

LCB File No. R119-00

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

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption of Regulations of the Division of Real Estate

The Real Estate Division (Division) and the Commission of Appraisers of Real Estate (Commission) will hold a public hearing at 1 p.m. on August 16, 2000, at the Nevada Department of Transportation, District 2, Main Conference Room, 310 Galletti Way, Sparks, Nevada and the Nevada Department of Transportation, Building B, Training Room, 123 East Washington Avenue, Las Vegas, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapter 645C of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation or amendment.

The proposed regulation is intended to provide a simpler, expedited procedure for resolution of complaints against licensed or certified appraisers in response to concerns expressed by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council regarding the current number of disciplinary investigations and cases pending against appraisers and the time currently required for their resolution. The regulation is also intended to amend standards for approval of distance education to comply with recently amended federal requirements.

2. Either the terms or the substance of the regulations to be adopted, amended, or repealed, or a description of the subjects and issues involved.

The proposed regulation will allow the Administrator of the Division to propose, and the subject of an investigation to participate in, an informal review of the complaint by a committee consisting of licensed or certified appraisers, at least one of which will be a current or former member of the Commission, to review the evidence and attempt to resolve the matter by stipulation. The regulation is also intended to amend standards for approval of distance education to comply with recently amended federal requirements. See attached proposed regulation.

3. The estimated economic effect of the regulation on the business that it is to regulate and on the public. These must be stated separately and in each case must include:

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

In both the immediate and long-term, the appraisal industry will benefit from the proposed regulation because complaints will be resolved more quickly and inexpensively. The public will benefit because disciplinary and/or remedial action will be taken against licensed or certified appraisers in a more timely fashion. There are no known adverse effects expected from the proposed regulation.

4. The estimated cost to the agency for enforcement of the proposed regulation.

The Division will incur some additional expense for per diem and travel allowances to be paid to members of the advisory committees established by the proposed regulation.

5. A description of and citation to any regulations of other state or local governmental agencies that the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

N/A

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The distance education standards are required by the Appraisal Qualifications Board of the Appraisal Foundation, established pursuant to Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. Secs. 3331-3351).

7. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

N/A

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

The proposed regulation does not establish a new fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the Real Estate Division and Commission of Appraisers of Real Estate may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to Tami DeVries, Real Estate Division, 2501 East Sahara Avenue, Las Vegas, Nevada 89104, (702) 486-4033. The Division must receive written submissions on or before August 10, 2000. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted 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 regulation to be adopted will be available for inspection and copying by members of the public during business hours at the Real Estate Division, 2501 East Sahara Avenue, Las Vegas, Nevada 89104, the Real Estate Division, 788 Fairview Drive, Suite 200, Carson City, Nevada, 89701-5453, and at the main public library in all counties in which an agency office is not maintained. 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 which is available on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will 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.

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

Nevada Real Estate Division
788 Fairview Drive, Ste. 200
Carson City, NV 89701

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

Mineral County Library
First & A Street

Yerington, Nevada 89447

Tonopah Public Library
171 Central Street
Tonopah, Nevada 89049

Washoe County Library
301 South Center Street
Reno, Nevada 89505

Battle Mountain Library
625 Broad Street
Battle Mountain, Nevada 89820

Carson City Assessor
201 N. Carson Street, Suite 6
Carson City, NV 89701

Churchill County Assessor
10 W. Williams Avenue
Fallon, NV 89406

Douglas County Assessor
1616 8th Street
P.O. Box 218
Minden, NV 89423

Elko County Assessor
Elko County Courthouse
P.O. Box 8
Elko, NV 89801

Humboldt County Assessor
50 W. Fifth Street
Winnemucca, NV 89445

International Right of Way
City of Henderson
240 Water Street
Henderson, NV 89515

Lander County Assessor
315 S. Humboldt
Battle Mountain, NV 89820

Hawthorne, Nevada 89415

Pershing County Library
1125 Central Avenue
Lovelock, Nevada 89419

White Pine County Library
950 Campton Street
Ely, Nevada 89301

NDOT-Right of Way Division
123 E. Washington Avenue
Las Vegas, NV 89301

NDOT - Chief Row Agent
Capitol Complex
Carson City, NV 89710

Nye County Assessor
Nye County Courthouse
P.O. Box 271
Tonopah, NV 89049

Pershing County Assessor
400 Main Street
P.O. Box 89
Lovelock, NV 89419

Reno-Carson-Tahoe-Appraisal Institute
P.O. Box 711
Reno, NV 89505

Sierra Pacific Power Company
Right of Way division
600 Neil Road
Reno, NV 89502

Washoe County Assessor
1001 E. 9th Street
P.O. Box 11130
Reno, NV 89520

White Pine County Assessor
White Pine County Courthouse
Campton Street

Lyon County Assessor
Lyon County Courthouse
P.O. Box 460
Yerington, NV 89447

Mineral County Assessor
1st & A Street
P.O. Box 400
Hawthorne, NV 89515

Nevada Association of Realtors
760 Margrave Drive, Suite 200
Reno, NV 89510

P.O. Box 830
Ely, NV 89301

State of Nevada
Dept. of Business & Industry
State Real Estate Division
INTERNET PAGE:
<http://www.state.nv.us/b&i/red>

NOTICE OF WORKSHOP TO SOLICIT COMMENTS ON PROPOSED REGULATIONS

The Nevada Real Estate Division of the Department of Business & Industry of the State of Nevada is proposing the Adoption and/or Amendment of regulations pertaining to **Chapter 64f5C of the Nevada Administrative Code**. A workshop has been set for the following dates, times and locations:

Carson City, Nevada

Dept. of Business & Industry
Hearing Room
788 Fairview Drive
Carson City, NV 89701-5453
AUGUST 1, 2000
To begin at 9:00 a.m.

Las Vegas, Nevada

Dept. of Business & Industry
Conference Room, 2nd Floor
2501 E. Sahara Avenue
Las Vegas, NV 89104
AUGUST 2, 2000
To begin at 9:00 a.m.

The purpose of the workshop is to receive comments from all interested persons regarding the adoption of regulations that pertain to **Chapter 645C of the Nevada Administrative Code**. The following general topics may be addressed in the proposed regulations:

- Establishment of an advisory committee to assist the Commission of Appraisers of Real Estate and the Administrator of the Division of Real Estate in resolving complaints against licensed or certified appraisers. *See attached proposed regulation.*
- Changes to the distance education regulations. *See attached proposed regulation.*

A copy of all materials relating to the proposed regulations may be obtained at the **workshop** or by contacting the Real Estate Division at:

2501 E. Sahara Avenue, Room 100
Las Vegas, NV 89104-4137
(702) 486-4033, ext. 222
TAMI DEVRIES

788 Fairview Drive, Suite 200
Carson City, NV 89701-5453
(702) 687-4280. Ext. 312
BRENDA KINDRED-KIPLING

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

Nevada Real Estate Division
788 Fairview Drive, Ste. 200
Carson City, NV 89701

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

Elko Conference Center

State Library

700 Moren Way (Silver Room)
Elko, Nevada

100 Stewart Street
Carson City, Nevada

Churchill County Library
553 South Maine Street
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Douglas County Library
1625 Library Lane
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NDOT-Right of Way Division
123 E. Washington Avenue
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Carson City Assessor
201 N. Carson Street, Suite 6
Carson City, NV 89701

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Sierra Pacific Power Company
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600 Neil Road
Reno, NV 89502

Washoe County Assessor
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Reno, NV 89520

White Pine County Assessor
White Pine County Courthouse
Campton Street
P.O. Box 830
Ely, NV 89301

State of Nevada
Dept. of Business & Industry
State Real Estate Division
INTERNET PAGE:
<http://www.state.nv.us/b&i/red>

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

LCB File No. R119-00

Advisory Committee

EXPLANATION--Matter in italics is new, matter in brackets [] is material to be omitted.

Purpose: To establish an advisory committee to assist the Commission of Appraisers of Real Estate and the Administrator of the Division of Real Estate in resolving complaints against licensed or certified appraisers.

Authority: NRS 645C.050(3)

Address of Agency: The agency promulgating this regulation is the Division of Real Estate (Division), 2501 East Sahara Avenue, Las Vegas, Nevada 89104, (702) 486-4033. The Nevada Attorney General's Office advised and assisted the Division in the drafting of these regulations. The contact person is Doug Walther, Senior Deputy Attorney General, Attorney General's Office, 100 North Carson Street, Carson City, Nevada 89701-4717, telephone (775) 684-1213, facsimile (775) 684-1108.

Section 1. Chapter 645C of NAC is hereby amended by adding sections 2 to 5, inclusive, of these proposed regulations.

Sec. 2. *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 645C.445 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 NRS 645C.190(1). 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. At least one of those persons shall be a current or former member of the commission. 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. 3. 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 645C.445 shall:

(a) Review the written report submitted by an investigator pursuant to NAC 645C.445, if available, 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 645C of NRS or the regulations enacted pursuant to that chapter;

(b) Hold an informal conference in accordance with section 4 of these proposed regulations;

(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 645C.460(2), 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, imposition of disciplinary action authorized by NRS 645C.460(2); or

(c) Schedule a hearing which must be conducted pursuant to NAC 645C.500.

Sec. 4. 1. If an advisory committee is established to assist the administrator with the review of an investigation conducted pursuant to NAC 645C.445, 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) 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. 5. A licensee or holder of a certificate may apply no more than 50% of distance education to the required continuing education hours. The require 7 hour course of Uniform Standards of Professional Appraisal Practice may not be taken through distance education.

Sec. 6. Chapter NAC 645C.315 is amended to read:

1. An application for approval of ~~[a correspondence]~~ *a distance education* course or a course given in Nevada for the continuing education of licensees or holders of certificates 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. *For continuing education, distance education is defined as any education process based on geographical separation of instructor and learner (e.g., CD ROM, on-line learning, video conferencing)*

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

3. in determining whether to approve a course pursuant to this section, the commission will consider:

(a) Whether the course consist of at least 3 hours of instruction ~~[for resident classes, or 15 hours of instruction for correspondence courses];~~

(b) Whether the sponsor of the course is willing to certify to the attendance of licensees and holders of certificates 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 or holder of a certificate in attendance and the number of his license or certificate.

(2) the title and description of the course.

(3) The hours of instruction attended by the licensees or holder of a certificate and the dates of his attendance.

(4) A statement or indication whether the licensee or holder of a certificate 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]~~ *distance education* courses, whether the ~~[sponsor]~~ *licensee* will *be required to:*

(1) ~~[administer a closed book final examination]~~ *successfully completes a written examination proctored by an official approved by the commission;* or

(2) ~~[Administer at least one quiz or progress evaluation; and]~~ *if a written examination is not required, the student successfully completes the course mechanisms required for accreditation which demonstrates mastery and fluency (said mechanisms must be present in a course without an exam in order to be acceptable); and*

(3) ~~[(Publish a policy for retaking examinations.)]~~ *The course either has been presented by an accredited college or university that offers distance education; or*

(4) has received the American Council on Education's Program on Non-collegiate sponsored instruction (ACE/CREDIT) approval for college credit; or

(5) has approval through the Appraisal Qualifications Board (AQB) course approval program.

(f) In the case of presentations by videotape, whether the sponsor will provide an approved instructor at the site of the presentation to supplement and control instruction in the course.

(g) Any other criteria that the commission deems appropriate.