
ASSEMBLY BILL NO. 390—ASSEMBLYMEN STEWART;
CLABORN, HAMBRICK AND MUNFORD

MARCH 16, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to business brokers.
(BDR 54-1067)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to business brokers; revising the definition of “business broker”; revising certain requirements to engage in the business of a business broker; revising certain continuing education requirements for business brokers; revising certain requirements for the appointment of designated business brokers for the supervision of other business brokers; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 1** of this bill revises the definition of “business broker.” (NRS
2 645.0075) **Section 2** of this bill exempts certain entities from the requirement of
3 obtaining a permit to engage in business as a business broker if the transactions
4 conducted by the entity involve only certain types of income-producing property.
5 (NRS 645.230) **Section 3** of this bill increases the number of hours of continuing
6 education required for the renewal of a permit as a business broker and establishes
7 the type of instruction an applicant for the issuance or renewal of a permit as a
8 business broker must complete. (NRS 645.863) **Section 4** of this bill describes the
9 activities a business broker must have completed for the purposes of appointment
10 as a designated business broker who supervises the activities of other business
11 brokers in an office. (NRS 645.867)



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 645.0075 is hereby amended to read as
2 follows:

3 645.0075 **1.** “Business broker” means a person who, while
4 acting ~~[as a real estate broker, real estate broker-salesman or real~~
5 ~~estate-salesman]~~ for another and for compensation or with the
6 intention or expectation of receiving compensation:

7 ~~[1-]~~ **(a)** Sells, exchanges, options *to lease, options to purchase*
8 or purchases a business;

9 ~~[2-]~~ **(b)** Negotiates or offers, attempts or agrees to negotiate the
10 sale, *lease*, exchange, option or purchase of a business; or

11 ~~[3-]~~ **(c)** Lists or solicits prospective purchasers of a business.

12 **2.** *For the purposes of this section, “business” means a*
13 *person who is required to obtain a state business license pursuant*
14 *to NRS 360.780.*

15 **Sec. 2.** NRS 645.230 is hereby amended to read as follows:

16 645.230 **1.** It is unlawful for any person, limited-liability
17 company, partnership, association or corporation to engage in the
18 business of, act in the capacity of, advertise or assume to act as, a:

19 (a) Real estate broker, real estate broker-salesman or real estate
20 salesman within the State of Nevada without first obtaining the
21 appropriate license from the Real Estate Division as provided for in
22 this chapter;

23 (b) Property manager within the State of Nevada without first
24 obtaining from the Real Estate Division as provided for in this
25 chapter a license as a real estate broker, real estate broker-salesman
26 or real estate salesman and a permit to engage in property
27 management;

28 (c) Designated property manager within the State of Nevada
29 without complying with the provisions of NRS 645.6055;

30 (d) Business broker within the State of Nevada without first
31 obtaining from the Real Estate Division as provided for in this
32 chapter a license as a real estate broker, real estate broker-salesman
33 or real estate salesman and *, except as otherwise provided in*
34 *subsection 4*, a permit to engage in business as a business broker
35 issued pursuant to the provisions of NRS 645.863; or

36 (e) Designated business broker within the State of Nevada
37 without complying with the provisions of NRS 645.867.

38 **2.** The Real Estate Division may prefer a complaint for a
39 violation of this section before any court of competent jurisdiction
40 and may assist in presenting the law or facts upon any trial for a
41 violation of this section.



1 3. The district attorney of each county shall prosecute all
2 violations of this section in their respective counties in which
3 violations occur, unless prosecuted by the Attorney General. Upon
4 the request of the Administrator, the Attorney General shall
5 prosecute any violation of this section in lieu of the district attorney.

6 *4. Except as otherwise provided in subsection 5, a person,*
7 *limited-liability company, partnership, association or corporation*
8 *is not required to obtain a permit as a business broker issued*
9 *pursuant to the provisions of NRS 645.863 if all transactions in*
10 *which the person, limited-liability company, partnership,*
11 *association or corporation is engaged, acts, advertises or assumes*
12 *to act involve the sale, exchange, option to lease, lease, option to*
13 *purchase or purchase of the following types of income-producing*
14 *property:*

- 15 (a) *Shopping centers;*
- 16 (b) *Shopping malls;*
- 17 (c) *Retail buildings;*
- 18 (d) *Motels;*
- 19 (e) *Office buildings;*
- 20 (f) *Warehouses;*
- 21 (g) *Industrial buildings;*
- 22 (h) *Farms;*
- 23 (i) *Ranches;*
- 24 (j) *Home-based businesses;*
- 25 (k) *Self-storage facilities;*
- 26 (l) *Apartment buildings; and*
- 27 (m) *Residential properties composed of one or more units.*

28 *5. The exception provided by subsection 4 does not apply to*
29 *any person, limited-liability company, partnership, association or*
30 *corporation that transacts business on behalf of a person who is:*

- 31 (a) *A tenant of a property described in subsection 4; and*
- 32 (b) *Required to obtain a state business license pursuant to*
33 *NRS 360.780.*

34 **Sec. 3.** NRS 645.863 is hereby amended to read as follows:

35 645.863 1. A person who is licensed as a real estate broker,
36 real estate broker-salesman or real estate salesman pursuant to this
37 chapter may apply to the Real Estate Division for a permit to engage
38 in business as a business broker.

39 2. An applicant for a permit must:

40 (a) Provide proof satisfactory to the Real Estate Division that he
41 has successfully completed at least 24 hours of instruction relating
42 to business brokerage; and

43 (b) Comply with any other requirements for the issuance of a
44 permit established by the Commission.



1 3. A permit expires on the same date as the license of the
2 holder of the permit expires. A permit may be renewed at the time
3 that a person licensed pursuant to this chapter applies for renewal of
4 his license.

5 4. An applicant for the renewal of a permit must:

6 (a) Provide proof satisfactory to the Real Estate Division that he
7 has successfully completed , *in addition to any continuing*
8 *education required to renew a license issued pursuant to this*
9 *chapter*, at least ~~[3]~~ *12 additional* hours of continuing education
10 ~~[required for the renewal of his license pursuant to the regulations~~
11 ~~adopted by the Commission pursuant to NRS 645.575]~~ in an
12 approved educational course, seminar or conference relating to
13 business brokerage.

14 (b) Comply with any other requirements for renewal of a permit
15 established by the Commission.

16 5. The Commission shall adopt such regulations as are
17 necessary to carry out the provisions of this section. The regulations
18 must include, without limitation, provisions that establish:

19 (a) Requirements for the issuance or renewal of a permit.

20 (b) Fees for:

21 (1) The issuance or renewal of a permit;

22 (2) The cost of any examination required of an applicant for
23 a permit, including, without limitation, any costs which are
24 necessary for the administration of an examination; and

25 (3) The cost of any investigation of an applicant for a permit.

26 (c) Standards of education for the approval of a course of
27 instruction to qualify an applicant for the issuance or renewal of a
28 permit.

29 *6. The continuing education required by subsections 2 and 4*
30 *must include, without limitation, courses of instruction in:*

31 *(a) The due diligence process;*

32 *(b) Laws and regulations relating to business brokers in*
33 *Nevada;*

34 *(c) Recasting financial statements; and*

35 *(d) Structuring purchase transactions.*

36 **Sec. 4.** NRS 645.867 is hereby amended to read as follows:

37 645.867 1. If a real estate broker does not hold a permit to
38 engage in business as a business broker but intends to have the
39 activities of a business broker conducted at an office, the real estate
40 broker must:

41 (a) Appoint a person, who has the qualifications required by this
42 section, as the designated business broker for the office to supervise
43 the activities of a business broker conducted at the office; and

44 (b) Submit notice of the appointment to the Division.



1 2. The designated business broker for an office must be a
2 natural person who:

3 (a) Holds a license as a real estate broker or real estate broker-
4 salesman;

5 (b) Holds a permit to engage in business as a business broker;
6 and

7 (c) Has 2 years active experience, within the 4 years
8 immediately preceding the date of the appointment, in conducting
9 the activities of a business broker in the United States as a licensed
10 real estate broker, real estate broker-salesman or real estate
11 salesman.

12 3. While acting as the designated business broker for an office,
13 the person:

14 (a) Must comply with all applicable provisions of this chapter;
15 and

16 (b) Is subject to all the remedies and penalties provided for in
17 this chapter.

18 ***4. For the purposes of paragraph (c) of subsection 2, a***
19 ***person has "2 years' active experience, within the 4 years***
20 ***immediately preceding the date of the appointment" if the person***
21 ***has personally listed a minimum of four exclusive or nonexclusive***
22 ***business listings and personally closed the sale of at least four***
23 ***businesses during 2 of the 4 years immediately preceding the date***
24 ***of the appointment. Such listings and closings must be verified by***
25 ***providing the Division with:***

26 ***(a) A sworn affidavit by the seller or buyer for each listing and***
27 ***closing; or***

28 ***(b) Copies of the listing agreements and closing documents for***
29 ***each listing and closing, respectively.***

