and qualified to represent the interests that will be significantly affected by the proposed rule.

**009.01C** Persons contacted and recruited by the negotiated rulemaking committee itself by consensus as essential to the success of the negotiated rulemaking process.

**009.01D** Persons selected by the negotiated rulemaking committee by consensus upon committee review of a petition for membership or nomination as set out in subsection 009.02 below.

**009.02** Persons who will be significantly affected by a proposed rule and who believe that their interests will not be adequately represented by any person on a negotiated rulemaking committee may petition for or nominate another person for membership on the negotiated rulemaking committee.

**009.02A** Each petition or nomination for committee membership shall be in writing and be submitted to the negotiated rulemaking committee by delivering or mailing the same to the Agency. All such petitions or nominations shall include:

**009.02A1** Identification of the applicable negotiated rulemaking proceeding.

**009.02A2** The name of the petitioner or nominee, and a description of the interests the person represents.

**009.02A3** Evidence that the petitioner or nominee is authorized to represent parties related to the interests the person proposes to represent.

**009.02A4** A written commitment that the petitioner or nominee will actively participate in good faith in the development of the rule under consideration.

**009.02A5** An explanation of reasons that the persons already on the negotiated rulemaking committee do not adequately represent the interests of the person submitting the petition or nomination.

**009.02B** Persons wishing to file such a petition for membership or nomination to a negotiated rulemaking committee may use the form attached hereto as "Attachment 3." "Attachment 3" is made a part of these regulations by reference. Persons wishing to file such a petition for membership or nomination to a negotiated rulemaking committee may also do so by letter, provided that the letter contains the information set forth above.

**009.02C** Upon receiving a petition for membership or nomination

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to a particular negotiated rulemaking committee, the committee in question shall decide, by consensus at its next meeting, whether or not to expand its membership.

**010 Negotiated rulemaking committee; operation.** A negotiated rulemaking committee established under these rules shall consider the matter proposed by the Commission for consideration and shall attempt to reach consensus concerning a proposed rule and any other matter the committee determines is relevant to the proposed rule.

**010.01** A negotiated rulemaking committee may adopt procedures or ground rules for the operation of the committee consistent with these rules and the pertinent Nebraska statutes.

**010.02** The Agency shall provide appropriate administrative support to a negotiated rulemaking committee including technical assistance and support.

**010.03** The person representing the Agency on a negotiated rulemaking committee shall participate in the deliberations of the committee with the same rights and responsibilities as other members of the committee and shall be authorized to fully represent the Agency in the discussions and negotiations of the committee.

**010.04** If a negotiated rulemaking committee achieves consensus on a proposed rule at the conclusion of the negotiations, the committee shall transmit to the Commission a report containing the proposed rule.

**010.05** If a negotiated rulemaking committee does not reach a consensus on the proposed rule, the committee shall transmit to the Commission a report specifying areas in which the committee reached consensus and the issues that remain unresolved. The committee may include in the report any other information, recommendations, or materials that the committee considers appropriate. Any member of the committee may include as an addendum to the report additional information, recommendations or materials.

**011 Facilitators; selection; duties.** A facilitator shall be selected to assist a negotiated rulemaking committee with its duties.

**011.01** The Agency may nominate a person to serve as a facilitator for the negotiations of a negotiated rulemaking committee, subject to the approval of the committee by consensus. If the committee does not approve the Agency's nomination for facilitator, the Agency shall submit a substitute nomination. If the committee does not approve the substitute nomination of the Agency for facilitator, the committee shall select, by consensus, a person to serve as facilitator.

**011.02** The Agency may employ or contract for an organization or an individual to serve as a facilitator for a negotiated rulemaking committee or the Agency may use the services of a state employee to act as a facilitator. A person designated by the Agency to represent it on a negotiated rulemaking committee with respect to substantive issues may not serve as the facilitator. A facilitator shall not have a financial or other interest that would preclude him or her from serving in an impartial and independent manner. The Agency shall determine whether a person under consideration for facilitator has such an

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from further consideration.

**011.03** A facilitator approved or selected by a committee shall:



**011.03A** Preside at the meetings of the committee in an impartial manner.

**011.03B** Impartially assist members in conducting discussions and negotiations and achieving consensus.

**011.03C** Manage the keeping of minutes and records.

**012 Negotiated rulemaking committee; expenses.** Members of a negotiated rulemaking committee shall be responsible for their own expenses of participation. However, the Agency may pay for a committee member's actual and necessary expenses incurred in serving on the committee as provided in NEB. REV. STAT. sections 81-1174 through 81-1177 and a reasonable per diem rate of compensation if:

**012.01** The committee member certifies a lack of adequate financial resources to participate on the committee using the form at "Attachment 4" which is attached to these regulations and made a part of them by reference; and,

**012.02** The Commission determines that the committee member's participation is necessary to assure an adequate representation of the interests of the members.

**013 Grants or gifts.** The Agency may accept grants or gifts from any source to fund a negotiated rulemaking process if:

**013.01** Information on the name of the person giving the grant or gift and the amount of the grant or gift is available to the public.

**013.02** The grant or gift is given to and accepted by the Agency without placing any condition on the membership of a committee or the outcome of the negotiated rulemaking process.

**013.03** There is a consensus among the members of the negotiated rulemaking committee that the acceptance of the grant or gift will not diminish the integrity of the negotiated rulemaking process.

**014 Negotiated rulemaking committee; termination.** A negotiated rulemaking committee shall terminate upon the adoption of the final rule under consideration by the Commission pursuant to the APA, unless the Commission, after consulting the committee, or the committee itself specifies an earlier termination date.

**015 Negotiated rulemaking procedure; judicial review.** Any action of the Commission relating to establishing, assisting or terminating a negotiated rulemaking committee under the Negotiated Rulemaking Act shall not be subject to judicial review, except that nothing in this section shall bar judicial review if such judicial review is otherwise provided by law.

305 NAC 1 - ATTACHMENT 1  
SAMPLE

BEFORE THE STATE REAL ESTATE COMMISSION  
STATE OF NEBRASKA

In the Matter of [insert statute )  
numbers or name] by [insert name )       Petition for Negotiated  
of Petitioner]                               )               Rulemaking

COMES NOW the petitioner, [insert name of Petitioner], according to the Nebraska Negotiated Rulemaking Act and according to the State Real Estate Commission rules and regulations for Petitions for Negotiated Rulemaking, and requests that the State Real Estate Commission establish a negotiated rulemaking committee as set forth in this Petition.

In support of this request, the Petitioner states as follows:

1. The State Real Estate Commission administers the provisions of [insert sections of the statutes or legislative bill numbers for which negotiated rulemaking is sought], and is responsible for development of rules and regulations to implement these statutes.

2. Petitioner seeks a negotiated rulemaking procedure to [check one]:

- (\_\_\_) develop new rules
- (\_\_\_) amend existing rules, specifically \_\_\_ NAC \_\_\_, entitled \_\_\_\_\_.
- (\_\_\_) repeal certain existing rules, specifically \_\_\_, NAC \_\_\_, entitled \_\_\_\_\_.

3. A negotiated rulemaking committee should be established to negotiate and develop rules on each of the following issues concerning the statute(s), legislative bill(s) or regulation(s) identified above [identify each issue as to each statute, legislative bill or regulation and the general scope of the rulemaking proposed]:

4. The facts surrounding each of the issues listed in paragraph 3 above are as follows:

5. Establishment of a negotiated rulemaking committee would be in the public interest under each of the following criteria based upon the information the Petitioner hereby submits.

A. There is a need for rulemaking on the issue(s) identified above because:

B. There are a limited number of identifiable interests that will be significantly affected by the rule, including the following interests:

C. There is a reasonable likelihood that a negotiated rulemaking committee can be convened with a balanced representation of

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people (1) who can adequately represent the interests identified above and (2) are willing to negotiate in good faith to reach a consensus on the proposed rule, as shown by the following:

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D. There is a reasonable likelihood that a committee will reach a consensus on the proposed rule within a fixed period of time because:

E. The use of this procedure will not unreasonably delay formal rulemaking and issuance of a final rule because:

F. [Optional for response by Petitioner] The State Real Estate Commission should commit its resources, including technical assistance, to such a committee because:

G. [Optional for response by Petitioner] The State Real Estate Commission should, to the maximum extent possible consistent with its legal obligations, use a consensus of such a committee as the basis for a rule to be adopted under the Administrative Procedure Act because:

6. The following persons will be significantly affected by any rule which might result from the negotiated rulemaking procedure which is the subject of this Petition [identify such persons by name and address where possible]:

7. The following persons may be willing and qualified to represent the interests that will be significantly affected by any rule which might result from the negotiated rulemaking procedure which is the subject of this Petition [identify such persons by name and address where possible]:

8. Petitioner offers the following additional information for use by the Commission in consideration of this request [if any]:

9. Petitioner has attached the following documents in support of this request [list all documents attached]:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature of Petitioner

List Petitioner's name [typed or printed]  
List Petitioner's full mailing address  
List Petitioner's telephone number [including  
area code]

305 NAC 1 - ATTACHMENT 2  
SAMPLE

BEFORE THE STATE REAL ESTATE COMMISSION  
STATE OF NEBRASKA

In the Matter of the Negotiated )  
Rulemaking Committee for ) Application/Nomination  
[Insert name of the proposed ) for membership  
Negotiated Rulemaking Committee], ) on the committee.  
\_\_\_\_\_  
NAC )

**APPLICATION FOR MEMBERSHIP**  
(complete if applicable)

1. The undersigned person (the applicant) hereby applies for membership on the above-referenced negotiated rulemaking committee proposed by the Commission.

Name of applicant (typed or printed)

Full address of applicant

Applicant's telephone number  
(including area code)

2. The applicant represents the following identifiable interest which will be significantly affected by the proposed administrative rule to be considered by the above-referenced negotiated rulemaking committee:

3. The applicant is authorized to represent parties related to the interest listed above because:

4. The applicant can adequately represent the parties and interest listed above because:

5. In support of his or her application, the applicant has attached the following documents to this petition (list all attachments):

6. By signing this application, the applicant hereby certifies that he or she will represent the interest identified above to the best of his or her ability in the negotiation process, and that he or she is willing to actively negotiate in good faith to reach a consensus on the proposed rule to be considered by the above-referenced negotiated rulemaking committee.

\_\_\_\_\_  
Signature of Applicant

Date

**NOMINATION FOR MEMBERSHIP**  
(complete if applicable)

1. The undersigned person (the nominating party) hereby nominates the following person (the nominee) for membership on the above-referenced negotiated rulemaking committee proposed by the State Real Estate Commission.

Name of nominee (typed or printed)

Full address of nominee

Nominee's telephone number  
(including area code)

2. The nominee represents the following identifiable interest which will be significantly affected by the proposed administrative rule to be considered by the above-referenced negotiated rulemaking committee:

3. The nominee is authorized to represent parties related to the interest listed above because:

4. The nominee can adequately represent the interest and parties listed above because:

5. In support of the nomination of the nominee, the nominating party has attached the following documents to this petition (list attachments):

6. The nominating party believes that the nominee will represent the interest identified above to the best of his or her ability and that the nominee is willing to negotiate in good faith to reach a consensus on the proposed rule to be considered by the above-referenced negotiated rulemaking committee because:

\_\_\_\_\_ Date  
Signature of Nominating Party

Name of nominating party  
(printed or typed)

Full address of nominating party

Telephone number of nominating party  
(including area code)

305 NAC 1 - ATTACHMENT 3  
SAMPLE

BEFORE THE STATE REAL ESTATE COMMISSION  
STATE OF NEBRASKA

In the Matter of the Negotiated ) Application/Nomination  
Rulemaking Committee for ) for membership  
[Insert name of the proposed ) on the Committee  
Negotiated Rulemaking Committee], ) (interest inadequately  
\_\_\_\_\_ NAC \_\_\_\_\_ ) represented)

**APPLICATION FOR MEMBERSHIP**  
(complete if applicable)

1. The undersigned person (the applicant) hereby applies for membership on the above-referenced negotiated rulemaking committee.

Name of applicant (typed or printed)

Full address of applicant

Applicant's telephone number  
(including area code)

2. The applicant represents the following identifiable interest which will be significantly affected by the proposed administrative rule being considered by the above-referenced negotiated rulemaking committee:

3. The applicant is authorized to represent parties related to the interest listed above because:

4. The applicant can adequately represent the parties and interest listed above because:

5. Reasons that persons already serving on the above-referenced negotiated rulemaking committee do not adequately represent the interest listed in paragraph 2 above include:

6. In support of his or her application, the applicant has attached the following documents to this petition (list all attachments):

7. By signing this application, the applicant hereby certifies that he or she will represent the interest identified above to the best of his or her ability in the negotiation process, and that he or she is willing to actively negotiate in good faith to reach a consensus on the proposed rule being considered by the above-referenced negotiated rulemaking committee.

\_\_\_\_\_  
Signature of Applicant

Date

**NOMINATION FOR MEMBERSHIP**  
(complete if applicable)

1. The undersigned person (the nominating party) hereby nominates the following person (the nominee) for membership on the above-referenced negotiated rulemaking committee.

Name of nominee (typed or printed)

Full address of nominee

Nominee's telephone number  
(including area code)

2. The nominee represents the following identifiable interest which will be significantly affected by the proposed administrative rule being considered by the above-referenced negotiated rulemaking committee:

3. The nominee is authorized to represent parties related to the interest listed above because:

4. The nominee can adequately represent the interest listed above because:

5. Reasons that persons already serving on the above-referenced negotiated rulemaking committee do not adequately represent the interest listed in paragraph 2 above include:

6. In support of the nomination of the nominee, the nominating party has attached the following documents to this petition (list attachments):

7. The nominating party believes that the nominee will represent the interest identified above to the best of his or her ability and that the nominee is willing to actively negotiate in good faith to reach a consensus on the proposed rule to be considered by the above-referenced negotiated rulemaking committee because:

\_\_\_\_\_  
Signature of Nominating Party

Date

Name of nominating party  
(typed or printed)

Full address of nominating party

Telephone number of nominating party

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(including area code)



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SAMPLE

BEFORE THE STATE REAL ESTATE COMMISSION  
STATE OF NEBRASKA

In the matter of the Negotiated ) Certification of  
Rulemaking Committee for ) Financial  
[Insert name of the proposed ) Need  
Negotiated Rulemaking Committee], )  
\_\_\_\_\_ NAC \_\_\_\_\_.

STATE OF NEBRASKA )  
) ss.  
COUNTY OF \_\_\_\_\_ )

COMES NOW the undersigned, being first duly sworn, and hereby states  
and certifies as follows:

1. I am a member of the above-referenced negotiated rulemaking committee created by the State Real Estate Commission.
2. In connection with my duties on that committee, I represent [insert the name of the appropriate identified interest].
3. In connection with my duties on that committee, I have incurred or will incur expenses and/or other costs.
4. I certify that I have a lack of adequate financial resources to serve on the above-referenced negotiated rulemaking committee, and that I need financial assistance from the Commission in order to serve.

Signature of Affiant

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

Notary Public