

LCB File No. R031-04

**PROPOSED REGULATION OF THE REAL ESTATE DIVISION
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**(NOTE: Section 4 has been removed from this regulation and is now located in R050-04;
Sections 41, 80 and 81 have also been removed and are now located in R126-04)**

GLOBAL CHANGES THROUGHOUT THE CHAPTER:

- 1.) Everywhere that we refer to a form to be “provided” by the Real Estate Division, we want to change that to “approved” by the Real Estate Division.
- 2.) In all areas that refer to a “salesman, broker-salesman and/or broker” change it to read “Nevada licensee”.
- 3.) Add LLC everywhere that partnership and corporation appear.

Authority: NRS 645.190

Note: Matter *italicized and bolded* is new; matter in brackets [] is material to be omitted.

Section 1. Chapter 645 of NAC is hereby amended by adding thereto section(s) 2-84, of these proposed regulations.

Sec. 2. Chapter 645 of NAC is hereby amended by adding thereto the following:

Rules of Practice

RULES OF EVIDENCE

1. ***In conducting any investigation, inquiry or hearing, the Commission, its Officers or the Division employees are not bound by the technical rules of evidence and any informality in a proceeding or in the manner of taking testimony does not invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission.***
2. ***Rules of evidence recognized by the courts of Nevada will be followed generally but may be relaxed by the Commission when deviation from the technical rules of evidence may aid in ascertaining the facts.***
3. ***When an objection is made to the admissibility of evidence, the Commission may:***
 - a) ***Note the objection and admit the evidence;***
 - b) ***Sustain the objection and not admit the evidence; or***
 - c) ***The evidence may be received subject to a later ruling by the Commission.***
4. ***To be admitted at the hearing, evidence must be material and relevant to the issues involved.***
5. ***The Commission may exclude inadmissible, incompetent, cumulative or irrelevant evidence, or order that presentation of that evidence be discontinued.***

6. *A party objecting to the introduction of evidence shall state briefly the grounds of the objection at the time the evidence is offered. The party offering the evidence will then have an opportunity for rebuttal.*

MOTIONS: SUBJECT MATTER; SERVICE; WRITTEN RESPONSE

1. *A motion must be made in writing, unless otherwise authorized by the Commission during the hearing.*
2. *The Commission may require oral argument and/or the submission of additional facts or evidence to decide a motion.*
3. *A written motion must be served on the opposing party and the Commission at least 10 working days before the time set for the hearing.*
4. *An opposing party may file a written response to a motion within 7 working days after the receipt of the motion by serving the written response on all parties and the Commission, but in no case may a written response be filed less than 3 working days before the time set for the hearing except for good cause shown and with the permission of the Commission.*

DISCOVERY OF EVIDENCE

1. *Not less than 5 working days prior to a hearing, a Respondent must provide to the Division, copies of all documents that are reasonably available to the party which the party reasonably anticipates will be used in support of his position.*
2. *A party who provides documents pursuant to this regulation shall promptly supplement and update his submission to the Division if, after initially providing documents, any additional documents are discovered or if any of the documents previously provided changes.*
3. *If a party fails to provide documents prior to the hearing, as required in this section, the Commission has the discretion to exclude the undisclosed document.*
4. *Ten (10) copies of each document sought to be admitted into evidence must be brought to the hearing.*

COMPLAINT: AMENDMENT; CONTINUANCE; WITHDRAWAL

1. *A complaint may be amended at any time.*
2. *The Commission may grant a continuance if the amendment materially alters the complaint and the respondent demonstrates an inability to prepare for the case in a timely manner due to the amendment.*
3. *A complaint may be withdrawn at any time before the hearing begins.*

VOLUNTARY SURRENDER IN LIEU OF OTHER DISCIPLINE

The Commission may accept a voluntary surrender of the license, permit, registration or certificate in lieu of imposing any other disciplinary action set forth in Chapter 645.

FAILURE TO APPEAR

If a party fails to appear at a hearing scheduled by the Commission and a continuance has not been granted, upon an offer of proof by the other party that the absent party was given proper notice and upon a determination by the Commission that proper notice was given, the Commission may proceed to consider the case without the participation of the absent party and may dispose of the matter on the basis of the evidence before it. If the respondent fails to appear at the hearing or fails to reply to the notice, the charges specified in the complaint may be considered as true.

REPORTING OF DISCIPLINARY ACTION OR DENIAL OF APPLICATION FOR LICENSURE.

- 1. The Commission may report any disciplinary action it takes against a licensee to:
 - (a) Any national repository which records disciplinary action taken against licensees;*
 - (b) Any agency of another jurisdiction that regulates the practice of real estate; or*
 - (c) Any other agency or board of the State of Nevada.**
- 2. The Commission may report its denial of an application for license to:
 - (a) Any national repository that records disciplinary action taken against licensees;*
 - (b) Any agency of another jurisdiction that regulates the practice of real estate; or*
 - (c) Any other agency or board of the State of Nevada.**

Broker Required to be Present

At any disciplinary hearing for a real estate salesperson or broker-salesperson licensee, that licensee's broker of record must be present.

Sec. 3. **(DELETED, see R050-04)** Chapter 645 of NAC is hereby amended by adding thereto the following:

Real estate licensees may use the terms "team" or "group" to advertise and promote real estate services if those terms do not constitute the use of a trade or d.b.a. name, and all of the following are true:

- 1. The team or group is comprised of real estate licensees.*
- 2. The team or group members are employed by the same employing broker.*
- 3. The name of the team or group must contain at least the last name of one of the members.*
- 4. The advertising otherwise complies with any other provisions under chapter 645 of NRS and NAC.*

Note: Sec. 4 has been removed from this regulation and is now located in R050-04

Sec. 4. Chapter 645 of NAC is hereby amended by adding thereto the following:

The fee that each applicant, licensee, certificate holder, registrant or permit holder under this chapter must pay for a background check pursuant to NRS 645.830(3) shall not exceed the actual administrative cost of such background check.

Sec. 5. Chapter 645 of NAC is hereby amended by adding thereto the following:

Any applicant, licensee, permit holder, registrant, education provider, sponsor or school under this chapter shall be canceled and the applicant, licensee, permit holder, registrant, education provider, sponsor or school shall be fined, if any instrument given to the division is not honored by the financial institution upon which it is drawn.

Sec. 6. Chapter 645 of NAC is hereby amended by adding thereto the following

As used in this Chapter, the term “distance education” shall be understood to refer to educational programs in which instruction is accomplished through the use of media whereby teacher and student are separated by distance and sometimes by time. An entity requesting approval of a distance education course must, in addition to satisfying all other requirements for elective course approval specified in this Section, demonstrate that the proposed distance education course satisfies the following criteria:

1. The course shall be designed to assure that students actively participate in the instructional process while completing the course by utilizing techniques that require substantial student interaction with the instructor, other students, or a computer program. If the nature of the subject matter is such that the learning objectives for the course cannot be reasonably accomplished without some direct interaction between the instructor and students, then the course design must provide for such interaction.

2. A course that does not provide the opportunity for continuous audio and visual communication between the instructor and all students during the course presentation shall utilize testing and remedial processes appropriate to assure student mastery of the subject material.

3. A course that involves students completing the course on a self-paced study basis shall be designed so that the time required for a student of average ability to complete the course will be at least three hours, and the sponsor shall utilize a system that assures that students have actually performed all tasks designed to assure student participation and mastery of the subject matter.

4. The proposed instructional delivery methods shall be appropriate to enable effective accomplishment of the proposed learning objectives and the scope and depth of the instructional materials must also be consistent with the proposed learning objectives.

5. The sponsor shall provide appropriate technical support to enable students to satisfactorily complete the course.

6. An approved instructor shall be reasonably available to respond in a timely manner to students questions about the subject matter of the course and to direct students to additional sources of information. Instructors shall have appropriate training in the proper use of the instructional delivery method utilized in the course, including the use of computer hardware and software or other equipment and systems.

7. The sponsor shall provide students an orientation or information package which contains all information required by the division to be provided to students and all necessary information about the course, including but not limited to information about course fees and refund policies, course subject matter and learning objectives, procedures and requirements for satisfactory course completion, any special requirements with regard to computer hardware and software or other equipment, and instructor and technical support.

8. *The sponsor shall utilize procedures that provide reasonable assurance that the student receiving continuing education credit for completing the course actually performed all the work required to complete the course. For courses that involve independent study by students, such procedures must include, at a minimum, a direct contact with the student, initiated by the sponsor and directed by the student's home or business, using the telephone or electronic mail and a signed statement by the student certifying that he or she personally completed all course work. Signed student course completion statements, and records of student contacts shall be retained by the sponsor along with all other course records the sponsor is required to maintain.*

9. *An entity seeking approval of a computer-based distance education course must submit a complete copy of the course on the medium that is to be utilized and, if requested, must make available, at a date and time satisfactory to the division and at the sponsor's expense, all hardware and software necessary for the division to review the submitted course. In the case of an Internet-based course, the division must be provided access to the course via the Internet at a date and time satisfactory to the division and shall not be charged any fee for such access.*

10. *In determining whether to approve a course pursuant to this section, the commission shall consider:*

(a) Whether the course consists of at least 3 hours;

(b) Whether the student will be required to complete a written examination proctored by an official approved by the division or other secure electronic method acceptable to the division; and

(c) Whether the course is presented by an accredited college or university that offers distance education in other disciplines; or whether the course design and delivery mechanism has been accredited by a nationally recognized distance education accrediting agency such as, but not limited to, the Association of Real Estate License Law Officials (ARELLO), the American Council on Education Program on Non-Collegiate Sponsored Instruction (ACE/CREDIT), International Distance Education Certification Center (IDECC) or the Distance Education and Training Council (DETC).

11. *Post-licensing and designated continuing education courses required pursuant to this chapter may not be taken through distance education, provided, however, licensees who live in an outlying area may be allowed to take interactive/televideo courses so long as the course involves interaction with an instructor and other students.*

Sec. 7. Chapter 645 of NAC is hereby amended by adding thereto the following

POST-LICENSING COURSE REQUIREMENT

- 1. All first-year licensees shall take a prescribed post-licensing course of education which focuses on practical applications of real estate sale. The post-licensing course will not repeat pre-licensing course content and will constitute the required 30 hours of education required pursuant to NRS 645.575, and shall be offered in modules. First-year licensees who live in an outlying area may be allowed to take interactive or tele-video courses so long as the course involves interaction with an instructor and other students.*
- 2. The post-licensing course must include material which has not previously been approved and/or allowed for continuing education credit. Courses designated for post-licensing shall not be accepted or approved for continuing education credit.*
- 3. The post-licensing curriculum will contain fifteen (15) modules, as follows:*

- a. *Real estate contracts to include writing and presenting the purchase agreement; qualifying prospects;*
- b. *Listing process, market analysis and inspections; *
- c. *Communication, technology & records management which includes time management, goal setting and plan of action;*
- d. *Buyer representation, including buyer's brokerage contract, fiduciary duties, disclosures; cooperation between agents and new home tracts;*
- e. *Professional conduct, etiquette and ethics;*
- f. *Advertising, including Regulation Z, Fair Housing guidelines, MLS, internet websites and email;*
- g. *Proceeds, costs of sale, and cost sheets;*
- h. *Agency relationships;*
- i. *Land;*
- j. *Regulatory disclosures: Federal, State, Local;*
- k. *Property management and management of common-interest communities;*
- l. *Escrow, title & closing process;*
- m. *Financing;*
- n. *Negotiation; and*
- o. *Tax opportunities & liabilities.*

Sec. 8. Chapter 645 of NAC is hereby amended by adding thereto the following:

The standards for continuing education for a person licensed pursuant to this chapter are as follows:

1. For renewal of a salesman license which is on active status, a requirement for the hours of attendance at any approved educational course, seminar or conference of twenty four hours within each subsequent 2-year period, following the first year immediately following the initial licensing, before renewal, which shall be comprised of the following units:

(a) Not less than twelve hours must be devoted to ethics, professional conduct or the legal aspects of real estate as follows:

- (1) 3 hours in the area of agency relationships;*
- (2) 3 hours in the area of Nevada law update;*
- (3) 3 hours in the area of contracts; and*
- (4) 3 hours in the area of law/ethics.*

(b) The designated hours in this subsection may not be taken by distance education unless the exception outlined in Section ____, subsection ____ applies.

2. For renewal of a broker-salesman or broker license which is on active status, a requirement for the hours of attendance at any approved educational course, seminar or conference of twenty four hours within each subsequent 2-year period, following the first year immediately following the initial licensing, before renewal, shall, in addition to the requirements listed in subsection 1 complete no less than three hours in the area of broker management.

3. For reinstatement of a license which has been placed on inactive status, a requirement for total attendance at any approved educational course, seminar or conference of:

(a) Forty-eight hours if the license was on inactive status for 2 years or less during the initial license period;

(b) Twenty-four hours if the license was on inactive status for a period of 2 years or less, no part of which was during the initial license period;

(c) The thirty hour post-licensing course and the twenty-four hour continuing education requirements as outlined in subsection 1, if the license was on inactive status for a period of more than 2 years, part of which was during the initial license period; or

(d) Forty-eight hours if the license was on inactive status for a period of more than 2 years, no part of which was during the initial license period.

For each period, at least 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, as outlined in subsection 1.

Sec. 9. Chapter 645 of NAC is hereby amended by adding thereto the following:

Procedure for withdrawal of approval for continuing education or post-licensing course.

1. If the division audits a course or otherwise determines that the course does not meet the standards for such courses set forth in this chapter, the division shall withdraw the approval of such a course. The administrator shall give the sponsor written notice that approval of the course has been withdrawn and shall provide specific reasons for the withdrawal. The withdrawal of approval of a course is effective upon receipt of the written notice by the school.

2. The division shall give credit to a student for completing the course if the student began the course before the sponsor received written notice of the withdrawal of approval of the course.

3. The sponsor may appeal the decision of the Division to withdraw approval of a course pursuant to this section by making a written demand to the Commission within 20 calendar days after the sponsor receives written notice pursuant to subsection 1 .

4. The Commission will hold a hearing concerning the withdrawal of approval of the course by the Division at its next regularly scheduled meeting and take one of the following actions:

a) Affirm the decision of the Division to withdraw approval of the course;

b) Suspend approval of the course for a limited period and under such conditions as the Commission deems appropriate; or

c) Reverse the decision of the Division to withdraw approval of the course.

Sec. 10. Chapter 645 of NAC is hereby amended by adding thereto the following:

1. The approval or reapproval of any course of continuing education by the Commission is subject to a condition that the Division may audit the course.

2. The Commission's approval of a course for continuing education is effective for 1 year after the original approval or a reapproval.

3. The Division may reapprove a course if no changes in the course have occurred since the course was approved or reapproved.

Sec. 11. Chapter 645 of NAC is hereby amended by adding thereto the following:

General Qualifications for all Instructors

1. All instructor applicants must apply on a form prescribed by the Division.

2. *All instructors must have written approval from the Division prior to teaching an approved course.*
3. *The Division shall not approve as an instructor, without the approval of the Commission, any person who has been disciplined by the Commission or the Division acting on behalf of the Commission:*
 - a) *Within the last 5 years; or*
 - b) *More than 1 time.*
4. *The Division shall not approve as an instructor, without the approval of the Commission, any person who has been found guilty of violating any provision of the real estate license law or any rule, regulation or order of the licensing authority in any state.*
5. *All approved instructors shall be periodically reviewed and evaluated by the Division.*
6. *The Division shall rate the individual's qualifications in education, industry experience and teaching experience. Qualifications will be evaluated using a point system. An individual must obtain a minimum of 70 points to be approved as an instructor. The five major areas of evaluation and maximum points per category are:*
 - a) *Active real estate experience – 20 points*
 - b) *Real estate education – 20 points*
 - c) *Formal education – 20 points*
 - d) *Teaching experience and/or training in instructional techniques – 30 points*
 - e) *Real estate and related experience – 10 points*

Each major category of evaluation shall be comprised of subcategories, thereby allowing consideration of a variety of qualifications. The Division shall require that an instructor applicant submit appropriate documentation in order to be awarded points in any category or subcategory. No points shall be awarded without supporting documentation.

Sec. 12. Chapter 645 of NAC is hereby amended by adding thereto the following:

Instructor Approval for Continuing Education and Post-Licensing Courses

1. *No instructor may begin teaching a course offered for post-licensing or continuing education credit until he has received written approval from the Division.*
2. *Individuals approved for post-licensing instruction must maintain an active Nevada real estate license.*
3. *A person seeking approval to teach an approved continuing education course must meet the qualifications as prescribed for all instructors except that a person may seek approval to teach continuing education courses in his principal occupation by possessing one of the following:*
 - a) *Bachelor's degree in the field of instruction plus at least two years experience in the field of instruction; or*
 - b) *Teaching experience consisting of at least 75 hours in the application field within 3 years immediately preceding the date of the instructor's application plus 3 years full time experience in the field of instruction; or*
 - c) *Six years full time experience in the profession, trade or occupation in the field of instruction; or*
 - d) *Any combination of at least six years of full time experience relevant to the application field and college level education with course work in the field of instruction.*

All instructor applicants qualifying under his principal occupation must submit documentation of qualifications and a resume outlining experience, education and/or teaching experience in the applicable field.

Sec. 13. Chapter 645 of NAC is hereby amended by adding thereto the following

Student Participation Standards

1. Certification of Completion in any approved course constitutes the following participation standards:

(a) A student shall direct his attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction; and

(b) A student shall refrain from engaging in activities which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class. This includes, but is not limited to, the use of voice pagers, beepers and telephones.

2. Instructors may not award a certificate of completion to a student who fails to comply with the student attendance participation standards prescribed in Paragraph (1)(a) & (b).

Sec. 14. Chapter 645 of NAC is hereby amended by adding thereto the following:

Review Of Approved Courses And Instructors

1. All approved courses and instructors are subject to review and/or audit by the real estate Division. In the event of such a review or audit, the sponsor or school shall make available to the division all records requested which are necessary to the review.

2. All approved post-licensing and continuing education instructors and courses shall be evaluated by students on a form prescribed by the Division and provided by the sponsor after every course offering.

3. All evaluations shall be collected by a student in the class and placed in a sponsor-provided pre-addressed envelope which is sealed by the student and submitted to the Division.

4. The Division shall provide to the sponsor a tabulation of the results of the evaluations. The sponsor may request to review course evaluations by making arrangements with the Division.

Sec. 15. Chapter 645 of NAC is hereby amended by adding thereto the following:

Instructor Standards of Conduct and Performance

1. Instructors must assure that class sessions are commenced in a timely manner and are conducted for the full amount of time that is approved. Instructors must assure that each course is taught according to the course plan and instructor guide that was approved by the Commission, including the furnishing to students of appropriate student materials.

2. Instructors must conduct themselves in a professional and courteous manner when performing their instructional duties and must conduct classes in a manner that demonstrates a mastery of the following basic teaching skills:

- (a) *The ability to communicate effectively through speech, including the ability to speak clearly at an appropriate rate of speed and with appropriate voice inflection, grammar and vocabulary;*
- (b) *The ability to present an effective visual image to a class, including appropriate appearance and physical mannerisms;*
- (c) *The ability to present instruction in a thorough, accurate, logical, orderly and understandable manner, to utilize illustrative examples as appropriate, and to respond appropriately to questions from students;*
- (d) *The ability to effectively utilize varied instructional techniques in addition to lecture, such as class discussion, role playing or other techniques;*
- (e) *The ability to effectively utilize varied instructional aids to enhance learning;*
- (f) *The ability to maintain an appropriate learning environment and effective control of a class;*
- (g) *The ability to interact with adult students in a positive manner that encourages students to learn, that demonstrates an understanding of varied student backgrounds, that avoids offending the sensibilities of students, and that avoids personal criticism of any other person, agency or organization.*

Sec. 16. Chapter 645 of NAC is hereby amended by adding thereto the following:

Disciplinary Actions For Instructors, Schools or Course Sponsors

The Division shall revoke or suspend the approval for any instructor and/or school or course sponsor who:

- 1. Is a party to any falsification of any document, verification or other information provided to the Division;*
- 2. Does an inadequate job of teaching the subject matter as evidenced by students' poor performance on the state examination, student evaluations and/or division audits;*
- 3. Publishes or causes to be published any advertising which is not in accordance with federal and state law;*
- 4. Is guilty or has been found guilty of violating or disregarding any provision of Nevada real estate license law or any rule, regulation or order of the Commission or Division;*
- 5. After receiving written warning from the Division, continues to make inaccurate comments to students regarding course content or continues to offer opinions represented as being the law on principles of law to students which are in conflict with any material contained in an approved course.*
- 6. Engages in conduct which constitutes or demonstrates dishonest dealings, bad faith or untrustworthiness.*
- 7. Engages in inappropriate conduct in the classroom including, but not limited to, the use of profanity, telling offensive jokes, and making inappropriate remarks unrelated to the subject matter.*
- 8. Fails to file with the Commission, either by paper or electronically, accurate and complete records by the required deadlines.*
- 9. Awards credit to any student who fails to comply with the student attendance and participation standards.*

A revocation or suspension of instructor or course approval shall be for a period prescribed by the Division. Any instructor whose approval has been suspended or revoked shall not be

reapproved without meeting all current instructor requirements and the approval of the Commission.

Sec. 17. Chapter 645 of NAC is hereby amended by adding thereto the following:

INTERNET ADVERTISING

All licensees disseminating information concerning real property or marketing real properties through the Internet or e-mail:

(1) Are deemed to be engaged in advertising and must comply with NRS 645.315 and NAC 645.610.

(2) Must make all disclosures; obtain appropriate signatures and follow all requirements as set out in chapter 645 of NRS and NAC prior to entering into a licensee/client relationship.

(3) As used in subsection 2 appropriate signature is defined as the actual signature of the client. Mouse clicks on an acceptance box or an e-mail are insufficient to create a licensee/client relationship.

Sec. 18. Chapter 645 of NAC is hereby amended by adding thereto the following:

Advisory Review Committee:

Informal conference: Notification; procedure; report to administrator. (NRS 645.190)

1. If an advisory committee is established to assist the administrator with the review of an investigation conducted pursuant to NRS 645.610 the administrator shall schedule an informal conference between the advisory committee and the licensee who is the subject of the investigation. The administrator shall provide written notice of the time and place of the conference to:

(a) Each member of the advisory committee;

(b) The licensee who is the subject of the investigation; and

(c) Each witness who has been requested to appear at the informal conference.

2. The advisory committee may request the attendance at an informal conference of any person whom the advisory committee believes to have information that is relevant to the matter.

3. When conducting an informal conference, an advisory committee:

(a) May consider all evidence that it deems relevant to the investigation;

(b) Shall rule on the admissibility of evidence;

(c) Is the controlling authority with regard to the admissibility of evidence; and

(d) Need not follow the rules of admissibility of evidence that a court must follow.

4. The chairman of an advisory committee shall file a written report with the administrator that explains the results of the informal conference within 30 days after the conclusion of the informal conference.

5. A report filed pursuant to subsection 1 of NRS 645.493, a report filed pursuant to subsection 4 and all proceedings before an advisory committee are and must remain confidential.

Sec. 19. NAC 645.037 is hereby amended to read as follows:

NAC 645.037 “Inactive not renewed status” defined. “Inactive not renewed status” means that the licensee failed to renew his license for the current license ~~[year]~~ *period*.

Sec. 20. NAC 645.052 is hereby amended to read as follows:

NAC 645.052 “Single-family residence” defined. “Single-family residence” for the purposes of NRS 645.018, includes *but is not limited to an attached residential dwelling*, a condominium, cooperative apartment, ~~[mobile]~~ *manufactured* home and townhouse unit.

Sec. 21. NAC 645.095 is hereby amended to read as follows:

NAC 645.095 Denial of application, license or permit; proof of moral character; appeal. (NRS 645.190, 645.400, 645.6052)

1. The division may deny any application for registration as an owner-developer, a license or a permit issued by the division pursuant to this chapter or chapter 645 of NRS for any reason which is sufficient to deny a license pursuant to NRS 645.330 or when ~~[one or more]~~ *any* of the following conditions exist:

- (a) The application is not in proper form *as approved by the division*;
- (b) The application is not accompanied by the required fees;
- (c) The accompanying forms are incomplete or otherwise unsatisfactory;
- (d) The application contains a false statement;
- (e) Other deficiencies appear in the application;
- (f) An investigation fails to show affirmatively that the applicant possesses the necessary qualifications, including, without limitation, good moral character and financial responsibility;
- (g) The applicant has willfully acted or attempted to act in violation of chapter 113, 116, 119, 119A, 645, 645A, 645C or 645D of NRS or the regulations adopted pursuant thereto, or has willfully aided and abetted another to act or attempt to act in violation of those chapters or regulations;
- (h) The check used in paying the required fees for the registration, license or permit is not honored by the financial institution upon which it is drawn; or
- (i) If the application is for registration as an owner-developer, the applicant fails to verify that he is a licensed contractor in this state.

2. The administrator may require proof of the applicant’s moral character. In determining that character, the administrator shall consider:

- (a) The results of the division’s investigation of matters stated in the application and other matters that have come to the attention of the division as a result of the investigation of the division;
- (b) Any history of arrest and conviction of the applicant;
- (c) The nature and history of the business of the applicant; and
- (d) Any past failure of the applicant to comply with any applicable requirements of chapter 113, 116, 119, 119A, 645, 645A, 645C or 645D of NRS.

3. An applicant whose application is denied by the division may appeal the denial to the commission in the manner set forth in NRS 645.440. If the commission reverses the original decision and determines that the petitioner qualifies for registration, a license or a permit, the application may be accepted as of the date the application was originally submitted or the date on which the fee for the registration, license or permit was paid, whichever is later. The division shall not charge an additional fee.

4. If the division denies an application pursuant to this section, the division will not refund any fees paid pursuant to that application.

Sec. 22. NAC 645.115 is hereby amended to read as follows:

NAC 645.115 Application by a partnership, *limited liability company* or a corporation. Any applicant for a license which is a partnership or corporation must file with the division a certified or verified copy of the partnership agreement, *limited liability company operating agreement* or articles of incorporation.

Sec. 23. NAC 645.120 is hereby amended to read as follows:

NAC 645.120 Financial condition of applicant for broker's license. The division shall consider the financial condition of each applicant for a broker's license and require the following financial information with his application:

1. The applicant's current employer and the employer's address;
2. The applicant's current *financial* obligations, including charge accounts;
3. The applicant's cash on hand;
4. The applicant's checking accounts with amounts;
5. The applicant's savings accounts with amounts;
6. The names and values of securities and stocks held by the applicant;
7. The value and identification of any other assets; and
8. Such other information concerning the applicant's finances as the division deems pertinent.

Sec. 24. NAC 645.150 is hereby amended to read as follows:

NAC 645.150 Investigation of *broker* financial responsibility; proof of good character. (NRS 645.190)

1. The division may investigate the financial responsibility of each *broker* applicant. If the division determines that an applicant is not financially responsible, it may require that the applicant be licensed as a real estate broker-salesman until he meets the requirements of financial responsibility as determined by the commission. An applicant for a real estate broker's license may be required to submit a credit report to the division at his own expense.

2. An applicant for a real estate broker's license shall be deemed financially responsible if he can show liquid assets sufficient to maintain an office for ~~[120]~~ **180** days. The applicant's cash on hand must be on deposit at least 90 days before the date of the application. Anyone denied a license for lack of financial responsibility does not waive his right to appeal pursuant to NRS 645.440 by acceptance of a real estate broker-salesman's license.

3. The administrator may require other proof of the honesty, truthfulness and good reputation of any applicant, including the officers and directors of any corporation, or the members of any partnership or association making an application, before accepting an application for a license.

Sec. 25. NAC 645.180 is hereby amended to read as follows:

NAC 645.180 Cooperative certificate: Application. (NRS 645.190, 645.605)

1. A real estate broker who is licensed in another state and desires to work in cooperation with a Nevada real estate broker must apply to do so on a form provided by the division. The application must be accompanied by:

- (a) A copy of his current license issued in the other state;

- (b) A history of his employment for the past 10 years;
- (c) Information identifying him and the Nevada broker with whom he desires to cooperate;
- (d) A history of any disciplinary, criminal or other legal proceeding involving any real estate ~~salesman~~ *licensee* who will be working for the applicant under the cooperative certificate;
- (e) A list of other cooperative agreements currently in effect with the Nevada broker;
- (f) A photograph of the applicant;
- (g) A copy of the license of any real estate ~~salesman~~ *licensee* who will be working for the applicant; and
- (h) A statement of consent by the Nevada broker to the cooperative agreement.

2. The Nevada broker and out-of-state broker must verify the truth of the contents of the application.

3. The application must be completed personally by the out-of-state broker, and licensed Nevada brokers and employees of the division may not assist in the preparation of any part of the application.

4. The required fee must be paid at the time of filing. If the administrator does not issue the certificate as applied for, the fee will not be refunded.

5. The applicant must furnish proof satisfactory to the administrator that he has a current active real estate *brokers* license issued by the state in which his principal place of business is located.

6. A ~~real estate broker or salesman who resides in this state~~ *a person who resides in this state and holds a real estate license in another state* is not eligible to hold a cooperative certificate or act on behalf of a holder of a certificate.

7. The administrator may require proof of the applicant's moral character. In determining that character, the administrator ~~shall~~ *may* consider:

(a) The results of the division's investigation of matters stated in the application and other matters that have come to the attention of the division as a result of the investigation of the division;

(b) Any history of arrest and conviction of the applicant;

(c) The nature and history of the business of the applicant; and

(d) Any past failure of the applicant to comply with *the following but not limited to* any applicable requirements of chapter 113, 116, 119, 119A, 645, 645A, 645C or 645D of NRS.

Sec. 26. NAC 645.185 is hereby amended to read as follows:

NAC 645.185 Cooperative certificate: Use of certificate.

1. A certificate authorizing an out-of-state broker to cooperate with a Nevada broker is valid for 12 months after the date of issuance. The fee paid for the issuance covers that period. The certificate is not transferable.

2. An out-of-state broker holding such a certificate shall immediately report any change in his address to the administrator.

3. If, at any time during which a cooperative certificate is in effect, the out-of-state broker or the Nevada broker desires to terminate the relationship, he must give written notice of the termination to the division and the broker with whom he has been cooperating and the out-of-state broker shall immediately surrender his certificate to the division.

4. If the license of the out-of-state broker expires or is inactivated, suspended, revoked, or canceled, he shall immediately give written notice to the division of each Nevada broker with whom he is cooperating and surrender his cooperative certificate to the division.

5. The administrator may not issue a certificate to an out-of-state association, partnership or corporation which is licensed as a broker. Only a natural person who is a broker may be issued such a certificate.

6. When acting ~~[as a real estate broker or salesman within this state]~~ *under a cooperative certificate*, an out-of-state broker shall work through the cooperating Nevada broker or a licensee associated with a Nevada broker. The Nevada broker is in charge of the transaction from beginning to end.

7. Any money received in a cooperative transaction may be handled only by the cooperating Nevada broker in accordance with NRS 645.310.

8. Each out-of-state broker, while cooperating with a Nevada broker, is governed by the provisions of chapter 645 of NRS and this chapter. Any violation of such a provision by the out-of-state broker subjects his cooperative certificate and the Nevada broker's license to fine or suspension, or both, or revocation. By accepting a cooperative certificate, the out-of-state broker shall be deemed to have appointed the Nevada broker as his agent for service of all notices and process in any proceeding initiated by the division pursuant to chapter 645 of NRS.

9. A cooperating out-of-state broker may authorize only one broker-salesman or one salesman employed by him to act in his behalf. The authorization must be on a form supplied by the division, and a copy must be sent to the division before his authorized representative may conduct any transaction. The authorized representative shall carry the completed form with him whenever he is in Nevada for the purpose of conducting his real estate business. The division will establish the time during which the authorization is valid. Such an authorization is renewable.

10. An out-of-state broker may cooperate with more than one Nevada broker and a Nevada broker may cooperate with more than one out-of-state broker. Each arrangement is considered as a separate agreement for which the appropriate form must be completed and submitted, the appropriate fee paid and a separate cooperative certificate obtained.

11. An out-of-state broker may not use a cooperating broker's certificate as authority to sell or attempt to sell real estate in Nevada to a resident of Nevada. Such a certificate may be used only for the purpose of allowing the out-of-state broker or salesman to offer real estate in Nevada for sale to a person other than a resident of Nevada.

Sec. 27. NAC 645.205 is hereby amended to read as follows:

NAC 645.205 ~~[Schedule for examination; authorization required; a]~~ **Availability of handbook on examinations.** (NRS 645.190)

~~[1. Examinations will be held at least once in each 2 months on dates and at times and places designated by the division.~~

~~—2. An applicant will not be permitted to take the examination until the applicant is authorized to take the examination by the division or another appropriate entity.~~

~~—3. An applicant must take the examination prescribed by the division at the time and place set forth in the notice sent to him.]~~

4. An applicant may obtain the handbook on candidate examinations that is currently approved by the division at an office of the division at no cost.

Sec. 28. NAC 645.207 is hereby amended to read as follows:

NAC 645.207 Fee for examinations. (NRS 645.410) The fee for an examination for ~~[a]~~ *an original license or reinstatement of a license* as a real estate broker, broker-salesman or salesman is \$100.

Sec. 29. NAC 645.215 is hereby amended to read as follows:

NAC 645.215 Length of examination; disclosure of results. (NRS 645.190) The examination period must not exceed 4 hours without prior written consent of the division. ~~[The division will establish the time for each examination.]~~ An applicant may not retain any examination materials. Examinations must not be made public except as provided by NRS 645.180.

Sec. 30. NAC 645.220 is hereby amended to read as follows:

NAC 645.220 Passing grade on examination.

~~[1. If the same examination is given to applicants for licenses as broker and as salesman, an applicant for a license as a broker must achieve a grade of 75 percent on each section of the examination, and an applicant for a license as a salesman must achieve a grade of 70 percent on each section, in order to pass the examination.]~~

~~[2. If the examinations are different, both classes of]~~ ~~[a]~~ Applicants must achieve grades of 75 percent on each section of the examination in order to pass.

Sec. 31. NAC 645.225 is hereby amended to read as follows:

NAC 645.225 ~~[Application for reexamination;]~~ [H]Limit on application for license.

~~[1. An applicant who fails an examination may apply for reexamination on forms furnished by the division. If an applicant, after filing an application for examination, withdraws and requests the division to postpone action on the application for reasons acceptable to the division, the applicant may apply for the next examination.]~~

~~[2.]~~ The division will only accept results of an examination ~~[taken during the year]~~ *exactly within 12 months, to the date*, immediately preceding the date of application for a license.

Sec. 32. NAC 645.230 is hereby amended to read as follows:

NAC 645.230 Examination aids.

1. The use or possession of any unfair methods or notes, the giving or receiving of aid of any kind, or the failure to obey instructions during the examination will result in a denial of the application and license.

2. Silent, cordless, *nonprogrammable* electronic calculators *that do not have paper tape printing capabilities, and that do not have a keyboard containing the alphabet* may be used by applicants during the examination.

Sec. 33. NAC 645.305 is hereby amended to read as follows:

NAC 645.305 Request for change in license. (NRS 645.190)

1. ~~[Within 10 days after]~~ *When* a licensee changes his association with a real estate broker, name, *address* or status, the licensee shall:

(a) Submit a request to the division to change his license on a form provided by the division; and

(b) Pay the required fees.

2. When a licensee requests a change and pays the required fee, the receipt issued by the division constitutes a temporary working permit pending receipt of the requested license.

3. A real estate broker may change his status to that of a real estate broker-salesman by filing an application on a form supplied by the division.

4. Licensees associated with a real estate broker licensed pursuant to chapter 645 of NRS as a manager of a limited-liability company, member of a partnership, or as an officer of a corporation, are not considered to have changed their association with the real estate broker if the corporation, limited-liability company or partnership designates a new real estate broker to act in the capacity of a manager of the limited-liability company, member of the partnership or as an officer of the corporation on or before the last date that the former real estate broker works in that capacity.

Sec. 34. NAC 645.310 is hereby amended to read as follows:

NAC 645.310 Notice of termination. (NRS 645.190) **(1)** If a real estate broker-salesman or salesman terminates, for any reason, his association with the real estate broker with whom he was associated, or his employment with the owner-developer by whom he was employed, the real estate broker or owner-developer shall, in addition to complying with the requirements of NRS 645.580, file with the division:

~~(1.)~~ **a.** A notice of termination on a form provided by the division; and

~~(2.)~~ **b.** Any other pertinent information the division requests.

(2) A broker may allow a real estate broker-salesman or salesman to hand carry their own license to the division when terminating their association if the broker completes, signs and sends with the broker-salesman or salesman the original signed form.

(3) If broker doesn't comply with NRS 645.580 the licensee may apply for an administrative termination on a form provided by the Division.

Sec. 35. NAC 645.315 is hereby amended to read as follows:

NAC 645.315 Failure to file for renewal of license. (NRS 645.190) If a licensee fails to file an application for the renewal of his license before it expires, he may not engage in the business of real estate until his license is reinstated. To have his license reinstated, he must:

1. Apply on the appropriate form;

2. Pay the required fees; ~~and~~

3. Take and pass exam if it is required; and

~~(3)~~ **4.** Submit any other information required by the administrator, including, without limitation, current fingerprint cards.

Sec. 36. NAC 645.325 is hereby amended to read as follows:

NAC 645.325 Inactive renewed status: Requirements for reinstatement. (NRS 645.190)

1. A licensee who is in good standing with the division and whose license is on inactive renewed status may apply to the division to have his license reinstated to active status. The application must:

(a) Be on a form supplied by the division;

(b) Be accompanied by the required fees;

(c) Contain evidence that he has paid the required fee for the real estate education, research and recovery fund;

(d) If the application is for reinstatement of a real estate broker's license, be accompanied by a completed financial statement that is prepared on the form prescribed by the division;
(e) Contain evidence that requirements for continuing education have been met; and
(f) Include any other information required by the administrator, including, without limitation, current fingerprint cards.

2. If a license has been on inactive renewed status for more than 2 years, the licensee must, in addition to fulfilling the requirements of subsection 1:

(a) Show, to the administrator's satisfaction, that he has the competency to engage in the business of real estate; and

(b) Complete an examination, ~~[in the form of a questionnaire]~~ *pay the appropriate fee*, and attain a score of at least 75 percent.

3. If the licensee fails the ~~[first such]~~ examination, he may take another one after ~~[at least 10 days have elapsed. If the licensee fails the second examination or any subsequent examinations, he may not take another examination until at least 30 days have elapsed after the last examination was taken]~~ *paying the fee*.

4. A license placed on inactive status for the holder's failure to comply with NRS 645.570 or for any of the reasons listed in NRS 645.577 remains inactive until an application for reinstatement has been approved by the division.

Sec. 37. NAC 645.330 is hereby amended to read as follows:

NAC 645.330 Investigation of applicant for reinstatement. (NRS 645.190) In reviewing the application for reinstatement the division shall apply the same standards as are applied for original applicants. The division shall determine whether the application is accepted or denied within 10 days after the determination by the division that the candidate has passed the ~~[questionnaire]~~ *examination* and the following has been received by the division, if so required:

1. The FBI report;
2. A completed financial statement that is prepared on a form prescribed by the division;
3. The required fees and forms; and
4. Such other information as may be requested by the division.

Sec. 38. NAC 645.345 is hereby amended to read as follows:

NAC 645.345 Failure of broker to renew license. (NRS 645.190) If a real estate broker fails to renew his license, the license of a licensee with whom he is associated who has renewed that license will immediately be placed on inactive renewed status ~~[until the real estate broker with whom the licensee is associated reinstates and renews his license, or the licensee applies for a transfer to the association of another real estate broker and pays the required fees.]~~ *The licensees associated with that real estate broker may:*

1. Within 30 calendar days, apply for a transfer to the association of another real estate broker and pay the required fees; or

2. If the real estate broker with whom their license was associated reinstates and renews his license, within 30 days, the licensee may re-activate his license under that real estate broker.

If the licensee fails to re-associate his license with a broker within 30 calendar days after the broker's license with whom he was associated became inactive, the licensee must reinstate or renew his license and pay the required fees.

Sec. 39. NAC 645.350 is hereby amended to read as follows:

NAC 645.350 ~~[Cancellation]~~ Termination, suspension or revocation of broker's license; action upon death of licensee. (NRS 645.190)

1. If the license of a real estate broker is ~~[canceled]~~ *terminated*, suspended or revoked, he shall *immediately* deliver his license to the division with the license of each licensee with whom he is associated. A licensee who is associated with the real estate broker may, upon proper application and payment of the required fee, transfer to the association of another real estate broker. No refund is made when a license is ~~[canceled]~~ *terminated*, suspended or revoked.

2. Upon the death of a licensee, the division shall ~~[cancel]~~ *terminate* the license held by that licensee. ~~[The license may not be renewed or transferred.]~~

~~[3. A real estate salesman or broker-salesman may be temporarily licensed under another real estate broker or broker-salesman who is appointed for this purpose upon the death of the real estate broker under whom the real estate salesman or broker-salesman is licensed. Such an appointment must be made within 3 business days after the death of the real estate broker and may continue for a period of not more than 30 days. Notice of such an appointment must be submitted to the division, in writing, on the day that the appointment is made.]~~

Sec. 40. NAC 645.360 is hereby amended to read as follows:

NAC 645.360 Grounds for cancelation of license; reinstatement. (NRS 645.190)

1. The division may cancel a license if:

(a) A real estate broker has discontinued business at the address at which he is registered;

(b) A licensee is no longer associated with a real estate broker under whom he is shown to be licensed;

(c) A licensee, whether active or inactive, fails to inform the division within 10 days after a change in the address of his business or residence;

(d) A licensee has not paid the required fees;

(e) A licensee delivers a check to the division that is not honored by the financial institution upon which it is drawn; or

(f) A licensee fails to submit a request to the division as required by NAC 645.305 to change his license within 10 days after he changes his ~~[association,]~~ name or status.

2. A licensee whose license is canceled pursuant to this section must satisfy the applicable requirements for reinstatement as set forth in NAC 645.325 to have his license reinstated.

Sec. 41. **(DELETED, see R126-04)** NAC 645.380 is hereby amended to read as follows:

NAC 645.380 Broker designated by partnership or corporation; member or officer of partnership or corporation who will act as broker.

1. A broker designated by a partnership, *a limited liability company* or a corporation pursuant to NRS 645.370 or a broker who has obtained a license pursuant to NRS 645.380 may also obtain ~~[one]~~ *an individual* license to act on his own behalf. To obtain a license a broker must complete and submit forms as supplied by the division and must pay an original license fee and any other required fees.

2. The division will issue an additional license to a broker and subject him to the same rights and duties as any other licensed Nevada broker. He may maintain an office separate from the offices of the partnership or corporation and shall maintain separate records and a separate trust account so that the business of the partnership or corporation remains separate from his independent business.

3. The partnership or corporation must submit a statement, on a form supplied by the division, indicating that it is fully aware of the intention of the broker to maintain an independent business.

4. Revocation, suspension, or any other penalty of the commission or the division applies to both licenses of a broker who is licensed pursuant to this section.

5. A corporation, *partnership or limited liability company* may not serve as a salesman *or broker-salesman*, except as otherwise provided by a specific statute.

6. If a broker is licensed individually and as a partnership or corporation *or limited liability company*, even though he has been issued two licenses by the division, he is considered to be only one licensee for the purposes of ~~[NRS 645.841 to 645.8494, inclusive]~~ *disciplinary action or claims under the recovery fund*.

Sec. 42. NAC 645.400 is hereby amended to read as follows:

NAC 645.400 “School” defined. For the purposes of NAC 645.400 to 645.467, inclusive, “school” includes:

1. The University of Nevada *system*, or any other university or college bearing the same or an equivalent accreditation.

2. Any professional school or college licensed by the Nevada commission on postsecondary education.

3. Any out-of-state professional school or college licensed or accredited by a real estate commission, a department of education or an equivalent agency of any other state.

Sec. 43. NAC 645.403 is hereby amended to read as follows:

NAC 645.403 Application for *annual* approval of school. A school which desires to offer courses to meet the educational requirements for licensure under chapter 645 of NRS must make its application for the commission’s *annual* approval on a form ~~[prescribed]~~ *approved* by the division *and pay the appropriate fees*. The application must include *but not be limited to*:

1. The name and address of the school;
2. The type of school and a description of its facilities;
3. The ownership of the school (the business organization and the names and addresses of all directors, principals, officers, and others having interests as owners);
4. A list of the instructors;
5. A list of the courses to be offered and a topical syllabus for each;
6. The allotment of time for each subject;
7. A proposed schedule of courses for 1 year;
8. The titles, authors, and publishers of all required textbooks;
9. A copy of each examination to be used and the correct answer for each question; ~~[and]~~
10. A statement of:
 - (a) The purpose of the school;
 - (b) The fees to be charged;
 - (c) The days, times, and locations of classes;
 - (d) The number of quizzes and examinations;
 - (e) The grading systems, including the methods of testing and standards of grading;
 - (f) The requirements for attendance; and
 - (g) The location of the students’ records.

11. *Whether or not the school or any of the instructors have ever been disciplined in this state or any other state; and*
12. *Pay the appropriate fees.*

Sec. 44. NAC 645.410 is hereby amended to read as follows:

NAC 645.410 Approved schools: General requirements for certification of students.

1. Except as otherwise provided in NAC 645.412, a school which the commission has approved to give a course fulfilling the educational requirements for original licensing shall require each student to attend the required number of hours of instruction and take at least two examinations in the course as a condition of his certification.
2. The school may certify only the number of hours for which the course has been approved by the commission.
3. ~~[A portion of a course is not acceptable as satisfying]~~ *The entire course must be completed in order to satisfy* licensing requirements.
4. As used in this section, an “hour of instruction” means 50 minutes or more. ~~[Fifteen hours of instruction equal one semester credit.]~~ *One semester credit is equal to fifteen hours of instruction.*

Sec. 45. NAC 645.415 is hereby amended to read as follows:

NAC 645.415 Denial or withdrawal of approval.

~~[1.]~~ **2.** A school whose application for approval of a course is denied *or withdrawn* and which desires a hearing before the commission upon the matter must file a written request for the hearing within 20 days after receiving the order of denial. The commission will hold the hearing within 90 days after the request for hearing is made unless the school makes a written request for a continuance and that request is granted. The commission will ~~[decide]~~ *set* the matter ~~[within 90 days after the hearing]~~ *to be heard at its next regularly scheduled meeting in accordance with NRS241.*

~~[2.]~~ **1.** If the administrator determines that an approved school or course no longer complies with the standards prescribed in this chapter, he shall ~~[file a complaint seeking a temporary or permanent]~~ withdraw~~[al of]~~ the approval. ~~[The commission will hear the complaint following a procedure similar to that used for revocation or suspension of a real estate license.]~~

Sec. 46. NAC 645.425 is hereby amended to read as follows:

NAC 645.425 Approved *Pre-licensing* schools: Instructors; statement required in advertisements. (NRS 645.190) A school which conducts courses approved by the commission:

1. May employ as instructors of those courses only persons who:
 - (a) Hold a bachelor’s degree or a more advanced degree in the field in which they are instructing;
 - (b) Teach at the University and Community College System of Nevada or the university system of another state in the field in which the school has assigned them to give instruction;
 - (c) Hold a valid license issued by the State of Nevada or another state which authorizes the holder to teach the subject being offered;
 - (d) Have 5 years of full-time experience, other than secretarial, in the subject taught; or
 - (e) Have 3 years of full-time experience teaching the subject taught at a school which offers adult education.

2. Shall limit noncertificated guest lecturers (experts in the related fields) to a total of 9 instructional hours per approved course.
3. May not employ a person as an instructor, without the approval of the commission, who has been disciplined by the commission *or the division acting on behalf of the Commission*:
 - (a) Within the last 5 years; or
 - (b) More than ~~two~~ *one* time~~s~~.
4. Shall include a statement that the school is approved by the commission on all advertisements of the school.

Sec. 47. NAC 645.435 is hereby amended to read as follows:

NAC 645.435 Course required of salesmen.

1. A course of instruction in real estate principles, practices, procedures, law and ethics which is designed to meet the educational requirements of an applicant for a license as a salesman must consist of:
 - (a) At least 90 hours of classroom lectures; or
 - (b) The equivalent in a correspondence or extension course.
2. The content of the course must be divided among subjects *listed at NAC 645.210 "Scope of the Examination"* as follows:
 - (a) At least 45 hours on the principles and practices of real estate, which must include:
 - (1) Brokerage and laws of agency, 21 hours.
 - (2) Valuation and economics, 12 hours.
 - (3) Finance, 12 hours.
 - (b) At least 45 hours on the law of property and the regulation of brokers and salesmen and the ethics of selling real estate, which must include:
 - (1) Ownership, transfer and use of property, 25 hours.
 - (2) Chapters *113, 116*, 119, 119A, ~~and~~ 645, *645C and 645D* of NRS and the regulations adopted thereunder, 18 hours.
 - (3) Applied practice *and statutory disclosures*, 2 hours.

Sec. 48. NAC 645.437 is hereby amended to read as follows:

NAC 645.437 Course of instruction in broker management. (NRS 645.190, 645.343)

1. A course of instruction in broker management that is designed to fulfill the educational requirements for issuance of a license which are described in paragraph (d) of subsection 2 of NRS 645.343 must be approved by the commission.
2. To be approved by the commission, a course in broker management must include, without limitation:
 - (a) Six hours of instruction relating to office policy and procedure, risk management, errors and omissions, controlled business arrangements, compensation, employee-employer relationships and the status of independent contractors;
 - (b) Three hours of instruction relating to creating business plans;
 - (c) Three hours of instruction on forms used by real estate brokerages for real estate transactions;
 - (d) Six hours of instruction that provides an overview of programs for financing real estate transactions, including, without limitation, terminology relating to such programs, the cost of transactions, customary transaction closing costs, and transaction cost and net sheets;
 - (e) Six hours of instruction ~~on recent changes~~ in state and local laws;

- (f) Six hours of instruction on federal laws governing real estate transactions;
 - (g) Six hours of instruction on professional relationships between agents and their clients;
 - (h) Three hours of instruction on valuation of real estate and general principles of economics;
- and
- (i) Six hours of instruction on emerging trends and practices.

Sec. 49. NAC 645.440 is hereby amended to read as follows:

NAC 645.440 Approval of school required; acceptance of courses without prior approval of school. (NRS 645.190, 645.343)

1. Except as otherwise provided in subsection 2, before any school offers or conducts a course of instruction designed to fulfill the educational requirements for issuance of an original license under chapter 645 of NRS, the school must be approved by the commission.

2. Unless the course is a course in broker management, the commission ~~will~~ *may* accept such a course from any of the following schools without prior approval of the school:

(a) The University of Nevada or other university or college bearing the same or equivalent accreditation.

(b) Any college of the University and Community College System of Nevada.

(c) Any other school offering a course in real estate, business or economics if the course is:

(1) Approved by any real estate commission or division in any state of the United States or province of Canada; or

(2) In the judgment of the commission, equivalent in quality to the courses of colleges or universities accredited by any regional accrediting agency recognized by the United States Department of Education.

(d) The American Institute of Real Estate Appraisers, the American Society of Appraisers, the Appraisal Institute, the International Association of Assessing Officers or the Society of Real Estate Appraisers for courses in real estate appraisal consisting of not less than 45 hours of instruction. Forty-five hours of instruction shall be deemed to be the equivalent of 3 semester credits in appraisal.

Sec. 50. NAC 645.441 is hereby amended to read as follows:

NAC 645.441 Unacceptable courses. (NRS 645.190, 645.343)

1. The division shall not accept an applicant's completion of a course of a kind which is designed to prepare students for examination, commonly known as a "cram course," as fulfillment of his educational requirements for his original licensing.

2. None of the following kinds of courses will be accepted from an applicant as fulfillment of any part of the first 24 semester units of education which are required by subsections 1 to 4, inclusive, of NRS 645.343 for original licensing:

(a) Courses designed to develop or improve clerical, office or business skills *that are not related to the activities described in NRS 645.030, NRS 645.035 and NRS 645.040*, such as typing, shorthand, operation of business machines, *the use of computers, the use of computer software*, improvement of memory, or writing of letters and reports; or

(b) Business courses in advertising or psychology.

3. The division shall not accept a course in broker management required pursuant to paragraph (d) of subsection 2 of NRS 645.343 unless the course and the school that offers the course have been approved by the commission.

Sec. 51. NAC 645.446 is hereby amended to read as follows:

NAC 645.446 Notice of material changes in school; annual renewal of approval; denial.

1. Within 15 days after the occurrence of any material change *as defined in NAC 645.403*, in school which would affect its approval by the commission, the school shall give the division written notice of that change.

2. To qualify for annual renewal of approval by the commission, a school must submit to the commission before July 1:

(a) A written certification, in a form prescribed by the division, declaring that the school has met all applicable requirements of this chapter; ~~and~~

(b) A sworn statement, in a form prescribed by the division, declaring that the information contained in the original application is current or if it is not current, a list of all material changes~~;~~; *and*

(c) Payment of fees for each course for which renewal is applied for.

3. The commission may deny renewal of approval to any school that does not meet the standards required by this chapter.

4. Within 60 days after a decision is made to deny renewal of approval, the commission must give written notice of the decision and the basis for that decision by certified mail to the last known address of the school.

Sec. 52. NAC 645.450 is hereby amended to read as follows:

NAC 645.450 Continuing education: Standards for courses. (NRS 645.190)

1. The courses for continuing education must contain:

(a) Current information on real estate which will improve the professional knowledge of the licensee and enable him to give better service to the public.

(b) Information that relates to pertinent Nevada laws and regulations.

2. The commission considers courses in the following areas to be acceptable for continuing education:

(a) Ethics of selling real estate;

(b) Legislative issues which concern the practice of real estate or licensees, including pending and recent legislation;

(c) The administration of real estate law and regulations, including licensing and enforcement;

(d) Real estate financing, including mortgages and other techniques;

(e) The measurement and evaluation of the market for real estate, including evaluations of sites, market data and studies of feasibility;

(f) The administration of real estate brokerage, including the management of the office, trust accounts and employees' contracts;

(g) Real estate mathematics;

(h) The management of real property, including leasing agreements, procedures for accounting and contracts for management;

(i) The exchange of real property;

(j) Planning and zoning for land use;

(k) Real estate securities and syndications;

~~(l) Estates and management of a portfolio;~~

~~(m)~~ (l) Accounting and taxation as applied to real property;

~~(n)~~ (m) The development of land; ~~and~~

~~(o)~~ (n) Agency and subjects related to agency~~;~~;

(o) Use of calculators and /or other technologies as applied to the practice of real estate; and

(p) Preparation of real estate contracts.

3. If the sponsor agrees to comply with the provisions of subsections 3 and 4 of NAC 645.455, NAC 645.457, 645.460 and 645.463 and subsection 1 of NAC 645.465, the commission ~~[will]~~ *may* accept the following courses as meeting standards for continuing education without application or specific approval:

(a) Any course in real estate or a directly related subject if the course has been previously approved by the commission.

(b) Any course in real estate or a directly related subject if the course is offered by an accredited university or community college *for college credit*.

~~[(c) Any course in real estate or a directly related subject if the course is offered by the National Association of Realtors or its societies, institutes or councils.~~

~~—4. The administrator may, without specific approval by the commission, approve a course offered by the Nevada Association of Realtors upon its submission of an application for the approval.]~~ The commission ~~[will]~~ *may*, upon application, approve a course conducted by any other school, professional society, or organization if the commission finds that the course meets the standards for continuing education.

5. The following kinds of courses and activities do not meet the standards for continuing education:

(a) A course designed to prepare students for examination.

(b) A course designed to develop or improve clerical, office or business skills *that are not related to the activities described in NRS 645.030, NRS 645.035 and NRS 645.040*, such as typing, shorthand, the operation of business machines *the use of computers, the use of computer software*, speed-reading, the improvement of memory, and writing letters and reports.

(c) A meeting for the promotion of sales, a program of office training, or other activity which is held as part of the general business of the licensee.

(d) A course for the orientation of licensees, such as one offered for that purpose through local real estate boards.

(e) A course for the development of instructors.

6. The commission will not approve more than:

(a) Seven full hours of credit per day of instruction in a course for continuing education if a final examination is not given.

(b) Eight full hours of credit per day of instruction in a course of continuing education if a final examination is given.

Sec. 53. NAC 645.455 is hereby amended to read as follows:

NAC 645.455 [Continuing] education: Approval and accreditation of courses; certificate of attendance or completion. (NRS 645.190, 645.575)

1. An application for the approval of a course for continuing education must be submitted to the division on a form ~~[provided]~~ *approved* by the division for review and presentation to the commission.

2. The commission ~~[will not]~~ *may* grant retroactive approval for an *education* course ~~[for continuing education]~~.

~~—3. The commission will grant credit for a course for continuing education only if:]~~ ***In determining whether to approve a course pursuant to this section, the commission will consider:***

- (a) The course consists of at least 3 hours of distance education or instruction in a classroom.
- (b) For a course of instruction in a classroom, the sponsor of the course:
 - (1) Certifies to the attendance of licensees who take the course for credit.
 - (2) Maintains for ~~[3]~~ 4 years a record of attendance which contains the following information with respect to each licensee who has taken the course for credit:
 - (I) The name of the licensee in attendance and the number of his license.
 - (II) The title and number of the course.
 - (III) The hours of instruction attended and dates of attendance by the licensee.
 - (IV) A statement that the licensee has successfully completed the course, if applicable.
 - (3) Assures the commission that an approved instructor will preside throughout the course.
- (c) For a course of distance education, the sponsor of the course:
 - (1) Requires each student to:
 - (I) Take a closed-book final examination with a proctor present at a location designated by the sponsor in its application for approval filed with the division and receive a score of at least 75 percent to pass the course;
 - (II) Prove his identity before he is allowed to take any examination;
 - (III) Complete an entire course to receive credit for taking the course; and
 - (IV) Complete each course within an established minimum and maximum time.
 - (2) Only gives credit for the number of hours for which the course has been approved by the division to a licensee who has completed the course.
 - (3) Publishes a policy for retaking an examination which a licensee failed.
 - (4) Maintains for ~~[3]~~ 4 years a record of completion of the course which contains the following information with respect to each licensee who has taken the course for credit:
 - (I) The name of the licensee who completes the course and the number of his license.
 - (II) The title and number of the course.
 - (III) A statement that the licensee has successfully completed the course which includes, without limitation, the date that the course was completed and the number of hours completed.

4. If a course is approved, the sponsor shall provide a certified copy of the record of attendance or record of completion to the licensee upon his completion of the course. The division shall accept the certificate as proof of the attendance of the licensee or completion of the course by the licensee for the purpose of renewal or reinstatement of his license. If the course is taken at a university or community college, the proof of attendance must be a certified transcript. The certificate of a sponsor must contain the:

- (a) Name of the sponsor;
- (b) Name of the licensee and his license number;
- (c) ~~[Number of hours of instruction]~~ ***The number of hours of credit for continuing education for which the course is approved;***
- (d) Dates of instruction for a course of instruction in a classroom;
- (e) Date of completion of the course for a course of distance education;
- (f) Title of the course or seminar;
- (g) Number of the sponsor assigned by the division and a statement that the course was approved by the commission;

- (h) Signature of the person authorized to sign for the sponsor; ~~and~~
- (i) Grade received by the licensee or a statement of whether the licensee passed the class if an examination was given ~~and~~ *and*
- (j) *Mode of delivery.*

Sec. 54. NAC 645.457 is hereby amended to read as follows:

NAC 645.457 Continuing education: Information required on course materials.

1. If a course has been approved and is being offered for continuing education, the sponsor must state on all the course materials:
 - (a) That the course is approved for continuing education in Nevada;
 - (b) The number of hours of credit for continuing education for which the course is approved; ~~and~~
 - (c) The sponsor's code number assigned by the division ~~and~~ *and*
 - (d) *Mode of delivery.*
2. If a course offered by a professional organization has been approved for continuing education, the organization shall not restrict attendance at the course to members of that organization.

Sec. 55. NAC 645.458 is hereby amended to read as follows:

NAC 645.458 Continuing education: Advertising of course; evaluations.

1. Any advertising, promotional brochure or form for registration for a course for continuing education must contain, in writing, the policy of the sponsor concerning cancellation and refunds.
~~[2. Each sponsor shall provide evaluations for a course for continuing education and shall maintain a tabulation of the results of the evaluations for 2 years. The division may request review of those evaluations.]~~

Sec. 56. NAC 645.463 is hereby amended to read as follows:

NAC 645.463 Continuing education: Credit. (NRS 645.190, 645.575)

- ~~[1. A licensee may receive credit for continuing education if he teaches an approved course. Credit will be given only once for teaching the course. The licensee must submit proof that he taught the course during the applicable period of licensing.]~~
2. A course may not be taken for credit more than once during any two consecutive periods for renewal of a license.
3. Courses taken to satisfy requirements for renewal or reinstatement of a license must be completed within 2 years immediately before the latest date for renewing or reinstating the license.
4. A licensee may receive credit for continuing education only upon certification by the sponsor that the licensee has attended and completed at least 90 percent of the course.
5. The sponsor shall determine whether a final examination is required for the completion of a course.

Sec. 57. NAC 645.465 is hereby amended to read as follows:

NAC 645.465 Pre-Licensing, Post-Licensing, Continuing education: *School or Sponsor's duties; ~~reapproval~~ renewal; withdrawal of approval.*

1. The sponsor of an approved course ~~[for the continuing education of licensees]~~ shall:

- (a) Not allow a licensee to pass the course by taking ~~the~~ *an* examination without having the required attendance;
- (b) Admit authorized personnel of the division to audit and evaluate the presentation of the course;
- (c) Notify the division within 15 days after making any material change in the course; and
- (d) Not present a course for the main purpose of selling products and shall limit the announcement of products during the course to not more than 1 minute for each credit hour.
2. The commission's approval of ~~such~~ a course ~~of~~ *for pre-licensing, post-licensing, or continuing education* is effective for 1 year after the original approval or a ~~reapproval~~ *renewal*.
3. The *school or* sponsor must apply for ~~reapproval~~ *renewal* on a form provided by the division and describe on that form any changes in the course. An application for ~~reapproval~~ *renewal* must be filed at least 2 weeks before the previous approval expires and, if he does not do so, he must apply for an original approval.
4. The approval or renewal by the commission of any pre-licensing, post-licensing, or continuing education course is subject to a condition that the division may audit the course.
5. ~~In determining whether to withdraw its approval of such a course, the commission will follow a procedure similar to that used for suspension or revocation of a license.~~ *The commission authorizes the division to renew a course that has been updated but has had no material change in course content.*
- ~~4~~ 6. Each of the following acts and conditions is a ground for the commission to withdraw its approval of a course:
- (a) Poor quality of the curriculum or instruction, as shown by evaluations *or audit*.
- (b) Violation of any of the provisions ~~on continuing education in this chapter~~ *of this chapter governing pre-licensing, post-licensing or continuing education.*
- (c) *Courses not taught within the last renewal period.*
- (d) The course sponsor has made false statements or presented false information in connection with an application of course or sponsor approval or renewal of such approval;
- (e) The course sponsor or any official or instructor in the employ of the course sponsor has refused or failed to comply with any of the provisions of this chapter;
- a. The course sponsor or any official or instructor in the employ of the course sponsor has provided false or incorrect information in connection with any reports the course sponsor is required to submit to the commission;
- b. The course sponsor has engaged in a pattern of consistently canceling scheduled courses;
- c. The course sponsor has provided to the commission in payment for required fees a check which was dishonored by a bank;
- d. An instructor in the employ of the course sponsor fails to conduct approved courses in a manner that demonstrates possession of the teaching skills described in this chapter;
- e. Any court of competent jurisdiction has found the course sponsor or any official or instructor in the employ of the course sponsor to have violated, in connection with the offering of education courses, any applicable federal or state law or regulation prohibiting discrimination on the basis of disability, requiring places of public accommodation to be in compliance with prescribed accessibility standards, or requiring that courses related to licensing or certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities;

f. The course sponsor or any official or instructor in the employ of the course sponsor has been disciplined by the commission or any other occupational licensing agency in Nevada or another jurisdiction; or

g. The course sponsor or any official or instructor in the employ of the course sponsor has collected money for an educational course, but refuses or fails to provide the promised instruction.

3. If a licensee who is an approved course sponsor or an instructor in the employ of an approved course sponsor engages in any dishonest, fraudulent or improper conduct in connection with the licensee's activities as a course sponsor or instructor, the licensee shall be subject to disciplinary action pursuant to this chapter.

Sec. 58. NAC 645.467 is hereby amended to read as follows:

NAC 645.467 ~~Continuing education: Attendance at meeting of commission. Credit for attending meeting of commission.~~

~~1. Notwithstanding the provisions of NAC 645.450, 645.455, 645.457, 645.460 and 645.465, the division may grant to a licensee, once during any 2 year period, not more than 6 hours of credit for continuing education if he:~~

~~—(a) Attends a meeting of the commission in its entirety which lasts at least 3 hours;~~

~~—(b) Personally signs a roster at the meeting on a form provided by the division;~~

~~—(c) Submits to the division a written certificate of credit; and~~

~~—(d) Is not affiliated with or otherwise specifically participating in the meeting of the commission as a person who is named on the agenda for the meeting.]~~

The commission will grant credit for continuing education, not to exceed 6 hours, to a licensee once during each period of licensing if the following conditions are met:

1. A licensee must not receive credit for the time during which the licensee was participating in or otherwise affiliated with a specific disciplinary hearing;

2. The commission's meeting must last at least 3 hours; and

3. The commission certifies to the attendance of the licensee or holder of a certificate.

~~2] 4. If a licensee attends only part of a meeting of the commission, the division may determine the number of hours of credit, if any, that the licensee may receive [for his attendance].~~

Sec. 59. NAC 645.470 is hereby amended to read as follows:

NAC 645.470 Annual financial statement and budget. (NRS 645.190)

1. Within 60 days after the close of the fiscal year, the administrator shall deliver to the commission a financial statement showing beginning balances, receipts, expenditures, and ending balances of the real estate education, research and recovery fund in such detail as the commission requires.

2. ~~Before] At~~ the first meeting of each fiscal year, the commission will have a budget prepared for the yearly allocation of expenditures of the fund from money available for research and education.

Sec. 60. NAC 645.490 is hereby amended to read as follows:

NAC 645.490 Purpose of establishment; list of persons approved to serve; restrictions in service; allowance and expenses. (NRS 645.190)

1. The commission may establish an advisory committee to assist the commission with any matter that the commission determines to be appropriate for submission to an advisory committee.
2. The administrator may establish an advisory committee to assist the administrator in the:
 - (a) Evaluation of any educational course, seminar or conference; or
 - (b) Review of a matter that is the subject of an investigation conducted pursuant to NAC 645.680, if the licensee who is the subject of the investigation agrees to participate in an informal review of the matter with an advisory committee.
3. The commission will create and maintain a list of persons who are approved by the commission to serve on an advisory committee. *A person approved to serve on an advisory committee must meet the qualifications for appointment to the commission set forth in subsection 3 of NRS 645.090. (4)* If the administrator or the commission determines that an advisory committee should be formed, *for the purposes of subsection 2 herein*, the administrator shall appoint three persons to serve on the advisory committee from the list of persons approved by the commission to serve on the advisory committee. ~~[The administrator shall appoint one member of the advisory committee to serve as chairman of the advisory committee.]~~ *At least one of the persons appointed must be a current or former member of the commission. The administrator shall appoint one member of the advisory committee who is a current or former member of the commission to serve as chairman of the advisory committee.*
 - ~~[4.]~~ 5. A member of an advisory committee:
 - (a) Serves at the pleasure of the commission and without compensation; and
 - (b) Must abstain from participating in any proceeding in which he would be prohibited from participating if he were a member of the commission.
 - ~~[5.]~~ 6. Each member of an advisory committee is entitled to receive a per diem allowance and travel expenses as provided for state officers and employees generally for the period during which the member was engaged in the discharge of his official duties.

Sec. 61. NAC 645.493 is hereby amended to read as follows:

NAC 645.493 Review of investigation report; submission of recommendation; action of administrator on recommendation. (NRS 645.190)

1. An advisory committee which is established to assist the administrator with the review of a matter that is the subject of an investigation conducted pursuant to NAC 645.680 shall:
 - (a) Review the written report submitted by an investigator pursuant to NAC 645.680 and any other information that is relevant to the matter to determine whether there is probable cause to show that the licensee who is the subject of the investigation has violated a provision of chapter 119, 119A, 119B or 645 of NRS or the regulations enacted pursuant to those chapters;
 - (b) Hold an informal conference in accordance with NAC 645.497;
 - (c) Work with the licensee who is the subject of the investigation to attempt to arrive at a recommendation for resolution of the matter; and
 - (d) Submit a recommendation for resolution of the matter to the administrator or recommend that the matter be submitted to the commission.
2. If the administrator and the licensee who is the subject of the investigation accept the advisory committee's recommendation for resolution of the matter, the administrator shall enter into a written agreement with the licensee who is the subject of the investigation which must contain the terms of the resolution recommended by the advisory committee. If the agreement

provides for disciplinary action that is authorized pursuant to NRS 645.630, the administrator may impose the discipline on behalf of the commission.

3. If disciplinary action is taken pursuant to this section against a licensee who is the subject of an investigation, the administrator shall file with the commission a written summary of the facts and disciplinary actions taken against the licensee.

4. If the administrator or the licensee who is the subject of the investigation does not accept the advisory committee's recommendation for resolution of the matter, the administrator shall:

~~[(a) Dismiss the matter which is the subject of the investigation.]~~

~~[(b)]~~ (b) Negotiate a resolution of the matter with the licensee who is the subject of the investigation, which may include, without limitation, assessing administrative sanctions pursuant to NAC 645.695. A resolution negotiated pursuant to this paragraph is contingent upon the approval of the commission at a hearing in which the licensee who is the subject of the investigation is in attendance.

~~[(e)]~~ (a) Schedule a hearing which must be conducted pursuant to NAC 645.810.

Sec. 62. NAC 645.525 is hereby amended to read as follows:

NAC 645.525 Code of ethics: False consideration. *Irrespective of disclosure or agreement on the part of the seller and buyer, [FF] the licensee shall not participate in the naming of a false consideration in any document, unless it is an obviously nominal consideration [named for recording purposes].*

Sec. 63. NAC 645.600 is hereby amended to read as follows:

NAC 645.600 Responsibilities of broker regarding associated licensees: Teaching of fundamentals of practice and ethics of profession; establishment of policies, rules, procedures and systems for supervision; optional agreement with licensee. (NRS 645.190)

1. Every real estate broker shall teach the licensees associated with him the fundamentals of real estate or timeshare practice, or both, and the ethics of the profession. He shall supervise their *licensees and all employees* activities and the operation of his business.

2. The supervision described in subsection 1 includes, without limitation, the establishment of policies, rules, procedures and systems that allow the real estate broker to review, oversee and manage:

(a) The real estate transactions performed by a licensee who is associated with him;

(b) Documents that may have a material effect upon the rights or obligations of a party to such a real estate transaction;

(c) The filing, storage and maintenance of such documents;

(d) The handling ~~[by a licensee]~~ of money received on behalf of a real estate broker;

(e) The advertising ~~[by a licensee]~~ of any service for which a real estate license is required; and

(f) The familiarization by the licensee of the requirements of federal and state law governing real estate transactions, including, without limitation, prohibitions against discrimination.

3. In establishing such policies, rules, procedures and systems, the real estate broker shall consider the number of licensees associated with the real estate broker and the number and location of branch offices operated by the real estate broker.

4. A real estate broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. The real estate broker may use a real estate broker-salesman to assist in administering the provisions of this section so long as the real estate broker does not

relinquish overall responsibility for the supervision of the acts of the licensees associated with the real estate broker.

5. A real estate broker may enter into a written agreement with each licensee associated with the real estate broker to retain the licensee as an independent contractor. If such an agreement is entered into, it must:

(a) Be signed and dated by the real estate broker and the licensee; and

(b) Include the material aspects of the relationship between the real estate broker and the licensee, including, without limitation, the supervision by the real estate broker of the activities of the licensee for which a real estate license is required.

Sec. 64. NAC 645.605 is hereby amended to read as follows:

NAC 645.605 Considerations in determining misconduct by licensee. (NRS 645.190) In determining whether a licensee has been guilty of gross negligence or incompetence under paragraph (h) of subsection 1 of NRS 645.633 or conduct which constitutes deceitful, fraudulent or dishonest dealing under paragraph (i) of that subsection, the commission will consider, among other things, whether the licensee:

1. Has done his utmost to protect the public against fraud, misrepresentation or unethical practices related to real estate or time shares.

2. Has ascertained all pertinent facts concerning any time share or property for which he accepts an agency.

3. Has attempted to provide specialized professional services concerning a type of property or service that is outside of his field of experience or competence without the assistance of a qualified authority unless the facts of such lack of experience or competence are fully disclosed to his client.

4. Has disclosed in writing, his interest or contemplated interest in any property or time share with which he is dealing. The disclosure must include, but is not limited to, a statement of:

(a) Whether he expects to receive any direct and indirect compensation, dividends and profits from any person or company who will perform services related to the property and, if so, the identity of the person or company;

(b) His affiliation with or financial interest in any person or company who furnishes services related to the property;

(c) If he is managing the property, his interest in or financial arrangement with any person or company who provides maintenance or other services to the property;

(d) If he refers one of his clients or customers to another person or company, such as a contractor, title company, attorney, engineer or mortgage company, his expectation of a referral fee from that person or company; and

(e) If he receives compensation from more than one party in a real estate transaction, full disclosure to and consent from each party to the real estate transaction. A licensee shall not accept compensation from more than one party in a real estate transaction, even if otherwise permitted by law, without full disclosure to all parties.

5. Has kept informed of current statutes and regulations governing real estate, time shares and related fields in which he attempts to provide guidance.

6. Has breached his obligation of absolute fidelity to his principal's interest or his obligation to deal fairly with all parties to a real estate transaction.

7. Has ensured that each agreement for the sale, lease or management of property or time shares is contained in a written agreement and that his real estate broker and each party to the real estate transaction has a copy of the written agreement *which is signed by all parties*.

8. Has obtained all changes of contractual terms in writing and whether such changes are signed or initialed by the parties concerned.

9. Understands and properly applies federal and state statutes relating to the protection of consumers.

10. Has acquired knowledge of all material facts that are reasonably ascertainable and are of customary or express concern and has conveyed that knowledge to the parties to the real estate transaction.

11. Has impeded or attempted to impede any investigation of the division by:

(a) Failing to comply or delaying his compliance with a request by the division to provide documents;

(b) Failing to supply a written response, which includes supporting documentation, if available;

~~(b)~~ (c) Supplying false information to an investigator, auditor or any other officer of the division;

~~(c)~~ (d) Providing false, forged or altered documents; or

~~(d)~~ (e) Attempting to conceal any documents or facts relating to a real estate transaction.

Sec. 65. NAC 645.610 is hereby amended to read as follows:

NAC 645.610 Advertisement of services. (NRS 645.190)

1. In addition to satisfying the requirements set forth in NRS 645.315:

(a) An advertisement of the services of a licensee for which a license is required under chapter 645 of NRS must not be false or misleading.

(b) A licensee shall not use his name or telephone number, or the name or telephone number of another licensee of the brokerage firm with which he is associated in any advertisement which contains the words “for sale by owner,” “for lease by owner” or similar words *unless he has an ownership interest in the advertised property and the advertisement contains the words “for sale by owner-broker or owner-agent” or “for lease by owner-broker or owner-agent”*.

(c) The name of a brokerage firm under which a real estate broker does business or with which a real estate broker-salesman or salesman is associated must be clearly identified with prominence in any advertisement. ~~[that includes the name of the real estate broker, real estate broker-salesman or salesman.]~~ In determining whether the name of the brokerage firm is identified with prominence, the division will consider, without limitation, the style, size and color of the type or font used, and the location of the name of the brokerage firm as it appears in the advertisement.

(d) No licensee shall publish or cause to be published any advertisement or place any sign which makes reference to the availability of a specific property which is exclusively listed for sale by another broker unless the licensee obtains the prior written consent of the broker with whom the property is exclusively listed. Such consent shall not be given or withheld by the listing broker without the knowledge of the owner.

(e) No licensee shall advertise or otherwise conduct business under a name or nickname other than the name under which he is licensed to engage in business.

2. As used in this section, “advertisement” includes, without limitation, ~~[any communication]~~:

(a) ~~Published by~~ *All publications*, radio, *printed material and* television *broadcasts*; ~~or~~ *all* electronic means *including e-mail and the Internet; billboards and signs*; and

(b) ~~Printed on~~ business cards, stationery, ~~signs, billboards or~~ forms and other documents used in a real estate transaction.

3. When advertising under the name of a franchise, the broker shall incorporate in a conspicuous way in the advertisement the real, fictitious, or corporate name under which he is licensed to engage in business and an acknowledgment that each office is independently owned and operated.

Sec. 66. NAC 645.640 is hereby amended to read as follows:

NAC 645.640 Disclosure of interest of licensee when subject of transaction. (NRS 645.190)

1. A licensee shall not acquire, *lease*, or dispose of any time share, real property or an interest in any time share or real property for himself, any member of his immediate family, his firm, or any member thereof, or any entity in which he has an interest as owner unless he first discloses in writing ~~[, on the offer to purchase or counteroffer, to the buyer and seller in the transaction]~~ that:

(a) He is acquiring, *leasing*, or disposing of the time share or property for himself or for a member, firm, or entity with which he has such a relationship; and

(b) He is a licensed real estate broker, licensed real estate broker-salesman, or licensed real estate salesman whether his license is active or inactive. This disclosure may be accomplished with a reference to himself as an agent, licensee, salesman, broker or broker-salesman, whichever is appropriate.

2. If a licensee advertises any time share or real property or his desire to enter into a transaction which is subject to the provisions of subsection 1, he shall include in the advertisement the disclosure required by that subsection.

Sec. 67. NAC 645.645 is hereby amended to read as follows:

NAC 645.645 Inspection and audit. A broker shall, upon demand, provide the division with the documents and the permission necessary to fully complete an inspection and audit, including inspection and audit of any money accounts as provided by NRS 645.310 *and NRS 645.313*. Permission may be given on a form provided by the division. The form must provide for release from liability to a bank, depositor, or other holder of information which might result from disclosure of the information required by the division.

Sec. 68. NAC 645.650 is hereby amended to read as follows:

NAC 645.650 Time requirement for recordkeeping involving real estate transactions and property management. (NRS 645.190)

1. A broker shall keep complete real estate transaction and property management records for at least 5 years after the date of the closing or the last activity involving the property, including, without limitation, offers that were not accepted and transactions that were not completed, unless otherwise directed by the division.

2. A salesman or broker-salesman must provide any paperwork to the broker with whom he is associated, *within 5 calendar days of execution*.

Sec. 69. NAC 645.655 is hereby amended to read as follows:

NAC 645.655 Records of transactions; trust accounts. (NRS 645.190)

1. A real estate transaction of a ~~licensee~~ *brokerage office* must be numbered consecutively or indexed to permit audit by a representative of the division.

2. A complete record of each real estate transaction, together with records required to be maintained pursuant to NRS 645.310, must be:

(a) Kept in this state; ~~and~~

(b) Open to inspection and audit by the division upon its request during its usual business hours, as well as other hours during which the licensee regularly conducts his business~~;~~; *and*

(c) *Must be signed and dated by the real estate broker.*

3. If any records the division requests to inspect or audit pursuant to subsection 2 are stored electronically, access to a computer or other equipment used to store the information must be made available to the division for use in its inspection or audit.

4. The ~~licensee~~ *broker* shall give written notice to the division of the exact location of his records and may not remove them until he has delivered a notice which informs the division of the new location.

5. A licensee shall not maintain a custodial or trust account from which money may be withdrawn without the signature of a licensee. *The use of rubber stamp signatures is prohibited.*

6. A real estate salesman may not be the only required signatory on a custodial or trust fund account. A real estate salesman may be a cosigner of an account with his real estate broker.

7. A real estate broker who files for relief under the bankruptcy laws of the United States shall immediately terminate each trust account established pursuant to NRS 645.310 and deposit all money from each trust account into escrow with executed instructions to the escrow agent or officer to disburse the funds pursuant to the agreement under which the money was originally deposited.

8. A real estate broker who is engaged in property management for one or more clients shall maintain ~~a~~ *two* separate property management trust accounts distinct from any trust account that the real estate broker may have for other real estate transactions. *One trust account shall be solely used for rental income and expenses and one must be solely used for security deposits.* A real estate broker shall maintain a ledger account for each unit of property he manages regardless of whether the client owns more than one unit under the real estate broker's management. All rents and deposits for each unit must be deposited into and credited to each property's management trust account and all authorized repairs and expenses must be paid out of the corresponding ledger account. For the purposes of this subsection, "unit" means one single-family dwelling unit.

9. Property management and real estate transaction trust accounts must be reconciled monthly by the real estate broker or his designee within 30 days after receipt of the bank statement. If a real estate broker permits any trust account, including any ledger account, to fall into deficit and remain in deficit for more than 45 consecutive days in 1 year, he will be subject to discipline pursuant to paragraph (h) of subsection 1 of NRS 645.633, or subject to other applicable charges, or both.

Sec. 70. NAC 645.657 is hereby amended to read as follows:

NAC 645.657 Payment of deposit to broker or owner-developer. Every real estate ~~broker salesman or salesman~~ *licensee* who receives a deposit on any transaction in which he is

engaged on behalf of a broker or owner-developer shall pay over the deposit to that broker or owner-developer *or the escrow business or company that is designated in the contract* within 1 business day after receiving the deposit.

Sec. 71. NAC 645.660 is hereby amended to read as follows:

NAC 645.660 Limitations on deposit of money. A licensee shall not deposit money received by him in any escrow business or company in which he or anyone associated with him in the real estate or time-share business has an interest without disclosing this association to ~~his client~~ *all parties to the transaction*.

Sec. 72. NAC 645.665 is hereby amended to read as follows:

NAC 645.665 Absence of broker from business for prolonged period. A broker shall not be absent from his business for 30 days or more if he is the only broker in his office unless he inactivates his license ~~for otherwise notifies the division in advance~~. Failure to observe this requirement is a ground for suspension. *If a broker is absent from his office for a period not to exceed 30 days, he must designate an office manager pursuant to NAC 645.178 or make other arrangements approved in advance by the Division.*

Sec. 73. NAC 645.675 is hereby amended to read as follows:

NAC 645.675 Agreements for advance fees: General requirements.

1. Each agreement for an advance fee used in Nevada must:
 - (a) Be in writing;
 - (b) Contain a definite and complete description of the services to be rendered;
 - (c) Specify the total amount of the fee involved and clearly state when the fee is due;
 - (d) Not imply or purport to guarantee that the real property involved will be purchased, sold, rented, leased, or exchanged as a result of the services rendered;
 - (e) Specify the date of full performance of the services contracted for; and
 - (f) Not imply or purport to represent to purchasers and prospective purchasers of the advertising or promotional services offered, that a buyer for the property is immediately or soon available.
2. Any oral representation or promise made to a purchaser or a prospective purchaser of the advertising and promotional services offered pursuant to an agreement for an advance fee to induce the purchaser or prospective purchaser of the services to sign the agreement, is incorporated into the agreement. The agreement may not relieve or exempt the vendor of the services from any oral representation or promise incorporated into the agreement.
3. *Provide for full refunds to customers if the services for which payment was received was substantially or materially not received by the customer.*

Sec. 74. NAC 645.678 is hereby amended to read as follows:

NAC 645.678 Agreements for advance fees for rentals. A broker operating an agency which lists rentals for an advance fee shall:

1. Not publish, advertise, or distribute information concerning rentals without first receiving approval from the owner of such rental unit.
2. Provide for full refunds to customers if the services for which payment was received was substantially or materially not received by the customer.

~~{3. Insure through the exercise of reasonable care that all advertisements are not false, deceptive, or misleading.}~~

~~{4.}~~ 3. Inform each customer in writing of the term for which the rental service is to be provided.

~~{5.}~~ 4. Make no additional charge for services rendered during the period for which such services were initially purchased.

Sec. 75. NAC 645.680 is hereby amended to read as follows:

NAC 645.680 Complaints; possible actions after review of investigation report. (NRS 645.190)

1. The division will prepare and require a standard form or affidavit for use in making a citizen's complaint. This form may require any information the division considers pertinent.

2. If a complaint is made or if the division requests an investigation of a licensee, the administrator shall appoint a member of the staff of the division to investigate any action of a licensee which appears to violate a provision of chapter *116*, 119, 119A, 119B ~~{or}~~, 645, *645C* or *645D* of NRS or the regulations promulgated thereunder. An investigation that is initiated by a complaint need not be limited to the matter in the complaint.

3. A licensee shall disclose all facts and documents pertinent to an investigation to members of the division's staff conducting the investigation.

4. A person appointed to investigate a matter pursuant to this section shall submit a written report to the administrator which describes the results of the investigation.

5. The administrator shall review a report submitted pursuant to subsection 4 and based upon the review shall:

(a) Dismiss the matter that is the subject of the investigation;

(b) Impose an administrative sanction pursuant to NAC 645.695;

~~{(b)}~~*(c)* Negotiate a resolution of the matter that is the subject of the investigation, which may include, without limitation, administrative sanctions pursuant to NAC 645.695;

~~{(c)}~~ *(d)* Create an advisory committee to review the matter that is the subject of the investigation pursuant to NAC 645.490, if the licensee who is the subject of the investigation agrees to participate in an informal conference with an advisory committee; or

~~{(d)}~~ *(e)* Schedule a hearing that must be conducted pursuant to NAC 645.810.

Sec. 76. NAC 645.690 is hereby amended to read as follows:

NAC 645.690 Time allowed to correct violation of chapter.

1. The division may grant any licensee up to 10 days to correct any deficiency involving advertising, business location, office operation, or a broker's sign. A notice of the deficiency and a request to correct a deficiency will be mailed to the licensee. Failure to comply with the request may be grounds for suspension or revocation of license. The notice must be sent ~~{on a form provided by the division and}~~ *which* states the deficiencies or violations, the recommended action, and the date by which the deficiencies must be corrected.

2. The division may grant an extension for a definite time to correct the deficiency whenever the correction may, practicably, require additional time.

Sec. 77. NAC 645.695 is hereby amended to read as follows:

NAC 645.695 Administrative fines; additional sanctions. (NRS 645.050, 645.190, 645.6052, 645.630, 645.633)

1. The administrator may require a licensee to pay an administrative fine in the amount set forth in this subsection for a violation of the following provisions:

	First Offense	{Second or Subsequent Offense
NRS 645.252	\$500	\$1,000
Subsection 4, 5, and 6 of NRS 645.310	1,000	2,000
NRS 645.530	100 per license	200 per license
NRS 645.550	500	1,000
NRS 645.560	500	1,000
Subsection 1 of NRS 645.570	250	500
Subsection 2 of NRS 645.570	—500	
Subsection 1 of NRS 645.580	250	500
Subsection 1, 2, 3, 5, 6, 9, 10, 11, or 12 of NRS 645.630	500	1,000
Subsection 7 [or 8] of NRS 645.630	1000	2,000
NRS 645.632	—500	
Paragraph (c), (e), (g), (h), (j)(k) or (l) of subsection 1 of NRS 645.633	500	1,000
Paragraph (a), (f) [or (k)] of subsection 1 of NRS 645.633	250	500
Paragraph (i) of subsection 1 of NRS 645.633	1,000	2,000
Subsection 1, 2, 3, 4, 5 [,] or 6 [or 8] of NRS 645.635	500	1,000
<i>Subsection 7 or 8 of NRS 645.635</i>	<i>1000</i>	
<i>Section 7 of SB 428</i>	<i>1000</i>	
[NAC 645.660]	500]	1,000
[NAC 645.185]	500]	1,000
NAC 645.610	500	1,000
NAC 645.620	500	1,000
[NAC 645.625]	250]	500
NAC 645.627	500	1,000
NAC 645.637	[250]500	500
NAC 645.640	500	1,000
NAC 645.645	500	1,000
NAC 645.650	[500]1000	1,000
NAC 645.655	[500]1000	1,000]

2. In addition to *or instead of* imposing an administrative fine pursuant to subsection 1, the administrator may:

(a) Recommend to the commission that the license of the licensee, the permit of the licensee if he holds a permit to engage in property management, or both, be suspended or revoked;

- (b) Require a licensee to complete continuing education; or
- (c) Take any combination of the actions set forth in paragraphs (a) and (b).

Sec. 78. NAC 645.710 is hereby amended to read as follows:

NAC 645.710 Application for registration.

1. An application for an original registration as an owner-developer must be completed by the owner-developer, unless the applicant is a partnership or corporation, and in that case it must be completed by a partner or the principal officer. The application must be filed with an office of the division and must be accompanied by fingerprint cards. The applicant's fingerprints must be taken by a regular law enforcement agency. If a search of criminal records has been requested by the division, an application for registration is not complete until the division has received the appropriate information.

2. The applicant must provide the following information:

(a) A statement of his arrests and convictions, if any, and any proceedings against him brought by governmental agencies;

(b) A brief history of his business;

(c) The legal description of the property to be covered by the registration, as shown on a recorded map, which shows all the certificates of approval required by law;

(d) The location of each of his sales offices;

(e) A statement which shows his financial condition; ~~and~~

(f) A history of his bankruptcies, if any ~~;~~ *and*

(g) An affidavit from any and all sales managers wherein they agree to be bound by the provisions of chapter 645 of NRS and of this chapter, which shall include but not be limited to the provisions for disciplinary action.

3. The application must be accompanied by:

(a) The applicant's sworn verification of the truthfulness of the matters stated in the application and its attachments; and

(b) A statement that he understands the responsibilities of an owner-developer under chapter 645 of NRS and this chapter *and that he could be subject to any disciplinary action under chapter 645 of NRS and this chapter.*

4. The fee for the original registration must accompany the application and is not refundable after the owner-developer has been registered.

5. If the applicant is a partnership or corporation, it must file with the division a certified or verified copy of the partnership agreement or articles of incorporation.

6. The application must be submitted with a copy of:

(a) The applicant's notice of exemption under subsection 5 of NRS 119.120;

(b) His business license, if one is required by the local government;

(c) If the applicant is a partnership or corporation, the provisions authorizing it to employ salesmen to sell the lots and residences; and

(d) The applicant's certificate of fictitious name, if such a certificate has been filed.

7. An application by a registered owner-developer to enlarge the geographical area covered by his registration must be made on a form prepared by the division. The applicant must provide the division with the same information as is required for an original application, and the application must be accompanied by the appropriate fee.

Sec. 79. NAC 645.770 is hereby amended to read as follows:

NAC 645.770 Disciplinary action.

1. The commission may fine an owner-developer, revoke or suspend the registration of an owner-developer, or impose a fine and revoke or suspend the registration of an owner-developer for any violation of chapter *113, 116*, 119, 119A, 645, *645C* or 645~~A~~*D* of NRS or the regulations promulgated thereunder pursuant to the hearing requirements of this chapter.

2. If the administrator has reason to believe that there has been a substantial change in the financial status of the owner-developer since his original application, the administrator shall investigate such financial status and if the owner-developer is determined to be financially incompetent to maintain his business, the administrator shall bring a complaint for revocation of his registration.

3. The commission may fine a sales manager for any violation of chapter 113, 116, 119, 119A, 645, 645C or 645D of NRS or the regulations promulgated thereunder pursuant to the hearing requirements of this chapter.

Sec. 80. (DELETED, see R126-04) NAC 645.774 is hereby amended to read as follows:

NAC 645.774 “Act as a qualified intermediary” interpreted. As used in subsection 1 of NRS 645.6065, the division will interpret “act as a qualified intermediary” to include:

1. Entering into an agreement with a client ~~[who is known by the qualified intermediary to be a resident of Nevada on the date of the agreement and]~~ who desires to:

(a) Relinquish real property located in Nevada in exchange for other real property in a tax-deferred exchange; or

(b) Acquire real property located in Nevada, which the client identifies at the time when the agreement is entered, to replace relinquished property in a tax-deferred exchange.

2. Maintaining an office in Nevada to solicit or conduct business as a qualified intermediary, regardless of where the real property which is the subject of the exchange is located or where the client resides.

Sec. 81. (DELETED, see R126-04) NAC 645.788 is hereby amended to read as follows:

NAC 645.788 Bond or deposit: Minimum amount; increase of minimum amount; objection by applicant; procedural requirements.

1. Except as otherwise provided in subsection 2, the minimum amount of a bond or other deposit required by NRS 645.608 must be ~~[\$25,000]~~ *1,000,000.00*.

2. The division may, as appropriate, increase the minimum amount of the bond or other deposit to not more than:

(a) The amount of any outstanding judgments or tax assessments against the applicant;

(b) Fifty percent of the amount in controversy reported to the division in accordance with paragraph (b) of subsection 2 of NAC 645.780; or

(c) The amount specified in paragraph (c) of subsection 2 of NAC 645.780 if the information supplied pursuant to paragraph (d), (e), or (f) of subsection 2 of NAC 645.780 is in the affirmative.

3. If an applicant objects to an increase in the minimum amount of the bond or other deposit required by the division pursuant to subsection 2, he may appeal the decision by requesting a hearing before the commission. The request must be in writing and received by the division within 30 days after the date on which the division informed the applicant of the increase.

4. If an applicant appeals a decision of the division pursuant to subsection 3, the hearing will be held in the manner set forth in NRS 645.440. At the hearing, the applicant has the burden of proving that the increase in the minimum amount of the bond or other deposit required by the division is unreasonable.

Sec. 82. NAC 645.800 is hereby amended to read as follows:

NAC 645.800 Application for permit; fee; requirements and certificate of completion for instruction; effective date of permit. (NRS 645.190, 645.6052)

1. Except as otherwise provided in subsection 2, a person who wishes to obtain a permit to engage in property management must submit to the division:

(a) A completed application on a form prescribed by the division;

(b) A fee of \$40; and

(c) A certificate of completion, in a form that is satisfactory to the division, that indicates his successful completion of the 24 classroom hours of instruction in property management required by paragraph (a) of subsection 2 of NRS 645.6052.

~~[2. If the license of the person as a real estate broker, real estate broker-salesman or real estate salesman expires less than a year before the date he applies for the initial issuance of a permit, the fee for a permit is \$20.]~~

3. The 24 classroom hours of instruction in property management required pursuant to paragraph (a) of subsection 2 of NRS 645.6052 must include, without limitation:

(a) Four hours of instruction relating to:

(1) Contracts for management services;

(2) Leases of real property;

(3) Applications to rent real property; and

(4) The Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.;

(b) Two hours of instruction relating to the maintenance of records of money deposited in trust accounts and the requirements for reporting to the division set forth in chapter 645 of NRS;

(c) One hour of instruction relating to the use of a computerized system for bookkeeping;

(d) Two hours of instruction relating to the laws of this state governing property management;

(e) Two hours of instruction relating to the disclosure of required information in real estate transactions, including, without limitation:

(1) Disclosures required pursuant to NRS 645.252; and

(2) Disclosures related to environmental issues as governed by state and federal law;

(f) Five hours of instruction relating to:

(1) The Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.;

(2) The Residential Landlord and Tenant Act as set forth in chapter 118A of NRS;

(3) The Nevada Fair Housing Law as set forth in chapter 118 of NRS; and

(4) State and federal law governing unlawful discrimination based on sex, including,

without limitation, sexual harassment;

(g) Three hours of instruction relating to property management for a common-interest community as set forth in chapter 116 of NRS;

(h) One hour of instruction relating to the duties and responsibilities of a real estate broker, including the supervision of employees and real estate salesmen and real estate broker-salesmen associated with the real estate broker;

(i) Two hours of instruction relating to risk management, including, without limitation:

(1) Maintenance of real property;

- (2) Health and safety of a tenant;
- (3) Fire insurance;
- (4) Rental insurance; and
- (5) Disability insurance; and

(j) Two hours relating to the management of commercial property.

4. ~~[The division will not accept a course consisting of 45 hours of classroom instruction in property management that is offered to a real estate salesman to obtain a license as a real estate broker-salesman or a license as a real estate broker to fulfill any part of the 24 classroom hours of instruction required by paragraph (a) of subsection 2 of NRS 645.6052 unless the certificate of completion of the course indicates that the course has been approved by the commission to fulfill all or part of the 24 classroom hours of instruction required by paragraph (a) of subsection 2 of NRS 645.6052.]~~ . *A course of instruction in property management that is designed to fulfill the educational requirements for issuance of a permit which are described in paragraph (a) of subsection 2 of NRS 645.6052 must be approved by the commission.*

5. The division may accept a course in property management from a nationally recognized or accredited organization to fulfill the requirements set forth in paragraphs (a), (b), (c), (h), (i) and (j) of subsection 3, if the successful completion of that course would qualify the applicant to engage in property management pursuant to the requirements of that organization.

6. The applicant must complete the hours of instruction set forth in paragraphs (d), (e), (f) and (g) of subsection 3 at an accredited educational institution in this state.

7. A permit to engage in property management initially issued by the division is effective on the date the application for the permit is submitted to the division or the date on which the fee for the permit is paid, whichever occurs later.

8. As used in this section and paragraph (a) of subsection 2 of NRS 645.6052, the commission will interpret the term “successfully completed” or “successful completion” to include, without limitation, passing an examination with a score of at least 75 percent that:

(a) Includes the subject matter presented in the hours of instruction required pursuant to subsection 3; and

(b) Consists of at least 50 multiple-choice questions.

Sec. 83. NAC 645.807 is hereby amended to read as follows:

NAC 645.807 Trust accounts: Signatures on checks. (NRS 645.190, 645.6052)

1. A real estate broker-salesman who holds a permit to engage in property management may sign checks on a trust account without the signature of the real estate broker who employs him if the broker-salesman has obtained the written permission of the broker authorizing him to do so.

2. The use of rubber stamp signatures is prohibited.

Sec. 84. NAC 645.810 is hereby amended to read as follows:

NAC 645.810 Hearings. (NRS 645.190)

1. The presiding officer of a hearing shall do the following:

(a) Ascertain whether all persons commanded to appear under subpoena are present, and whether all documents, books, records and other evidence under subpoena are present in the hearing room.

(b) Administer the oath to the reporter as follows:

Do you solemnly swear or affirm that you will report this hearing to the best of your stenographic ability?

(c) Administer the oath to all persons whose testimony will be taken:

Do you and each of you solemnly swear or affirm to tell the truth and nothing but the truth in these proceedings?

(d) Ascertain whether either party desires to have a witness excluded from the hearing except during the testimony of the witness. A witness may be excluded upon the motion of the commission or upon the motion of either party. If a witness is excluded, he will be instructed not to discuss the case during the pendency of the proceeding. The respondent will be allowed to remain present at the hearing. The division may designate a person who is a member of the staff of the division and who may also be a witness to act as its representative. Such a representative will be allowed to remain present at the hearing.

(e) Ascertain whether a copy of the complaint or decision to deny has been filed and whether an answer has been filed as part of the record in the proceedings.

(f) Hear any preliminary motions, stipulations or orders upon which the parties agree and address any administrative details.

(g) Request the division to proceed with the presentation of its case.

2. The division may not submit any evidence to the commission before the hearing except for the complaint and answer.

3. The respondent may cross-examine witnesses in the order that the division presents them.

4. Witnesses or counsel may be questioned by the members of the commission at any time during the proceeding.

5. Evidence which is to be introduced:

(a) Must first be marked for identification ~~[by the secretary]~~ for the commission; and

(b) May be received by the commission at any point during the proceeding.

6. When the division has completed its presentation, the presiding officer shall request the respondent to proceed with the introduction of evidence and calling of witnesses on his behalf.

7. The division may cross-examine witnesses in the order that the respondent presents them.

8. When the respondent has completed his presentation, the division may call any rebuttal witnesses.

9. When all testimony for the division and respondent has been given and all evidence submitted, the presiding officer may request the division and the respondent to summarize their presentations.

10. The commission may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.

11. The date of decision for the purpose of subsection 2 of NRS 645.760 is the date the written decision is signed by a commissioner or filed with the commission, whichever occurs later in time.

12. In the absence of the president of the commission, any matter which must be acted upon may be submitted to the vice president or to the secretary.

13. Upon the presentation of evidence that the respondent received notice of the hearing and has not filed an answer within the time prescribed pursuant to NRS 645.685, his default may be entered and a decision may be issued based upon the allegations of the complaint.

Repealed Text

NAC 645.060 “Deceitful, fraudulent or dishonest dealing” interpreted. (NRS 645.190)

1. For the purposes of NRS 645.633, the commission interprets the term “deceitful, fraudulent or dishonest dealing” to include any conduct by a licensee, pursuant to any real estate transaction or referral, that involves the giving to or acceptance from:

- (a) A lending institution;
- (b) An insurance company;
- (c) An appraiser;
- (d) An inspector;
- (e) A title insurance company;
- (f) An escrow company;
- (g) A contractor;
- (h) An attorney; or
- (i) Any other person involved in a real estate transaction with the licensee, of a fee, rebate, kickback or anything of value.

2. The term does not include any conduct of a licensee that involves:

- (a) The payment or acceptance of a commission or fee that is:
 - (1) Approved by a principal to the real estate transaction;
 - (2) Payable on or before the close of escrow; and
 - (3) Specified in a document evidencing the real estate transaction; or
- (b) The giving to or acceptance from a client of a gift that does not exceed \$100 in aggregate value for each real estate transaction involving the licensee and the client.

3. As used in this section:

- (a) “Contractor” has the meaning ascribed to it in NRS 40.620.
- (b) “Inspector” has the meaning ascribed to it in NRS 645D.080.

NAC 645.625 Use of name of franchise.

1. A broker who operates under or uses a name authorized by a franchise shall:

- (a) Register the name with the division on a form supplied by the division.
- (b) Submit a copy of the executed franchise to the division.

2. When advertising under the name of a franchise, the broker shall incorporate in a conspicuous way in the advertisement the real, fictitious, or corporate name under which he is licensed to engage in business and an acknowledgment that each office is independently owned and operated.

3. The division will not accept for registration the name of a franchise if the name is the same as or confusingly similar to:

- (a) The real, fictitious, or corporate name of a licensee; or
- (b) The registered name of another franchise.

This subsection does not prohibit more than one broker from registering the name of the same franchise.