

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

LCB File No. R126-04

June 23, 2004

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

AUTHORITY: §1, NRS 645.385; §2, NRS 645.6065; §3, NRS 645.608.

A REGULATION relating to real estate; revising the provision that authorizes persons designated as brokers for certain entities to obtain licenses to act on their own behalf to include persons designated as brokers for limited-liability companies; revising the interpretation by the Real Estate Division of the Department of Business and Industry of the phrase “act as a qualified intermediary”; increasing the minimum amount of the bond or other deposit that a qualified intermediary must maintain; and providing other matters properly relating thereto.

Section 1. NAC 645.380 is hereby amended to read as follows:

645.380 1. A broker designated by a partnership , *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]~~ *an individual* 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 *such* 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 , *limited-liability company* or corporation and shall maintain separate records and a separate trust account so that the business of the partnership , *limited-liability company* or corporation remains separate from his independent business.

3. The partnership, *limited-liability company* 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 *partnership, limited-liability company or* corporation may not serve as a salesman ~~[,]~~ *or broker-salesman* except as otherwise provided by a specific statute.

6. ~~[(f-a)]~~ A broker *who* is licensed individually and as a partnership, *limited-liability company* or corporation, 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 against the Real Estate Education, Research and Recovery Fund.*

Sec. 2. NAC 645.774 is hereby amended to read as follows:

645.774 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]~~ *wishes* 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 ~~[,]~~ *into*, 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. 3. NAC 645.788 is hereby amended to read as follows:

645.788 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.***

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.