

LCB File No. R186-99

**PROPOSED REGULATION OF THE
NEVADA REAL ESTATE COMMISSION**

NOTICE OF INTENT TO ACT UPON A REGULATION

**NOTICE OF HEARING FOR THE ADOPTION, AMENDMENT AND
REPEAL OF REGULATIONS OF THE NEVADA
REAL ESTATE DIVISION**

The Nevada Real Estate Division of the Department of Business & Industry of the State of Nevada (the "Division") will hold a public hearing at 8:30 AM on August 10, 1999, at the Commission on Tourism, 401 N. Carson Street, Council Chambers, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapter 645 of the Nevada Administrative Code.

Carson City

August 10, 1999

8:30 AM

Commission on Tourism, Council Chambers

401 North Carson Street

Carson City, NV

The following information is provided pursuant to the requirements of NRS 233B.060:

Information Regarding Adoption

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Information about Proposed Regulations

1. Purpose and need of the Proposed Regulations. The Division is the agency, which administers the licensing, education and compliance program under NRS 645. The purpose of the regulations is to define and clarify the rights and responsibilities of persons licensed under this chapter.
2. Terms of the proposed regulations. The regulations to be adopted are stated as follows:

Authority: NRS 645.190

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Agency Draft of Proposed Regulation R186-99

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

Section 1. Chapter 645 of NAC is hereby amended by adding thereto section two, of these proposed regulations.

Sec. 2 *Advertising under the name of the broker(s) with whom a broker-salesman or salesman is associated means that a broker-salesman or salesman must advertise under the broker's brokerage name as approved and registered with the division.*

Sec. 3. NAC 645.455 is hereby amended to read as follows:

1. An application for the approval of a course for ~~the~~ continuing education ~~of licensees~~ must be submitted to the division *on a form provided by 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~~ *grant* retroactive approval for such a course.

3. The commission will ~~use the following criteria in determining whether to approve such~~ *grant continuing education credit only for a course consisting of at least three hours of instruction whether offered by distance education or in a classroom.* ~~[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)] (a)~~ ~~[Whether]~~ the sponsor ~~[of the course]~~ ~~[is willing to]~~ *must* certify to the attendance of licensees ~~[at]~~ *who take* the course ~~[.]~~ *for credit; and the sponsor must maintain for 3 years a record of attendance containing:*

~~[(c) Whether the sponsor is willing to maintain for 3 years a record of attendance which contains:]~~

(1) The name of each licensee in attendance and ~~the~~ *his license* number. ~~[of his license.]~~

(2) The *course* title and ~~description of the~~ course ~~[.]~~ *number;*

(3) The *date and* hours of instruction attended ~~[and dates of his attendance.];~~ *and*

(4) A statement ~~[or indication whether he passed or failed]~~ *of the successful completion of* the course, if applicable. ~~[(d)] (b)~~ Whether the sponsor of the course is willing to assure that an approved instructor will preside throughout the course.

~~[(e)] (c)~~ In the case of ~~[correspondence]~~ *distance education* courses, ~~[whether]~~ the sponsor ~~[will]~~ *must*:

(1) Administer a ~~closed-book~~ final examination *with a 75% passing score*;

~~[(2) — Administer at least one quiz or progress evaluation; and]~~

(3) Publish a policy for retaking a ~~[n]~~ *failed* examination ~~[which a student failed].~~

~~[(f)] (d)~~ In 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)]~~ (e) 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.

Sec. 4. NAC 645.620 is hereby amended to read as follows:

1. A broker shall not operate under a fictitious name unless he complies with chapter 602 of NRS and files with the division a certified copy of the certificate issued by the county clerk. The division shall not issue more than one license nor register more than one owner-developer under the same name.
2. If the ~~licensee~~ *broker* changes or assumes a fictitious name under which business is conducted, he shall file a certified copy of the certificate issued by the county clerk to the division within 10 days after the certificate is issued.
3. A broker may not use more than one name for each license under which he operates.

Sec. 5. NAC 645.632 is hereby amended to read as follows:

Notification of rejection of offer. ~~[A licensee representing a seller in a transaction is responsible for informing the buyer or the buyer's representative, of the seller's failure to accept offers if such offers have not been accepted within a reasonable time. For the purpose of this section "buyer's representative" means that person or entity who tenders an offer to the seller on behalf of the buyer.]~~ *A licensee representing an offeree in a transaction shall, within a reasonable time after an offer has been presented to the offeree, provide the offeror or offerors' representative a writing signed by the offeree informing the offeror that the offer has not been accepted by the offeree.*

Sec. 6. NAC 645.637 is hereby amended to read as follows:

Disclosure of relationship as agent. ~~[Except for transactions involving a leasehold interest with an initial term of not more than 1 year,]~~ In each real estate transaction involving a licensee, as agent or principal, the licensee shall clearly disclose, in writing, to the buyer and seller and the lessor and lessee, his relationship as the buyer's agent or the seller's agent *or as a principal only, without an agency status*. The disclosure must be made as soon as practicable, but not later than the date and time on which a written agreement ~~[between the buyer or seller, or both, and the lessor or lessee, or both is signed]~~ *is signed by either the buyer or seller, or both, or the lessor or lessee, or both*. The prior disclosure must then be confirmed in a separate provision incorporated in or attached to that agreement and must be maintained by the broker in his files relating to that transaction.

Sec. 7 NAC 645.640 is hereby amended as follows:

Disclosure of interest of licensee when subject of transaction.

1. A licensee shall not acquire or dispose of any time share, 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 agreement and/or counter offer*, to ~~each other party~~ *the buyer and seller* to the transaction that:

(a) He is acquiring 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.

Sec. 8 NAC 645.650 is amended as follows:

Time requirement for record keeping involving real estate transactions and property management. A broker shall keep complete real estate transaction and property management records for at least ~~7~~ *5* years after the date of the closing or the last activity involving the property ~~to~~, *to include unaccepted offers and unconsummated transactions, unless otherwise directed by the Division. Licensees will provide all paperwork to their brokers.*

Sec. 9 NAC 645.695 is amended as follows:

Administrative fines; additional sanctions. (NRS 645.190, 645.6052)

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 or 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
<i>NAC 645.615</i>	<i>250</i>	<i>500</i>
NAC 645.625	250	500

<i>NAC 645.627</i>	<i>250</i>	<i>500</i>
NAC 645.637	250	500
NAC 645.640	500	1,000
NAC 645.645	500	1,000
NAC 645.650	500	1,000
NAC 645.655	250	500

3. Estimated Economic Effect. With the clarifications staff should spend less time dealing with “gray areas” of the law, thereby saving time and money.
4. Estimated Cost to the Agency. None.
5. Duplication with other Agencies: None.
5. Federal Law. These regulations are not required pursuant to any federal law.
6. Federal Regulation. These regulations do not include provisions, which are more stringent than a federal regulation.
8. New Fee Established. The proposed regulations do not establish a new fee or increase an existing fee beyond the fees required pursuant to NRS chapter 645.

Comments and Written Submissions

Persons wishing to comment on the proposed action of the Division may appear at the scheduled public hearings or may address their comments, data, views or arguments, in written form to:

Nevada Real Estate Division
Bradley Building
2501 E. Sahara Avenue, Room 102
Las Vegas, NV 89104-4137
Attn: Tami DeVries, Legal Administrative Officer

Written submissions must be received by the Division by August 1, 1999. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

Copies of Proposed Regulation

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation will be available at the following Division offices:

Nevada Real Estate Division
1665 Hot Spring Road, Suite 155
Carson City, NV 89710

Nevada Real Estate Division
Bradley Building
2501 East Sahara, Suite 102
Las Vegas, NV 89104-4137

and in all counties in which an office of the Division is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

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Posting

This notice of hearing has been posted at the following locations:

Nevada Real Estate Division
1665 Hot Spring Road
Carson City, NV 89710

Nevada Real Estate Division
Bradley Building
2501 East Sahara, Suite 202
Las Vegas, NV 89104-4137

Elko Conference Center
700 Moren Way (Silver Room)
Elko, Nevada

State Library
100 Stewart Street
Carson City, Nevada

Churchill County Library
553 South Maine Street
Fallon, Nevada 89406

Douglas County Library
1625 Library Lane
Minden, Nevada 89423

Elko County Library
720 Court Street
Elko, Nevada 89801

Goldfield Public Library
Fourth & Crook Street
Goldfield, Nevada 89013

Eureka Branch Library
10190 Monroe Street
Eureka, Nevada 89316

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Lincoln County Library
93 Main Street
Pioche, Nevada 89043

Storey County Library
95 South R Street
Virginia City, Nevada 89440

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Mineral County Library
First & A Street
Hawthorne, Nevada 89415

Tonopah Public Library
171 Central Street
Tonopah, Nevada 89049

Pershing County Library
1125 Central Avenue
Lovelock, Nevada 89419

Washoe County Library
301 South Center Street
Reno, Nevada 89505

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Battle Mountain Library
625 Broad Street
Battle Mountain, Nevada 89820