

Abstracters Board of Examiners - Rules & Regulations

LAW RELATING TO ABSTRACTERS

(Reprinted from R.R.S. Neb. 1943)

76-502. Business of abstracting; district or county judges ineligible; act prohibited. No district judge or county judge within this state shall engage in the business of abstracting nor be interested directly or indirectly in any company or corporation which is engaged in the business of abstracting while holding office. Any certification of an abstract of title by a judge in violation of this section shall be void.

76-504. Business of abstracting; counties over 5,000 population; county officers ineligible; exception. No county official or deputy, clerk, or assistant to such official, except the county attorney and deputy county attorney, in counties having a population of over five thousand shall engage in the business of compiling abstracts of title to real estate in the State of Nebraska while holding such office, and any certification of an abstract of title by any such person in violation of this section shall be void.

Any registered abstracter holding any such office on August 30, 1981, shall continue to be eligible to engage in the business of compiling abstracts of title so long as he or she continues to hold such office.

76-505. Violations; penalty. A violation of section 76-502 or 76-504 shall be a Class III misdemeanor.

76-535. Act, how cited. Sections 76-535 to 76-558 shall be known and may be cited as the Abstracters Act.

76-536. Legislative intent. It is the intent of the Legislature to safeguard the welfare and property of citizens of this state and to insure that abstracters serving the public meet minimum standards of proficiency and competency.

76-537. Terms, defined. As used in the Abstracters Act, unless the context otherwise requires:

- (1) Abstract of title shall mean a compilation in orderly arrangement of the materials and facts of record affecting the title to a specific piece of land, issued under a certificate certifying to the matters contained in such compilation;
- (2) Board shall mean the Abstracters Board of Examiners;
- (3) Business of abstracting shall mean the making, compiling, and selling of abstracts of title or any part thereof or preparing written reports of title to real property;
- (4) Business entity shall mean a partnership, corporation, or other organizational form developed to conduct business;
- (5) Certificate of authority shall mean the authorization to engage in the business of abstracting in a county in the State of Nebraska granted to an individual or business entity;

(6) Certificate of registration shall mean the authorization to prepare abstracts of title to real property in any county within the State of Nebraska which is granted to an individual under section 76-543;

(7) Professional development shall mean a course of educational instruction, including correspondence courses, designed to maintain and improve the ability of registered abstracters to provide services to the public;

(8) Registered abstracter shall mean an individual, registered under the Abstracters Act, holding an operative certificate of registration who for a fee or other valuable consideration compiles or certifies abstracts of title or any part thereof to real property in any county within this state or who prepares reports of title; and

(9) Report of title shall mean any type of summary of facts of record affecting the title to a specific piece of land which does not purport to constitute an opinion as to the state of the title and which is prepared by a person other than an attorney licensed to practice law in the State of Nebraska. Report of title shall not include a title insurance commitment or policy or information or opinions given by a register of deeds in response to inquiries from the public.

76-538. Abstracters; license required. Any person, firm, partnership, association, or corporation engaged in the business of abstracting shall be required to be licensed as required by the Abstracters Act.

76-539. Business of abstracting; requirements. (1) An individual or business entity shall not engage in the business of abstracting in this state unless a certificate of authority has been issued to such individual or business entity.

(2) Every individual or business entity engaged in the business of abstracting shall be or have in its employ a registered abstracter. Only a registered abstracter may certify abstracts or otherwise attest to the accuracy of abstracts or prepare reports of title.

76-540. Abstracters; board; appointment; number; term; vacancies. There is hereby created an Abstracters Board of Examiners of five members to be appointed by the Governor to carry out the purposes of and enforce the Abstracters Act. The board shall include three members who shall at all times be active registered abstracters who have engaged in the business of abstracting for at least five years, one member who shall be a lawyer experienced in the area of real estate law, and one member who shall be representative of the public.

No more than two members of the board shall be appointed from the same county, at least one member shall be appointed from a county having as its largest city a city of the first class, and at least one member shall be appointed from a county having as its largest city a city of the second class. No member of the board shall be employed by the same employer as any other member of the board.

Each member of the board shall serve for a term of five years and until a successor is appointed and qualified, except that members of the board currently serving on March 26, 1985, shall continue to serve the terms for which they were appointed. The first attorney member of the board whose term expires after March 26, 1985, shall be succeeded by the representative of the public.

Vacancies created by the death, resignation, or other disability of a board member

resulting in the inability to carry out his or her duties shall be filled by appointment by the Governor and such successor shall possess the same qualifications as the member replaced and such member shall, upon qualification, serve the unexpired term of the member whom he or she succeeds. No member of the board shall be appointed to succeed himself or herself.

76-541. Abstracters; officers; selection; powers; seal; rules and regulations; conduct of business. The board shall organize by election of a chairperson and vice-chairperson. The board shall have the power to compel the attendance of witnesses, and the chairperson and vice-chairperson shall have the power to administer oaths. The board shall employ a director who shall keep a record of all proceedings, transactions, communications, and official acts of the board, be custodian of all records, and perform such other duties as the board may require.

The board shall adopt a seal, which may be either an engraved or ink stamp seal with the words Abstracters Board of Examiners, State of Nebraska, and such other device as the board may desire included, by which it shall authenticate the acts of the board. Copies of all records and papers in the office of the board, certified by the signature of the director and the seal of the board, shall be received in evidence in all cases equally and with like effect as the originals.

The board may adopt and promulgate such rules and regulations as it shall deem necessary for the proper administration of its powers and duties and the carrying out of the Abstracters Act. Such rules and regulations may provide that, except for hearings on the revocation of certificates issued by the board, the business of the board may be conducted while in session as a body or by correspondence. Such correspondence shall be directed to the director to be incorporated into the records of the board.

The action of the majority of the members of the board shall be deemed the action of the board.

76-542. Abstracters; application for registration; fee; qualifications. Any person desiring to become a registered abstractor shall file an application for registration with the board. Such applicant shall have reached the age of majority, shall not have been convicted of a felony, and shall have at least one year of verified land title-related experience satisfactory to the board. Each applicant for registration shall take the written examination prescribed by section 76-543.

Such application shall be in a form prepared by the board and shall contain such information as may be necessary to assist the board in determining the qualification of the applicant for registration. Each such application shall be accompanied by (1) an application fee of not less than twenty-five dollars or more than one hundred dollars and (2) an examination fee of not less than twenty-five dollars or more than one hundred dollars. The board shall establish such fees based on the administrative costs of the board.

Upon receipt of such application the board shall notify the applicant by mail whether the application has been accepted. If the application has not been accepted, the examination fee shall be returned to the applicant. If the application has been accepted, the applicant shall be notified of the time and place of the next scheduled examination.

The board shall adopt and promulgate rules and regulations necessary to establish the experience standards and administer the examination required for registered abstracters.

76-543. Examination; certificate of registration; reapplication. The board shall prescribe a written examination to determine the proficiency of the applicant. If the applicant passes the examination and meets the other requirements of section 76-542, he or she shall be given a certificate of registration designating him or her to be a registered abstracter. The certificate shall be prominently displayed at the abstracter's place of employment. If an applicant fails the examination, he or she may reapply for registration by remitting the examination fee. The board shall give the examination at least twice a year.

76-544. Registered abstracter; professional development requirements. A registered abstracter shall every two years complete and certify to the board that he or she has successfully completed three hours of board-approved professional development credits. The board shall adopt and promulgate rules and regulations necessary for the effective delivery and approval of all programs of professional development required.

76-545. Business of abstracting; requirements; certificate of authority; fee. Any individual or business entity desiring to engage in the business of abstracting in this state shall make application to the board for a certificate of authority. Such application shall be in a form prepared by the board and shall contain such information as may be necessary to assist the board in determining whether the applicant has complied with the Abstracters Act. Such application shall be accompanied by an application fee of not less than twenty-five dollars or more than one hundred dollars. The board shall establish such fee based on the administrative costs of the board. The applicant shall furnish proof that such applicant is or has employed a registered abstracter. When this section has been complied with, the board shall issue a certificate of authority in such form as it may prescribe, attesting to the same, and such certificate shall be prominently displayed in the place of business of the applicant.

76-546. Abstracters; temporary certificate; when issued; fee; expiration. The board may, upon application to it by (1) any individual succeeding to the ownership of any abstract business by any means other than by purchase or (2) any individual who, by reason of the incapacity of any registered abstracter owner of any abstract business, is required to assume the operation of such business, grant to such individual, without examination, a temporary certificate of registration. Such temporary certificate shall be issued only after the applicant provides proof of land title-related experience sufficient to meet the standards established by the board. The fee for such temporary certificate of registration shall be not less than twenty-five or more than one hundred dollars. The board shall establish such fee based on the administrative costs of the board. Such certificate shall expire six months after its date or upon the expiration of sixty days after the next regularly scheduled examination which could be taken by the applicant under the rules and regulations of the board, whichever period is the longer. The board shall notify such applicant by mail of the time and place of such examination.

76-547. Abstracters; certificate of authority; certificate of registration; term; renewal; requirements; fees. All certificates of authority and certificates of

registration issued pursuant to sections 76-543 and 76-545 shall expire on April 1 of each year irrespective of when issued. Certificates of authority and certificates of registration shall be renewed, as provided in this section, for a one-year period upon payment of a renewal fee of not less than twenty-five dollars or more than one hundred dollars for a certificate of authority and not less than ten dollars or more than thirty dollars for a certificate of registration. The board shall establish such fee based on the administrative costs of the board. Thirty to sixty days prior to the expiration date of the certificates, the board shall cause a notice of expiration and application for renewal, including a statement for the annual fee for each certificate, to be mailed to each of the holders of such certificates. The notice and application shall be in a form prepared by the board.

The board shall not renew the certificate of registration of any registered abstracter who has failed to complete the professional development requirements set forth in section 76-544, unless the registered abstracter has shown good cause why he or she was unable to comply with such requirements. If the board determines that good cause was shown for not completing the professional development requirements, the board shall permit the registered abstracter to make up all outstanding hours of professional development within six months of the renewal of the certificate of registration. If the hours are not completed in six months, the certificate shall be revoked.

76-548. Abstracters; certificate of authority; certificate of registration; failure to renew; notice; late renewal; fee. If a holder of a certificate of authority or certificate of registration fails to apply for renewal and to pay the fee provided, the board shall send by registered or certified mail to such holder a notice that the certificate or certificates have expired and are no longer valid authority for such individual or business entity to engage in the business of abstracting. Such notice shall be mailed not more than thirty days following the certificate expiration date. Any holder who fails to apply for renewal or pay the renewal fees prescribed in section 76-547 may file a late renewal application and shall pay, in addition to the renewal fee, ten dollars for each month or fraction thereof that the application is late beginning with April 1, except that such application shall be filed before July 1 of the year of expiration.

76-549. Abstracters Board of Examiners Cash Fund; created; board member, compensation; director, salary. All fees collected pursuant to the Abstracters Act shall be deposited in the state treasury to be credited to the Abstracters Board of Examiners Cash Fund which is hereby created. All actual and necessary expenses of the board shall be paid from such fund. No member of the board shall receive a salary. Each member of the board shall receive as compensation for each day or part thereof of actual service while attending meetings or otherwise engaged upon the business of the board fifty dollars and expenses incurred in the performance of official duties. The director shall be paid a salary to be determined by the board.

76-550. Practice of abstracting; board; register; roster of membership. The board shall keep a register of the name of each applicant for certification, with his or her place of business and such other information as may be deemed appropriate, including a notation of the action taken by the board thereon, the date upon which the certificate of registration or certificate of authority is issued, and the date of renewal of such certificates. The board shall maintain other records, registers, and

files as may be necessary for the proper administration of its duties pursuant to the Abstracters Act. A roster showing the names and places of business of abstracters holding an operative certificate of registration shall be prepared by the director during the month of June of every year, sent to all registered abstracters, and furnished to the public on request.

76-551. Practice of abstracting; disciplinary actions; grounds; unfair practices.

The board shall have the power (1) to revoke a certificate of registration or certificate of authority, (2) to suspend a certificate of registration or certificate of authority for a specific period not to exceed a year, (3) to censure a registered abstracter or holder of a certificate of authority, and (4) to issue a letter of reprimand to a registered abstracter or holder of a certificate of authority.

Such disciplinary actions may be invoked after a hearing as provided in section 76-552 for a violation of the Abstracters Act, including unfair practices, upon the conviction of the holder of a certificate of a felony, or if the board finds a holder to be guilty of habitual carelessness or of fraudulent practices in the conduct of the business of abstracting.

Unfair practices which are a violation of the Abstracters Act shall include:

- (a) Failure to disclose an agency relationship to or interest in any title insurance business, law firm, real estate or insurance business, or any other business or enterprise to a client in the event that the holder of the certificate of registration or the holder of the certificate of authority would receive a fee directly or indirectly from such a relationship or interest during a transaction involving real estate in which the holder is retained to provide abstracting services for such client; and
- (b) Paying or allowing a rebate of fees for abstracting services, which unfair practice specifically includes rendering a statement or bill to be passed on to third parties which does not reflect the true amount charged for such services or charging an amount from which a rebate is to be paid.

The board shall also have the power after a hearing as provided in section 76-552 to revoke or suspend a certificate of authority for failure to have employed a registered abstracter or for otherwise violating the Abstracters Act.

76-552. Disciplinary actions; procedure; appeal. A verified complaint may be filed with the board charging a registered abstracter or a holder of a certificate of authority with a violation of the Abstracters Act. The board on its own motion may also file such a complaint. If a complaint is filed, the board shall immediately notify the abstracter or holder of such certificate of the complaint. The notice shall be in writing and be sent by registered or certified mail, return receipt requested. The notice shall contain a statement of the charges and a copy of the complaint. The notice shall state the time and place of the hearing which shall be not less than twenty nor more than forty days from the date of service of such complaint. The abstracter or holder of such certificate shall be entitled to counsel at any hearing. The board shall cause a transcript of any testimony taken to be made by a reporter or stenographer. The decision of the board may be appealed, and the appeal may be in accordance with sections 84-917 to 84-919.

76-553. Attorney General; representation of board. The Attorney General shall render to the Abstracters Board of Examiners opinions on all questions of law

relating to the interpretation of the Abstracters Act or arising in its administration and shall act as attorney for the board in all actions and proceedings brought by or against it pursuant to the Abstracters Act.

76-554. Abstracters; persons not subject to act; clerical assistance. Nothing in the Abstracters Act shall be construed as prohibiting any individual or business entity holding a valid certificate of authority from employing such clerical and stenographic assistants as may be necessary in the conduct of its business who are not registered under the Abstracters Act.

76-555. Business of abstracting; access to records. Holders of certificates of authority and their employees in the conduct of the business of abstracting shall have access to the public records in any office of any city, county, or the state, shall be permitted to make memoranda, notations, or copies of such records, and shall be permitted to occupy reasonable space with equipment for that purpose, subject to the reasonable regulation of the custodian of such public records and during the business hours of such office, in order to enable such certificate holders to make and prepare abstracts and to compile, post, copy, and maintain their books, records, and indices.

76-556. Abstracters; liability. A registered abstracter shall show each link in the chain of title, and failure to do so shall render him or her liable to any person injured by such omission. In adding extensions to an old abstract, a registered abstracter shall not be deemed to certify to or verify accuracy of entries prior to the first date given in the certificate of extension. When a registered abstracter relies upon the numerical index alone to refer him or her to all entries upon the records affecting the title to property, such reliance shall be at his or her peril. A registered abstracter shall be liable for omission of notice of encumbrance in an abstract.

76-557. Abstracts; effect of Title Standards. In the compilation or examination of an abstract of title to real estate, it shall not be considered negligence for a registered abstracter or an attorney to follow the Title Standards promulgated by the Nebraska State Bar Association.

76-558. Violation of Abstracters Act; penalty; effect. Any individual or business entity engaged in the business of abstracting in this state without having complied with the Abstracters Act shall be guilty of a Class III misdemeanor. Violation of the Abstracters Act shall in no way be construed to preclude the liability of a holder of a certificate of authority, a registered abstracter, any person holding himself or herself out to be a registered abstracter or a holder of a certificate of authority, or any person illegally engaged in the business of abstracting in the State of Nebraska.

RULE NO. 1

GENERAL

001. The Office of the Director of the Abstracters Board of Examiners shall, in all respects, be deemed to be the Office of the Board. All correspondence and filings shall be addressed or delivered to the Abstracters Board of Examiners.

Source: Section 76-541

002. The Director, who shall be employed by the Board, shall keep a record of all proceedings, transactions, communications and official acts of the Board. The Director shall be custodian of all records, and perform such other duties as the Board may require. Office hours, for the purpose of filing papers, examining public records or transacting any business with the Board or its staff, shall be determined by the Director. When filing or doing any act is required before a certain date, which falls on any Saturday, Sunday or legal holiday, the time for completing said filing or act shall be extended to the next succeeding working day.

Source: Section 76-541

003. All records of the Board are public records except files for individual applicants, investigative files, litigation files and test papers. Files for individual applicants, investigative files and litigation files are considered confidential and shall not be open to any persons except members of the Board, the Director of the Board and staff of the Director or Board. Test papers are considered confidential and shall not be open to any persons except Members of the Board, the Director of the Board, the Staff of the Board or the Staff of the Director. Any Applicant may be given one opportunity to review his or her test papers in the company of the Director or a Member of the Board. Any review by an Applicant shall be scheduled at the discretion of the Director and/or the Board and in no case shall occur later than three (3) months after the examination date. All public records of the Board shall be open for inspection at any time during the office hours determined by the Director.

Source: Section 76-541 and 76-542

004. Except for hearings on the revocation of certificates issued by the Board, the business of the Board may be conducted while in session as a body or by correspondence. Any such correspondence shall be directed to the Director to be incorporated into the records of the Board.

Source: Section 76-541

005. The action of the majority of the Members of the Board shall be deemed the action of the Board.

Source: Section 76-541

006. All meetings of the Board, unless otherwise stated in the Rules or Statutes shall be conducted in accordance with Roberts Rules of Order”.

Source: Section 76-541

RULE NO. 2

APPLICANTS

001. Applicant for a Certificate of Registration” shall be defined as any person desiring to become a registered abstractor, who shall have reached the age of majority, shall have not been convicted of a felony and shall have at least one year of verified land title related experience satisfactory to the Board.

Source: Section 76-542

002. Applicant for a Renewal of a Certificate of Registration” shall be defined as any person who shall have successfully completed and passed a written examination prescribed by Section 76-543, R.R.S., who shall have been duly issued a Certificate of Registration, and who shall have acquired the required number of professional development credit hours within the prescribed period.

Source: Section 76-547

003. Applicant for a Certificate of Authority” shall be defined as any person, firm, partnership, association, corporation or business entity engaged in the business of abstracting as defined by the Abstracters Act who shall be or have in his, her or its employ a registered abstractor.

Source: Section 76-545

RULE NO. 3

CERTIFICATE OF REGISTRATION

001. No Certificate of Registration shall be issued unless an Applicant shall first pass the written examination, as prescribed and specified in accordance with Rule No. 7, below.

Source: Section 76-542 and 76-543

002. Application forms for the written examination may be obtained from the office of the Director of the Abstracters Board of Examiners.

Source: Section 76-542

003. Applications must be received by the Director thirty (30) days in advance of the examination date. Applications must be typed or neatly printed in ink on forms prescribed and furnished by the Board. To be acceptable they must be filled out completely and in the detail required.

Source: Section 76-542

004. No application for registration as an Abstractor will be accepted unless it is accompanied by a check, draft or money order in a sum which shall include an application fee of not less than twenty five dollars nor more than one hundred dollars; and an examination fee of not less than twenty five dollars nor more than one hundred dollars, all as determined from time to time by the Board.

Source: Section 76-542

005. All information received from references named by the Applicant shall be held in confidence by the Board. No member of the Board shall be named as a reference.

Source: Section 76-542

006. An applicant shall not be admitted to the examination until satisfactory replies have been received from a minimum of three of his or her references.

Source: Section 76-542

007. Upon the Applicant passing the examination and meeting the requirements set forth in Sec. 76-542, R.R.S. Nebraska, as amended, the Board shall issue a Certificate of Registration designating him or her a Registered Abstracter.

Source: Section 76-543

008. Issuance of a temporary certificate of registration pursuant to Sec. 786-546, shall be issued only after the applicant provides proof of land title related experience sufficient to meet the standards established by the Board.

Source: Section 76-546

008.01 Proof of land title related experience shall mean not less than one year of land title related experience which shall be verified and shall be satisfactory to the Board.

009. The fee payable for such temporary certificate of registration shall be an amount which shall be not less than twenty five dollars or more than one hundred dollars.

Source: Section 76-546

010. Any Holder of a Certificate of Registration or Temporary Certificate of Registration shall notify the Director in writing within thirty (30) days of any change of his or her business address, increase or decrease in the number of places of business and the address(es) of the same.

Source: Section 76-541 and 76-546

011. When an Applicant is rejected for any cause, the unsuccessful Applicant shall be notified as promptly as practicable and informed of the reason or reasons for his or her rejection.

Source: Section 76-541

012. Annual Renewal: Upon receipt of the renewal fee in an amount which shall be not less than ten dollars or more than thirty dollars for a Certificate of Registration, and upon compliance with all applicable Rules, the Director of the Board shall issue a Certificate of Registration” to each applicant whose registration is in full force. Such renewal shall be for the following year beginning April 1 and ending on the immediately following

April 1, unless cancelled, suspended or revoked by the Board.

Source: Section 76-545, 76-547 and 76-548

RULE NO. 4

CERTIFICATE OF REGISTRATION NOTICE OF ANNUAL FEE

001. Prior to March 1 of each year, the Director shall notify all persons currently registered under the Abstracters Act of expiration and shall at the same time provide application for renewal including a statement for the annual fee for the following year and that it will be due and payable on or before April 1.

Source: Section 76-547

002. Each applicant for renewal must return the Application for Renewal, together with the appropriate fee, to the Director on or before April 1.

Source: Section 76-547

003. Any registration which has not been renewed for the next April 1 to April 1 period in any one year will be cancelled on April 1. The Director will immediately remove said registration from the active roster and within thirty (30) days, shall notify said registrant by registered or certified mail of the fact of such cancellation and removal. Nothing contained in this Rule shall be construed as excusing any person, firm, partnership or individual from the provisions of the Abstracters Act, Secs. 76-502 et. seq., which prohibit engaging in the business of abstracting contrary to the provisions of said Act.

Source: Section 76-548, 76-539, 76-558

004. Any registrant so cancelled may, before July 1 of the year of expiration, reinstate the registration by submitting a late renewal application and appropriate fee. The fee for reinstatement shall be the same as the annual fee but shall be increased by \$10.00 for each month or fraction of a month the application and fee are delinquent. Upon receipt of the appropriate fee, approval of the application and approval of the completion of the professional development requirements, the Board shall reinstate said registration for the remainder of the year.

Source: Section 76-547 and 76-548

005. Each applicant must complete the professional development requirements imposed by Sec. 76-544 R.R.S., as amended and as set forth in Rule No. 8 before the board shall renew the Certificate of Registration.

Source: Section 76-541, 76-544, 76-547

006. If the Board, in its sole discretion, determines that the applicant has shown good cause for not completing the professional development

requirements, the Board shall permit the applicant to make up all outstanding hours of professional development credits within six (6) months of the renewal of the Certificate of Registration. If the credits are not obtained within such six month period, the certificate shall be revoked.

Source: Section 76-541, 76-544, 76-547

007. After July 1 of each year, any holder of a Certificate of Registration who has not renewed his or her registration by April 1 nor reinstated it by July 1 of that year, shall take the written examination prescribed by section 76-542, R.R.S. and, if he or she passes the examination and meets the other requirements of Section 76-542, R.R.S., he or she shall be given a Certificate of Registration.

Source: Section 76-542 and 76-543

RULE NO. 5

CERTIFICATE OF AUTHORITY

001. Applications for a Certificate of Authority may be obtained from the Director of the Abstracters Board of Examiners.

Source: Section 76-545

002. Applications must be typed or neatly printed in ink on forms prescribed and furnished by the Board. To be acceptable they must be filled out completely and in the detail required.

Source: Section 76-541 and Section 76-542

003. No Application for a Certificate of Authority will be accepted unless it is accompanied by a check, draft or money order in an amount which shall not be less than twenty five dollars or more than one hundred dollars, made payable to the Abstracters Board of Examiners.

Source: Section 76-545

004. Applicant shall furnish proof that such applicant is or has employed a registered abstracter, as defined in the Abstracters Act, Secs. 76-502, et. seq., R.R.S., Nebraska.

Source: Section 76-545

005. Any holder of a Certificate of Authority shall, within fifteen (15) days of the termination of employment, death or incapacity of any registered abstracter employed by said holder, notify the Director, in writing, of the fact of such termination, death or incapacity. Such holder shall furnish any additional information regarding such termination, death or incapacity as the Board and/or Director may require.

Source: Section 76-545

006. If the termination of employment, death or incapacity of a Registered Abstracter leaves the holder of a Certificate of Authority without a Registered Abstracter in its employ, such holder shall immediately cease any business of abstracting and forward its Certificate of Authority for cancellation. Alternatively, any person to whom Section 76-546, R.R.S. Nebraska, is applicable, may proceed pursuant to that Section to apply for a temporary certificate of registration, in accordance with these Rules.

Source: Section 76-546

007. Any holder of a Certificate of Authority shall notify the Director in writing within thirty (30) days of any change of its business address, increase or decrease of places of business and the address(es) of the same.

Source: Section 76-541, 76-545, 76-546

RULE NO. 6

CERTIFICATE OF AUTHORITY NOTICE OF ANNUAL FEE

001. Prior to March 1 of each year, the Director shall notify all persons or business entities currently registered under the Abstracters Act of the expiration and shall provide at the same time an application for renewal, together with a statement for the annual fee for the following year, which fee shall be due and payable on or before April 1 of the same year.

Source: Section 76-547

002. Each applicant for renewal must return the Application for Renewal, and the appropriate fee to the Director on or before April 1.

Source: Section 76-547

003. Any certificate of authority which has not been renewed for the next April 1 to April 1 period in any year will be cancelled on April 1. The Director will immediately remove said Certificate of Authority from the active roster and shall, within thirty (30) days, notify the applicant of such cancellation and removal by Registered or certified Mail.

Source: Section 76-547

004. Any applicant so cancelled may, before July 1 of the year of expiration, reinstate the certificate of authority by submitting a late renewal application and appropriate fee. The fee for reinstatement shall be the same as the annual fee but shall be increased \$10.00 for each month or fraction of a month the application and fee are delinquent. Upon receipt of the appropriate fee and approval of the application the Board shall reinstate such Certificate of Authority for the remainder of the year.

Source: Section 76-548

005. Upon receipt of the renewal fee in an amount not less than twenty five dollars nor more than one hundred dollars for a Certificate of Authority, and upon compliance with all applicable rules, the director of the Board shall issue a Certificate of Authority to each applicant whose registration is in full force. Such renewal shall be for the period beginning April and ending on the next following April 1 unless cancelled, suspended or revoked by the Board.

Source: Section 76-545, 76-547 and 76-548

RULE NO. 7

EXAMINATIONS

001. Examinations shall be conducted as prescribed in Sections 76-502 to 76-588. R.R.S., as amended, at such times and places as the Board may designate, but shall be given at least twice a year. The Board on its own motion may conduct the examination in a manner which provides security, reduces the risk of cheating or plagiarism and is not in conflict with these Rules.

Source: Section 76-541

002. The application for registration is a part of the examination. Each applicant must show to the satisfaction of the Board that he or she meets the minimum requirements set forth in Section 76-502 to 76-588, R.R.S., as amended, before he or she will be admitted to any examination. If the application is not accepted, the examination fee, tendered pursuant to Rule 3.003, shall be returned or refunded to the Applicant.

Source: Section 76-541

003. Upon receipt of a completed application and the application fee, the Director shall acknowledge the application and advise the applicant that the routing of making the necessary investigations will be followed and that he or she will be notified no later than 30 days before the written examination whether he or she will be admitted to the examination, and of the time and place of the examination.

Source: Section 76-541 and 76-542

004. In the event an Applicant does not appear for either of the two examinations held after he or she has been advised of admittance to the examination, he or she must repeat the application process, including the payment of the prescribed fees, before being permitted to take a subsequent examination.

Source: Section 76-541 and 76-542

005. The written examination shall be comprised of four sections, i.e.: District

Court; County Court; legal descriptions; and general knowledge of the practice of abstracting. Each section will be of not less than three and one-half hours duration.

Source: Section 76-541 and 76-543

006. Each applicant shall submit, as a portion of his or her application, a summary or digest of his or her land title-related experience and training. No person shall be eligible for admittance to the examination until the Board has determined that he or she has demonstrated the minimal experience required by Section 76-542.

Source: Section 76-541 and 76-542

007. Any applicant or applicants may be called before the Board for a personal interview.

Source: Section 76-542

008. Any applicant, in order to qualify for registration, must pass the examination. Each member of the Board will independently grade the examination and give a grade of "Pass" or "Fail" to the applicant. The Board will determine which applicants have passed or failed the examination. The applicant, the Director or any Member of the Board may request that the grade on an examination be reviewed by the Board at a regular meeting. Such request must be delivered in writing to the Director of the Board within sixty (60) days of notification of the grades. The decision of the Board in such reviews will be final.

Source: Section 76-541 and 76-543

009. If any applicant fails to pass the examination he or she may be re-examined no sooner than the next regularly-scheduled examination, but no later than two years following the failed examination, upon remittance of the examination fee.

010. If any applicant passes two or more sections of the examination, he or she will not be required to retake the sections passed.

010.1. Such an applicant shall have two years from the date of the original examination to retake the sections not passed. If the applicant has not passed all four parts within the two-year period, the applicant will be required to retake the entire examination.

010.2. Any applicant re-examined will be required to remit the regular examination fee before being admitted to any re-examination.

Source: Section 76-541 and 76-543

011. The Board shall have the authority to impose, in its discretion, any further or additional rules or regulations necessary to the efficient and fair administration of the examination, so long as such further or additional rules or regulations do not affect any substantive rights of any applicant.

Source: Section 76-542

RULE NO. 8

PROFESSIONAL DEVELOPMENT

001. Each applicant for renewal of a Certificate of Registration shall certify to the Board that he or she has duly acquired three (3) hours of board-approved professional development credits.

Source: Section 76-541 and 76-544

002. Professional development credits shall be awarded on the basis of attendance at Board-approved seminars, workshops or correspondence courses which are directly related to the practice of abstracting, at a rate of 1.0 Professional Development Credit for each actual hour of attendance.

Source: Section 76-541 and 76-544

002.01. Program sponsors will be required to submit to the Board an outline of each program for which professional development credits is sought. Such outline must be submitted not later than forty five (45) days prior to the date set for presentation of the program. Upon review of the outline and any other information submitted by program sponsors, the Board may approve or disapprove of the number of professional development credit hours sought, or the Board may approve a lesser number of credit hours than originally sought by the program sponsor.

002.02. Program sponsors may request approval of professional development programs for credit in letter form with course outlines, syllabi or other relevant material attached.

002.03. If a program consists of a session of more than one day's duration, the credits may be divided between the days, and credits may be obtained for hours of actual attendance on any day or days of any particular program, unless the granting of partial or divided credits would be achieved only through a break in continuity of subject matter of a particular program.

002.04. Once the Board has approved the professional development program for professional development credits, the program sponsor must mail notice of such program to all registered abstracters within the State of Nebraska at least twenty (20) days in advance of the program presentation. The official roster of Registered Abstracters as maintained by the Director shall control in the event of any controversy regarding mailing of notice to any particular abstracter or abstracters.

002.05. Any correspondence course for which approval of professional development credits is requested will be examined by the Board with strict scrutiny in order to determine, to the extent possible, that integral to such courses are sufficient controls to ensure that the courses are administered in a fair, professional manner, to ensure that the individuals seeking professional development credits actually participate in, and successfully complete, the course for the actual number of hours for which credit is sought.

002.06. APPEAL OF AWARD OF CREDIT HOURS. Any program sponsor may request that the Board of Examiners review the number of credit hours awarded that sponsor's professional development programs. Such request shall be in writing and shall be received at the Office of the Board of Examiners not later than ten days following the date of mailing, to the program sponsor, of the original notice of award of credit hours. Upon receipt of a written request for review, the Board of Examiners shall forthwith conduct its review and advise the program sponsor, in writing, of:

(a) an award of a greater number of credit hours than originally granted, or;

(b) no change in the number of credit hours granted.

The Board of Examiners shall complete its review and notification of the program sponsor within ten days of receipt of the sponsor's request for review.

002.07. PROGRAM EVALUATION. Each program sponsor shall be required to implement a meaningful system of evaluation of individual professional development programs and of the individual instructors/faculty who present material for the programs. Such evaluations shall be in written form, completed by those individuals attending the particular program for credit, and the results of such evaluations shall be communicated, in writing, by the program sponsor, to each instructor/faculty member and to the Board of Examiners. The Board of Examiners shall retain the evaluations in permanent file and may consider the results of the valuations in awarding professional development credit hours to future programs.

003. Upon completion of an approved professional development program, the program sponsor shall furnish, to each individual who completes said program, a Certificate of Completion showing the name of the individual, the date of the program, and the number of credit hours obtained at the program. Program sponsor shall furnish the Office of the Abstracters Board of Examiners with an alphabetical list of those abstracters who successfully completed the program.

Source: Section 76-541, 76-544 and 76-547

004. The Board may refuse to grant professional development credit to any abstracter who, within any prescribed two-year professional development credit period, attends more than one program with substantially identical subject matter.

Source: Section 76-541, 76-544 and 76-547

RULE NO. 9

COMPLAINTS AND DISCIPLINARY ACTION

001. The Board may, upon its own motion, and shall, upon the sworn

complaint in writing of any person, investigate the actions of any Registered Abstracter or holder of a Certificate of Authority.

Source: Section 76-552

002. The Board may, in the performance of its investigation, compel by subpoena the appearance of the abstracter or holder of a Certificate of Authority to appear before the Board to aid in the investigation.

Source: Section 76-541, 76-552, 84-914

003. The Board may retain any persons it deems appropriate to aid in its investigation of any abstracter or holder of a Certificate of Authority. The Chairman may appoint a committee to investigate the abstracter or the holder of a Certificate of Authority upon a motion of the Board.

Source: Section 76-541

004. Hearings on all complaints regarding abstracters or holders of Certificates of Authority shall be in compliance with Rule No. 10.

Source: Section 76-541, 84-901 - 84-920

005. The Board shall have the power to impose discipline, after a hearing, upon a registered abstracter or holder of a Certificate of Authority, as provided in the Abstracters Act.

Source: Section 76-551, 76-552

RULE NO. 10

HEARINGS

001. LOCATION: Hearings shall be held in the State of Nebraska at a location designated by the Director of the Board.

Source: Section 76-541, 84-913

002. APPEARANCE BEFORE THE BOARD: Practice of law before the Board shall be governed by the statutes of the State of Nebraska and the decisions of the Supreme Court of the State of Nebraska. Nothing herein contained shall prevent any party from transacting his or her own business before the Board. In the event of an appearance of some person on behalf of a party, the person appearing must either be admitted to the practice of law before the Supreme Court of the State of Nebraska or be admitted to practice law before the supreme court of any other state and be associated with a person admitted to practice law before the Supreme Court of the State of Nebraska.

Source: Section 76-541, 84-913

003. PARTIES: Parties appearing before the Board shall be designated as follows:

- 003.01.** Applicants: in all proceedings involving applications for registration or renewal under the Abstracters Act, as amended, the party or parties on whose behalf the application is made.
- 003.02.** Respondents: Party or parties ordered by the Board to appear in a proceeding, including complaint proceedings.
- 003.03.** Complainants: any party filing a complaint under the provisions of the Abstracters Act, as amended.
- 003.04.** Intervenors: Any person or party having an interest in any proceeding before the Board, and who voluntarily enters into the proceeding with the leave of the Board.

Source: Section 76-541, 84-913

- 004.** PLEADINGS: Any written application or protest thereto; any petition or intervention or answer or reply thereto; any complaint or any answer or reply thereto; or any motion or affidavit in support thereof, shall all constitute pleadings for the purposes of these Rules.

Source: Section 76-541, 84-913

- 005.** COMPLAINTS: A complaint, where applicable, may be filed by a person, organization, corporation or the Board on its own motion. The complaint shall set forth the names of the party complainant, the name of the parties against whom the complaint is made, a concise description of the complaint or alleged violation, and any other facts necessary. Complaints must be in writing, sworn to and signed by the complainant. Complaints by the Board on its own motion shall be signed by the Chairman.

Source: Section 76-541, 84-913

- 006.** PROCEDURE FOR HEARING NOT ASSOCIATED WITH COMPLAINTS: All hearings which do not pertain directly to a complaint filed pursuant to Section 76-551 to 76-553 shall be conducted by the Board with the Director acting as hearing examiner. The hearing examiner will, among other things, open the proceedings, enter into the record the notice of hearing, take appearances, hear the evidence, rule on motions and objections, interrogate, if deemed necessary, any witness and close the proceedings. Hearings conducted by the Board will, unless circumstances dictate otherwise, be incorporated with regular meetings of the Board and a quorum shall be present.

Source: Section 76-541, 84-913

- 007.** PROCEDURE FOR HEARING ON COMPLAINT: All hearings which directly pertain to a complaint filed pursuant to Sections 76-551 to 76-553 shall be conducted by a hearing examiner appointed by the Board. The hearing examiner may be any person except a voting member of the Board. The hearing examiner shall have the power to compel the attendance of witnesses and to administer oaths. The hearing examiner will, among other things, open the proceedings, enter into the record the notice of hearing, take appearances, hear the evidence, rule on motions

and objections, interrogate, if deemed necessary, any witness and close the proceedings. The hearing shall make in writing complete findings and recommendations to the Board.

Source: Section 76-541, 76-551 - 76-553, 84-913

008. OPENING STATEMENTS: ORAL ARGUMENTS: BRIEFS: Opening statements and oral argument following the close of presentation of evidence will not be permitted unless specifically requested by the Board or its hearing examiner. Any party wishing to submit a brief of the matter presented at any hearing may do so within the time allotted by the hearing examiner.

Source: Section 76-541, 84-913

009. MOTIONS FOR CONTINUANCE: Any party who desires a continuance shall file a motion with the Director of the Board. Such motion shall be in writing and it shall state the reasons why such continuance is necessary. All motions for continuance shall be filed at least five (5) calendar days prior to the date set for the hearing unless the party requesting the continuance can show good cause for the delay in filing. For good cause shown, the Director may grant a continuance.

Source: Section 76-541, 84-913

010. MAILING OF ORDERS OF THE BOARD: All orders of the Board, following the close of any hearing, shall be transmitted to the parties of record by certified mail. The orders of the Board shall contain findings, determinations and orders in the matter and shall be signed by all members concurring therein.

Source: Section 76-541, 84-913

011. EVIDENCE: The Board is not bound to follow the technical rules of evidence. Evidence shall be admissible which possesses probative value commonly accepted by reasonable men in the conduct of their affairs. Evidence which is cumulative or repetitions may be excluded by the Board or hearing examiner. Provided, however, the Board shall be governed by the statutes governing the administrative agencies of the State of Nebraska, Chapter 84, Article 9 of the Revised Statutes of Nebraska.

Source: Section 76-541

012. APPEAL PROCEDURE: Any appeal of any decision or order of the Board may be judicially reviewed. Such review shall be wholly in accordance with the provisions of the Administrative Procedure Act of the State of Nebraska.

Source: Section 76-541, 84-917

013. EXHIBITS: SOURCE: Sec. 76-541, 84-913

013.01. When any exhibit consists of three (3) or more pages, each page shall be consecutively numbered. Any detailed or complex exhibits consisting of

more than three (3) pages or with several distinct parts shall be prefaced with an index.

- 013.02.** Each exhibit shall be consecutively marked and numbered.
- 013.03.** Any party desiring to introduce into evidence any part or parts of the official files shall obtain copies thereof in advance of hearing.
- 013.04.** Any party proposing to introduce exhibits into evidence into any proceeding before the Board shall furnish copies of exhibits to the opposing party and all Board Members. Failure to supply copies of said exhibit will cause it to be excluded from the hearing unless good and sufficient reason be shown by the party offering the same for the failure to supply copies.
- 013.05.** Relevant portions of books, papers, or documents shall be plainly designated and distinguished from all irrelevant portions before the relevant material may be offered into evidence.
- 014.** SUBPOENAS: Subpoenas requiring the attendance of witnesses will be issued by the Examiner, through the Director or such person designated in writing by the Director, upon written application of any party, in care of the Director and shall be delivered to the Director not later than fourteen (14) days prior to the scheduled hearing.
Source: Section 76-541, 84-913
- 015.** DEPOSITIONS: Depositions used in proceedings before the Board are governed by the following rules:
Source: Section 76-514, 84-913
- 015.01.** All depositions within this state shall be taken at least ten (10) days prior to the date of the hearing, and all depositions outside of this state shall be taken at least (15) days prior to the hearing date, except for good cause shown in writing.
- 015.02.** Depositions shall be taken in accordance with the rules of civil procedure.
- 015.03.** The official taking the deposition shall promptly seal the same along with all exhibits in an envelope, endorsed with the title of the proceeding, and send the same by registered mail to the Director of the Board. The deposition shall reach the Board, except for good cause shown, at least three (3) days prior to the date of hearing at which it is to be offered as evidence. The official taking the deposition; shall give prompt notice of its filing to all parties of record.
- 016.** NOTICE: In any hearing before the Board or before a Hearing Examiner duly appointed by the Board, the Director shall notify the registrant, applicant, or respondent, at least twenty (20) days prior to the date set for the hearing. Such notice shall be in writing and contain an exact statement of the charges against him or her and the date and place of hearing. Such notice may be served by personal delivery to the registrant, applicant or respondent or by registered or certified mail addressed to him or her at his or her last known business address as shown on the

registration or application for registration.

Source: Section 76-514, 76-551, 84-913

017. RECORDS: In any hearing before the Board or before a Hearing Examiner duly appointed by the Board the Director shall cause a verbatim record of the testimony to be made. The respondent or applicant shall receive one copy of the record at no charge to him or her. Additional copies of the record shall be available to the respondent, applicant or any other person t a fee which shall equal the cost of reproduction and handling, as determined by the Director.

Source: Section 76-541, 84-913

018. ADMINISTRATIVE RULES: In all cases not covered by these Rules and Regulations, or when these Rules and Regulations shall be in conflict with the administrative Procedures Act, Sections 84-901 to 84-920, R.R.S. Nebraska, as amended, said Administrative Procedures Act shall control.