

**PROPOSED REGULATION OF THE
REAL ESTATE COMMISSION**

LCB File No. R146-99

October 21, 1999

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-16, NRS 645.190.

Section 1. Chapter 645 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. *“Administrator” means the real estate administrator.*

Sec. 3. *“Advisory committee” means a committee established pursuant to section 4 of this regulation.*

Sec. 4. 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 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. If the administrator or the commission determines that an advisory committee should be formed, 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.

4. 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. 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. 5. 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 section 6 of this regulation;

(c) Work with the licensee who is the subject of the investigation to attempt to arrive at a recommendation for resolution of the matter which is the subject of the investigation; and

(d) Submit a recommendation for resolution of the matter to the administrator.

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 do 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) 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; or

(c) Schedule a hearing which must be conducted pursuant to NAC 645.810.

Sec. 6. 1. *If an advisory committee is established to assist the administrator with the review of an investigation conducted pursuant to NAC 645.680, 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 who 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) Shall be 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. The report is and must remain confidential.

Sec. 7. NAC 645.005 is hereby amended to read as follows:

645.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 645.007 to 645.055, inclusive, *and sections 2 and 3 of this regulation*, have the meanings ascribed to them in those sections.

Sec. 8. NAC 645.007 is hereby amended to read as follows:

645.007 “Active experience” for the purposes of NRS 645.343 ~~[and “full-time active experience” for the purposes of NRS 645.330 mean]~~ *means* experience gained while engaged in those activities described in subsections 1 and 2 of NRS 645.030, NRS 645.035 and 645.040 for at least 30 hours a week during at least 48 weeks of any 12-month period.

Sec. 9. NAC 645.205 is hereby amended to read as follows:

645.205 1. ~~[Written examinations]~~ *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 ~~[written]~~ examination until the ~~[division authorizes him in writing to appear for the examination.]~~ *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. 10. NAC 645.210 is hereby amended to read as follows:

645.210 The examination for salesmen may be a different examination from the examination for brokers. Each of the examinations will consist of questions covering any or all of the following subjects:

1. Principles:

(a) Contract ~~[and agency]~~ law;

(b) Real estate law and conveyancing; ~~[and~~

~~—(c) Listings and deposit receipts.]~~

(c) Listing property and services to the seller;

(d) Selling property and services to the buyer; and

(e) Deposits.

2. Practices:

(a) Land economics and appraising;

(b) Land descriptions;

(c) Financing and insurance;

(d) Mathematics;

(e) Escrows and closings; ~~and~~

(f) Subdivisions and developments ~~and~~;

(g) Property management;

(h) Environmental issues; and

(i) Tax issues that affect real estate ownership.

3. Procedures and ethics:

(a) ~~Chapters~~ *NRS 113.060 to 113.150, inclusive, 116.4109 and 116.41095, and chapters 119, 119A, 119B and 645 of NRS and the regulations adopted pursuant to them;*

(b) Federal ~~housing laws and land sales;~~ *laws, including, without limitation:*

(1) Fair Housing Act, 42 U.S.C. §§ 3601 et seq.;

(2) Interstate Land Sales Full Disclosure Act, 15 U.S.C. §§ 1701 et seq.;

(3) Truth in Lending Act, 15 U.S.C. §§ 1601 et seq.;

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

(5) Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 et seq.;

(6) Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 et seq.; and

(7) The Residential Lead-Based Paint Exposure Reduction Act of 1992, 42 U.S.C. §§ 4851 et seq.; and

(c) Real estate brokerage and ethics ~~and~~, *professional responsibility, fair practice and the duties listed in any form prepared by the division pursuant to NRS 645.193. A copy of a form prepared by the division pursuant to NRS 645.193 may be obtained from the division.*

Sec. 11. NAC 645.215 is hereby amended to read as follows:

645.215 The examination period ~~will not be less than 4 hours and no more than 8 hours. The times may be different for brokers and salesmen examinations.~~ *must not exceed 4 hours*

without prior written consent of the division. The division will establish the time for each examination . ~~[and notify the applicants before the closing day for applications. Test books and answer sheets will not be returned to the applicants.]~~ *An applicant may not retain any examination materials.* Examinations must not be made public except as provided by NRS 645.180.

Sec. 12. NAC 645.425 is hereby amended to read as follows:

645.425 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:

(a) Within the last 5 years; or

(b) More than two times.

4. Shall include a statement that the school is approved by the ~~real estate~~ commission on all advertisements of the school.

Sec. 13. NAC 645.450 is hereby amended to read as follows:

645.450 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 ~~H~~ and employees' contracts;

(g) Real estate mathematics;

(h) The management of real property, including leasing agreements, procedures for accounting ~~H~~ 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) Accounting and taxation as applied to real property;
- (n) The development of land; and
- (o) Agency and subjects related to agency.

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 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.
- (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 ~~real-estate~~ 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, 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, such as typing, shorthand, the operation of business machines, 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. 14. NAC 645.455 is hereby amended to read as follows:

645.455 1. An application for the approval of a course for the continuing education of licensees must be submitted to the division for review and presentation to the commission. The application must be made on a form provided by the division.

2. The commission will not give retroactive approval for such a course.

3. The commission will use the following criteria in determining whether to approve such a course, though it may use additional criteria:

(a) Whether the course consists of at least:

- (1) Three hours of instruction if the course is held in a classroom;

- (2) Fifteen hours of study if the course is given by correspondence; and
 - (3) Three hours of practical experience if the course is an interactive program of instruction which is limited for use on a computer.
- (b) Whether the sponsor of the course is willing to certify to the attendance of licensees at the course.
- (c) Whether the sponsor is willing to maintain for 5 years a record of attendance which contains:
- (1) The name of each licensee in attendance and the number of his license.
 - (2) The title and description of the course.
 - (3) The hours of instruction attended and dates of his attendance.
 - (4) A statement or indication whether he passed or failed the course, if applicable.
- (d) Whether the sponsor of the course is willing to assure that an approved instructor will preside throughout the course.
- (e) In the case of correspondence courses, whether the sponsor will:
- (1) Administer a closed-book final examination;
 - (2) Administer at least one quiz or progress evaluation; and
 - (3) Publish a policy for retaking an examination which a student failed.
- (f) In the case of presentations by video tape, whether the sponsor will provide an approved instructor at the site of the presentation to supplement and control instruction in the course.
- (g) In the case of an interactive program of instruction which is limited for use on a computer, the course must consist of material for instruction which requires the student to complete the course in approximately the same number of hours for which the course is approved. The licensee is entitled to receive credit for the course if he completes an examination

at the end of the course with a score of at least 90 percent. The examination must be graded by the sponsor before the issuance of a certificate.

4. If a course is approved, the sponsor shall provide a certified copy of the record of attendance to the licensee upon his completion of the course. The division shall accept the certificate as proof of the licensee's attendance 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;
- (d) Dates of instruction;
- (e) Title of the course or seminar;
- (f) Sponsor's number assigned by the division and a statement that the course was approved by the ~~real-estate~~ commission;
- (g) Signature of the person authorized to sign for the sponsor; and
- (h) Grade received by the student or a statement of whether the student passed the class if an examination was given.

Sec. 15. NAC 645.680 is hereby amended to read as follows:

645.680 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 ~~[, the division will]~~ *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 119, 119A, *119B or 645* ~~[, or 645A]~~ of NRS or the regulations promulgated thereunder . ~~[and]~~ *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. ~~[If the division determines that sufficient evidence exists to establish a violation, it will prepare and file a formal complaint with the commission. If insufficient evidence exists, the division may dismiss the matter without prejudice at any time.]~~ *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) 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) Create an advisory committee to review the matter that is the subject of the investigation pursuant to section 4 of this regulation, if the licensee who is the subject of the investigation agrees to participate in an informal conference with an advisory committee; or

(d) Schedule a hearing that must be conducted pursuant to NAC 645.810.

Sec. 16. NAC 645.695 is hereby amended to read as follows:

645.695 1. The ~~[real-estate]~~ 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 or 6 of NRS 645.310.....	500	1,000
NRS 645.530.....	100 per license	200 per license
Subsection 1 of NRS 645.570.....	250	500
Subsection 1 of NRS 645.580.....	250	500
Subsection 1, 2, 3, 4, 5, 6, 8, 9 10, 11 or 12 of NRS 645.630.....	500	1,000
Subsection 7 of NRS 645.630.....	1,000	2,000
Subsection 3, 5, 7 or 8 of NRS 645.633	500	1,000
Subsection 6 of NRS 645.633	250	500
Subsection 1, 2, 5, 6 or 8 of NRS 645.635	500	1,000
NRS 645.660.....	500	1,000
NAC 645.180	500	1,000
Subsection 1, 2 or 4 of NAC 645.610.....	250	500
Subsection 3 of NAC 645.610	500	1,000
NAC 645.625	250	500
NAC 645.637	250	500
NAC 645.640	500	1,000
NAC 645.645	500	1,000
NAC 645.650	500	1,000

2. In addition to imposing an administrative fine pursuant to subsection 1, the ~~real estate~~ 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 if the licensee is found guilty of a third or subsequent offense of any of the provisions set forth in subsection 1.

(b) Require a licensee to complete not more than 9 hours of continuing education.