

**ADOPTED REGULATION OF THE  
REAL ESTATE COMMISSION**

**LCB File No. R077-07**

Effective January 30, 2008

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

AUTHORITY: §1, NRS 645.050, 645.190 and 645.863.

A REGULATION relating to business brokers; revising the provisions governing the interpretation of engaging in business as a business broker; and providing other matters properly relating thereto.

**Section 1.** NAC 645.911 is hereby amended to read as follows:

645.911 As used in chapter 645 of NRS, the Commission will interpret the term “engage in business as a business broker” ~~[to mean]~~ :

*1. Except as otherwise provided in subsection 2, to include* engaging in the business of:

~~[1.]~~ *(a)* Selling, exchanging, optioning or purchasing;

~~[2.]~~ *(b)* Negotiating or offering, attempting or agreeing to negotiate the sale, exchange, option or purchase of; or

~~[3.]~~ *(c)* Listing or soliciting prospective purchasers of,

~~↪ [the tangible assets and goodwill of an existing enterprise, if the sale or purchase of the tangible assets and goodwill of the enterprise requires the seller and purchaser to file with the Internal Revenue Service a Form 8594, Asset Acquisition Statement, or its equivalent or successor form.]~~ *any business, the individual assets of any business or any ownership interest in any business, including, without limitation, any stock, partnership interest or membership interest in a limited-liability company, for which income and expenses have been reported to*

*the Internal Revenue Service in the previous calendar or fiscal year on Form 1040, Form 1065, Form 1120 or Form 1120S, or any combination thereof, unless 50 percent or more of the gross reported income, excluding net capital gain, was earned by the rental of real estate reported on Form 8825.*

*2. Not to include engaging in the business of:*

*(a) Selling, exchanging, optioning or purchasing;*

*(b) Negotiating or offering, attempting or agreeing to negotiate the sale, exchange, option or purchase of; or*

*(c) Listing or soliciting prospective purchasers of,*

*↳ real property and a related business, if more than 50 percent of the gross income from the related business is directly derived from the use of the real property, including, without limitation, income derived from the transfer of tenant leases or management agreements and income derived from storage facilities, hotels, motels, ranches or any other business that would have no value but for the concurrent transfer of the real property.*

**NOTICE OF ADOPTION OF PROPOSED REGULATION  
LCB File No. R077-07**

The Real Estate Commission adopted regulations assigned LCB File No. R077-07 which pertain to chapter 645 of the Nevada Administrative Code.

**INFORMATIONAL STATEMENT**

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Notice of the proposed regulations were posted on the Real Estate Division website and in various other public locations where both the public and other interested persons could have access to that information.

The purpose of the adoption of LCB File No. R077-07 is to revise provisions governing the interpretation of engaging in business as a business broker.

The Real Estate Commission conducted a public workshop on September 6, 2007 in Las Vegas, which was video-conferenced to Carson City. On October 22, 2007, the Real Estate Commission conducted a public adoption hearing in Las Vegas, which was video-conferenced to Carson City. Public comment was solicited at both the workshop and the adoption hearing.

The notice of workshop and notice of adoption hearing instructed interested persons that members of the public could obtain copies of the comment summaries by contacting Joanne Gierer, Legal Administrative Officer, at 702-486-4036.

**2. The number of persons who:**

	CARSON CITY <u>09/06/07</u>	LAS VEGAS <u>09/06/07</u>	CARSON CITY <u>10/22/07</u>	LAS VEGAS <u>10/22/07</u>
Attended Workshops:	9	3		
Attended Adoption hearing:			1	1
Submitted written comments:	2	1	1	0

**3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Affected businesses were invited to comment at the public workshop and adoption hearing. The notice of adoption hearing instructed persons to submit written comments to the Division on or before October 17 2007.

Additionally, the Commission has had as a standing agenda item for their meetings to discuss and review Chapter 645 of NAC and make recommendations for proposed changes, additions, and deletions since July 2006 and through October 2007. At each meeting, the Commission considered possible changes to the Nevada Administrative Code for Chapter 645, solicited public comment, and formulated their proposals for changes.

Interested persons were told that they could obtain a copy of the comment summaries by contacting Joanne Gierer, Legal Administrative Officer, at 702-486-4036. A summary of the comments from both the workshop and adoption hearing are attached hereto.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The regulation was amended during the workshop and those changes were submitted to LCB for revision. LCB's final version of R077-07 (8-27-07) was used at the adoption hearing and was not amended.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

**Business which it is to regulate:**

**(1) Both adverse and beneficial effects:**

**Beneficial effects:** The regulation amends NAC 645.911 for the purpose of interpreting the term "engage in business as a business broker" to mean engaging in the business of selling, exchanging, optioning or purchasing (including the sale, exchange, optioning or purchasing of individual assets of the business or the sale of stock, partnership interest or membership in an LLC).

**Adverse effects:** Without this regulation, confusion will continue to exist in the real estate industry as to what real estate business transactions will require a business broker permit holder to conduct the transaction.

**(2) Both immediate and long-term effects.**

**Immediate effects:** Same as 5(1).

**Long-term effects:** Same as 5(1).

**Public:**

**(1) Both adverse and beneficial effects:**

**Beneficial effects:** The public will be assured that a real estate licensee who holds a business broker permit is qualified to assist in transactions mentioned in "Business 5(1)."

**Adverse effects:** No adverse effects are anticipated with the adoption of this regulation, which clarifies when a licensee must have a business broker permit.

- (2) **Both immediate and long-term effects:**  
**Immediate effects:** Same as (1).  
**Long-term effects:** Same as (1).

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

R077-07 will not have a financial impact on the Division.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There is no other state, federal or other governmental agency's regulations which the proposed regulations duplicate or overlap.

**8. If the regulation includes provisions, which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

None.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

R077-07 does not contain a new fee or increase of an existing fee.