

**PROPOSED REGULATION OF
THE REAL ESTATE COMMISSION**

LCB File No. R125-14

August 12, 2014

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

AUTHORITY: §§1-4, 10 and 22, NRS 645.190; §§5, 11-16 and 23, NRS 645.190 and 645.575; §§6-9, NRS 645.190, 645.330 and 645.400; §16, NRS 645.190 and 645.310; §§18 and 19, NRS 654.190 and 645.6052; §§20 and 21, NRS 645.190 and 645.863.

A REGULATION relating to real estate; revising the continuing education requirements for certain licensees; revising the fee and the continuing education requirements for the initial issuance or renewal of a permit to engage in property management and a permit to engage in business as a business broker; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Real Estate Commission to adopt regulations for the administration of laws governing real estate salespersons, real estate brokers, real estate broker-salespersons, property managers and business brokers. (NRS 645.190) An initial license as a real estate salesperson, real estate broker or real estate broker-salesperson is valid for 2 years and subsequent renewals are valid for 4 years. (NRS 645.490, 645.780) A licensee may also apply for a permit to engage in property management or to engage in business as a business broker. (NRS 645.6052, 645.863) The Commission is also authorized to adopt regulations governing: (1) the educational qualifications for applicants for licensure; (2) the continuing education requirements for renewal or reinstatement of such licenses; and (3) the requirements for the issuance and renewal of a permit. (NRS 645.343, 645.345, 645.575, 645.6052, 645.863)

Section 8 of this regulation eliminates the requirement that an applicant for a license as a real estate broker obtain approval of his or her financial condition from the Real Estate Division of the Department of Business and Industry before applying for a license. **Section 9** of this regulation makes corresponding changes by eliminating: (1) the requirement that the Division determine whether a person who wishes to apply for a license as a real estate broker is financially responsible; and (2) the provision that such an applicant shall be deemed financially responsible if the applicant can show liquid assets sufficient to maintain an office for at least 180 days. (NAC 645.120, 645.150) However, the Division retains the authority in existing law to investigate the financial condition of an applicant for a license as a real estate broker and to require applicants to provide such other information as the Division requires, including proof of

moral character, honesty, truthfulness and good reputation. (NRS 645.400; NAC 645.095, 645.150) **Sections 6, 7 and 22** of this regulation contain conforming changes. **Section 10** of this regulation changes the period for the validity of the results of an examination for purposes of applying for a license or permit from the 12 months immediately preceding the date of the application to the 12 months after the date on which the results of the examination were issued.

Under existing regulations, a first-time real estate licensee is required to complete certain postlicensing educational requirements within the first year after initial licensing in this State, with certain exemptions for a person who holds a similar license from another jurisdiction, who was licensed in this State within the preceding 5 years or who is licensed and has obtained a different real estate license through a combination of continuing education and experience. In addition, a first-time licensee required to complete the postlicensing education must complete 12 hours of continuing education within the initial 2-year license period to renew that license. (NAC 645.4442) **Section 11** of this regulation requires first-time licensees who are exempted from the postlicensing education requirements to complete 24 hours of continuing education during the 2-year initial license period to renew the license. **Section 23** of this regulation provides that this requirement for 24 hours of continuing education only applies to an exempt person whose initial license is issued on or after the effective date of this regulation.

Existing regulations require the holder of a license that has been placed on inactive status to complete certain continuing education requirements to reinstate his or her license. (NAC 645.448) These existing provisions are moved from **section 13** of this regulation to **section 5** of this regulation and are revised to reflect the amended continuing education requirements for first-time licensees in **section 11**. Under existing regulations, at least half of the required continuing education hours for license renewal or reinstatement of an inactive license is required to be taken through live instruction except a licensee in a rural area, with the prior approval from the Division, is allowed to take distance education courses that involve interaction with the instructor and other students to fulfill the requirement. **Section 11** imposes the same requirement on the continuing education of first-time licensees.

Under existing regulations, a real estate licensee who is not a first-time licensee is required to complete 48 hours of continuing education courses for renewal of his or her license. At least half of all such continuing education courses must be taken through live instruction. (NAC 645.448) **Section 13** of this regulation authorizes a licensee from a rural area to request from the Division an exemption to the live instruction requirements and instead take distance education courses that involve interaction with the instructor and other students.

Under existing law, a real estate broker is required to maintain a trust account. (NRS 645.310) **Section 16** of this regulation removes an incorrect reference to a custodial account.

Existing law authorizes the Commission to set fees for the provision to a licensee of a permit or renewal permit as a property manager or business broker. (NRS 645.6052, 645.830, 645.863) Existing law also prescribes the length of both the initial license period and license renewal period, and requires that property manager and business broker permits have the same expiration and renewal time periods as the license of the licensee who holds the permit. (NRS 645.6052, 645.780, 645.863) The initial license period and license renewal period were doubled in length by the 75th Session of the Legislature, with the new license periods to apply to licenses issued or

renewed on or after July 1, 2011. (Sections 2 and 4 of Senate Bill No. 230, chapter 372, Statutes of Nevada 2009, pp. 1939-40; NRS 645.780) **Sections 18-21** of this regulation raise the fee for such permits or renewal permits from \$40 to \$80, to reflect the doubling of the respective expiration and renewal time periods. **Sections 19 and 21** also revise the continuing education requirements for the renewal of such permits to adjust for the longer permit periods.

Section 22 of the regulation eliminates a provision relating to community managers of common-interest communities that is duplicative of statutory authority in chapter 116 of NRS.

Section 1. Chapter 645 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. *“First-time licensee” means a licensee who, at the time of the issuance of his or her current real estate license, has not held a real estate license issued by this State within the immediately preceding 5 years.*

Sec. 3. *“Initial license” means the first issuance of a real estate license of any kind in this State to a first-time licensee.*

Sec. 4. *“Rural area” means any area which is more than 100 miles from a city in this State whose population is 40,000 or more.*

Sec. 5. 1. *If an initial license has been placed on inactive status during any part of the first 2 years immediately after its issuance and the licensee applies for reinstatement of the license within 2 years after its issuance:*

(a) A licensee who is required to take a postlicensing course of education pursuant to subsection 1 of NAC 645.4442 must provide the Division with proof of successful completion of that course of education and the 12 hours of continuing education required by subsection 5 of NAC 645.4442.

(b) A licensee who is exempt from taking a postlicensing course of education pursuant to subsection 2 of NAC 645.4442 must provide the Division with proof of successful completion of the 24 hours of continuing education required by subsection 6 of NAC 645.4442.

2. If an initial license has been placed on inactive status during the first 2 years immediately after its issuance and the licensee applies for reinstatement of the license more than 2 years after its issuance:

(a) A licensee who is required to take a postlicensing course of education pursuant to subsection 1 of NAC 645.4442 must provide the Division with proof of successful completion of:

(1) The postlicensing course of education and the 12 hours of continuing education required by subsection 5 of NAC 645.4442; and

(2) An additional 24 hours of approved courses of continuing education.

(b) A licensee who is exempt from taking a postlicensing course of education pursuant to subsection 2 of NAC 645.4442 must provide the Division with proof of successful completion of:

(1) Twenty-four hours of continuing education as required by subsection 6 of NAC 645.4442; and

(2) An additional 24 hours of approved courses of continuing education.

3. If a license has been placed on inactive status after the renewal of the initial license and the licensee applies for reinstatement of the license:

(a) If the license was on inactive status for 2 years or less, the licensee must provide the Division with proof of successful completion of at least 24 hours of approved courses of continuing education. Not less than 12 of the hours required pursuant to this paragraph must be devoted to ethics, professional conduct or the legal aspects of real estate and must include 3 hours in each of the following areas:

(1) Agency relationships;

- (2) Nevada law, with an emphasis on recent statutory and regulatory changes;*
- (3) Contracts; and*
- (4) Ethics.*

(b) If the license was on inactive status for more than 2 years, the licensee must provide the Division with proof of successful completion of at least 48 hours of approved courses of continuing education. Not less than 24 of the hours required pursuant to this paragraph must be devoted to ethics, professional conduct or the legal aspects of real estate and must include 6 hours in each of the following areas:

- (1) Agency relationships;*
- (2) Nevada law, with an emphasis on recent statutory and regulatory changes;*
- (3) Contracts; and*
- (4) Ethics.*

4. Each course of continuing education and postlicensing education module used to meet the requirements of this section must be completed within the 2 years immediately preceding the date of application for reinstatement of a license.

5. At least 50 percent of the total hours of required continuing education set forth in this section must be taken through live instruction in which the licensee and the instructor are in the same room, except that a licensee who lives in a rural area may, with the prior written approval of the Division, complete the required hours of continuing education in distance education courses that involve interaction with the instructor and other students.

6. A licensee who fails to comply with the requirements for postlicensing education or continuing education set forth in this section is subject to immediate involuntary inactivation

of the license by the Division and an administrative fine in the amount set forth in subsection 1 of NAC 645.695.

Sec. 6. NAC 645.095 is hereby amended to read as follows:

645.095 1. The Division may deny any application for registration as an owner-developer, a license or a permit issued by the Division pursuant to this chapter or chapter 645 of NRS for any reason which is sufficient to deny a license pursuant to NRS 645.330 or when one or more of the following conditions exist:

- (a) The application is not in proper form;
- (b) The application is not accompanied by the required fees;
- (c) The accompanying forms are incomplete or otherwise unsatisfactory;
- (d) The application contains a false statement;
- (e) Other deficiencies appear in the application;
- (f) An investigation fails to show affirmatively that the applicant possesses the necessary qualifications, including, without limitation, good moral character and financial ~~responsibility;~~ *condition;*
- (g) The applicant has willfully acted or attempted to act in violation of chapter 113, 116, 119, 119A, 645, 645A, 645C or 645D of NRS or the regulations adopted pursuant thereto, or has willfully aided and abetted another to act or attempt to act in violation of those chapters or regulations;
- (h) The check used in paying the required fees for the registration, license or permit is not honored by the financial institution upon which it is drawn; or
- (i) If the application is for registration as an owner-developer, the applicant fails to verify that he or she is a licensed contractor in this State.

2. The Administrator may require proof of the applicant's moral character. In determining that character, the Administrator shall consider:

(a) The results of the Division's investigation of matters stated in the application and other matters that have come to the attention of the Division as a result of the investigation of the Division;

(b) Any history of arrest and conviction of the applicant;

(c) The nature and history of the business of the applicant; and

(d) Any past failure of the applicant to comply with any applicable requirements of chapter 113, 116, 119, 119A, 645, 645A, 645C or 645D of NRS.

3. An applicant whose application is denied by the Division may appeal the denial to the Commission in the manner set forth in NRS 645.440. If the Commission reverses the original decision and determines that the petitioner qualifies for registration, a license or a permit, the application may be accepted as of the date the application was originally submitted or the date on which the fee for the registration, license or permit was paid, whichever is later. The Division shall not charge an additional fee.

4. If the Division denies an application pursuant to this section, the Division will not refund any fees paid pursuant to that application.

Sec. 7. NAC 645.100 is hereby amended to read as follows:

645.100 An applicant for a license as a real estate salesperson must:

1. Be at least 18 years of age; and

2. Include with an application submitted to the Division pursuant to NRS 645.350:

(a) His or her fingerprint card as required pursuant to NRS 645.355;

(b) Proof that the applicant has satisfied the educational requirements for a license as a real estate salesperson as set forth in NRS 645.343;

(c) In accordance with NRS 645.358, the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520;

(d) Proof that the applicant has received a passing grade as described in NAC 645.220 *and within the time prescribed in NAC 645.225* on the examination for the license;

(e) The verified statement required by NRS 645.350; *and*

(f) Any information required pursuant to NAC 645.150 ; ~~including, without limitation, proof of honesty, truthfulness and good reputation;~~ and

(g) The required fees.

Sec. 8. NAC 645.102 is hereby amended to read as follows:

645.102 1. ~~{Before a person who wishes to apply for a license as a real estate broker submits an application for the license pursuant to NRS 645.350, the person must obtain approval of his or her financial condition from the Division pursuant to NAC 645.120.~~

~~—2.}~~ An applicant for a license as a real estate broker must satisfy the requirements for a license as a real estate salesperson as set forth in NAC 645.100 except the educational requirements set forth in paragraph (b) of subsection 2 of NAC 645.100. In lieu of providing proof that he or she has satisfied the educational requirements for a license as a real estate salesperson, the applicant must include with an application submitted to the Division pursuant to NRS 645.350 proof that he or she has satisfied the educational requirements for a license as a real estate broker as set forth in NRS 645.343.

~~{3.}~~ 2. In addition to satisfying the requirements set forth in subsection ~~{2.}~~ 1, an applicant for a license as a real estate broker must include with the application he or she submits to the

Division pursuant to NRS 645.350 proof that the applicant has satisfied the experience requirements for a license as a real estate broker as set forth in subsection 4 of NRS 645.330.

Sec. 9. NAC 645.150 is hereby amended to read as follows:

645.150 1. The Division may investigate the financial ~~responsibility~~ *condition* of each applicant for a license as a real estate broker ~~[- If the Division determines that an applicant is not financially responsible, it may require that the applicant be licensed as a real estate broker-salesperson until he or she meets the requirements of financial responsibility as determined by the Commission. The Division may require an applicant for a license as a real estate broker to submit a credit report to the Division at his or her own expense.]~~ *and require the submission of such information as necessary to conduct the investigation.*

2. ~~[- An applicant for a license as a real estate broker shall be deemed financially responsible if the applicant can show liquid assets sufficient to maintain an office for at least 180 days. The applicant's cash on hand must be on deposit at least 90 days before the date of the application. Anyone denied a license for lack of financial responsibility does not waive his or her right to appeal pursuant to NRS 645.440 by acceptance of a license as a real estate broker-salesperson.]~~

~~—3.]~~ The Administrator may require other proof of the honesty, truthfulness and good reputation of any applicant, including , *without limitation*, the officers and directors of any corporation, or the members of any partnership or association making an application, before accepting an application for a license.

~~[-4.— As used in this section, “liquid assets” means assets that are the equivalent of cash or easily converted into cash. The term:~~

~~—(a) Includes, without limitation, money in a checking, savings or money market account and certificates of deposit.~~

~~—(b) Does not include a line of credit.~~

Sec. 10. NAC 645.225 is hereby amended to read as follows:

645.225 The ~~{Division shall only accept}~~ results of an examination ~~{taken during the}~~ *are, for the purpose of applying for a license or permit, valid for* 12 months ~~{, to the day, immediately preceding the date of application for a license.}~~ *after the date on which the results of the examination were issued.*

Sec. 11. NAC 645.4442 is hereby amended to read as follows:

645.4442 1. Except as otherwise provided in subsection 2, each first-time licensee shall take *and successfully complete* a prescribed postlicensing course of education that focuses on practical applications of real estate transactions. The postlicensing course:

- (a) Must not repeat the content of the course work required to meet the educational requirements for an original license;
- (b) Must constitute the education required to be completed by a licensee within the first year immediately after initial licensing pursuant to NRS 645.575;
- (c) Must be offered in modules;
- (d) Must be provided through live instruction in which the licensee and the instructor are in the same room, except that first-time licensees who live in a rural area may, with the prior written approval of the Division, take the postlicensing course as ~~{an interactive or televideo}~~ *a distance education* course that involves interaction with the instructor and other students; and
- (e) Must provide the Division with proof of completion within the first year immediately after initial licensing.

2. The requirement for postlicensing education set forth in subsection 1 does not apply to a first-time licensee who:

(a) Holds a real estate license issued by another state or territory of the United States, or the District of Columbia, on the date on which the first-time licensee obtains a real estate license issued by the State of Nevada; *or*

(b) ~~Held a license as a real estate broker, real estate broker-salesperson or real estate salesperson issued by the State of Nevada within the 5 years immediately preceding the date on which the first time licensee obtained a license as a real estate salesperson; or~~

~~—(c)~~ Is licensed as a real estate broker-salesperson and obtained the qualifications for licensure as a real estate broker-salesperson pursuant to the provisions of subsection 4 of NRS 645.343.

3. The postlicensing course *of education* may include material that has not previously been approved or allowed for continuing education credit. Courses approved for postlicensing education will not be accepted or approved as a course for continuing education.

4. The curriculum for postlicensing education must contain at least 15 modules that include, without limitation:

(a) Real estate contracts, including the writing and presenting of a purchase agreement and qualifying prospects;

(b) The listing process, market analysis and inspections;

(c) Communication, technology and records management, including time management, goal setting and devising a plan of action;

(d) Buyer representation, including the buyer's brokerage contract, fiduciary duties, disclosures, cooperation between agents and new-home tracts;

(e) Professional conduct, etiquette and ethics;

(f) Advertising, including Regulation Z of the Truth in Lending Act of the Federal Trade Commission issued by the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 226, fair housing, the multiple-listing service, Internet websites and electronic mail;

(g) Proceeds of sale, costs of sale and cost sheets;

(h) Agency relationships;

(i) Land;

(j) Regulatory disclosures, including disclosures required by federal, state and local governments;

(k) Property management and the management of common-interest communities;

(l) Escrow, title and closing processes;

(m) Financing;

(n) Negotiation; and

(o) Tax opportunities and liabilities related to the client.

5. Each first-time licensee *who is required to take a postlicensing course of education pursuant to this section* must *successfully* complete an additional 12 hours of continuing education within the first 2 years immediately after initial licensing. The additional 12 hours of continuing education ~~is~~:

~~—(a) Must~~ *required pursuant to this subsection must* include ~~{3}~~ :

(a) Three hours in each of the following areas:

(1) Agency relationships;

(2) Nevada law, with an emphasis on recent statutory and regulatory changes;

(3) Contracts; and

(4) Ethics.

(b) ~~{Must be}~~ *At least 6 hours which are* provided through live instruction in which the *first-time* licensee and the instructor are in the same room, except that first-time licensees who live in a rural area may, with the prior written approval of the Division, take the additional continuing education course as ~~{an interactive or televideo}~~ *a distance education* course that involves interaction with the instructor and other students.

6. *Each first-time licensee who is exempt from the requirement for postlicensing education pursuant to subsection 2 must successfully complete 24 hours of continuing education within the first 2 years after initial licensing. The 24 hours of continuing education required pursuant to this subsection must include:*

(a) Three hours in each of the following areas:

(1) Agency relationships;

(2) Nevada law, with an emphasis on recent statutory and regulatory changes;

(3) Contracts; and

(4) Ethics.

(b) At least 12 hours which are provided through live instruction in which the first-time licensee and the instructor are in the same room, except that first-time licensees who live in a rural area may, with the prior written approval of the Division, complete the required hours of continuing education in a distance education course that involves interaction with the instructor and other students.

7. A first-time licensee who :

(a) Is required to take a postlicensing course of education pursuant to this section and fails to comply with the requirements for postlicensing education set forth in this section ; *or*

(b) Fails to comply with the requirements for continuing education set forth in this section,

↪ is subject to immediate involuntary inactivation of the license by the Division and an administrative fine in the amount set forth in subsection 1 of NAC 645.695.

~~{7. As used in this section, “rural area” means any area which is more than 100 miles from a city in this State whose population is 40,000 or more.}~~

Sec. 12. NAC 645.445 is hereby amended to read as follows:

645.445 1. To renew an active license, the licensee must provide the Division with proof that ~~he or she~~ *the licensee* has met :

(a) For the renewal of an initial license, the requirements set forth in NAC 645.4442.

(b) For any renewal subsequent to the renewal of an initial license, the requirements set forth in NAC 645.448.

2. To reinstate a license which has been placed on inactive status, a person must provide the Division with proof that he or she has met the requirements set forth in ~~NAC 645.448.}~~ *section 5 of this regulation.*

3. For the purpose of compliance with this section, 50 or more minutes of actual instruction constitutes a clock hour . ~~{and initial licensing refers to the first issuance of a real estate license of any kind in Nevada.}~~

Sec. 13. NAC 645.448 is hereby amended to read as follows:

645.448 1. Except as otherwise provided in subsection 3, a real estate salesperson who wishes to renew his or her license must *successfully* complete at least 48 hours of continuing education at approved educational courses, seminars or conferences during the *4-year* license renewal period. Twenty-four of the hours must be completed before the end of each 2-year period ~~{}~~ *during the license renewal period.* Each licensee must provide the Division with proof of *successful* completion before the end of each 2-year period. Not less than 12 of the hours in

each 2-year period *during the license renewal period* must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

- (a) Three hours in the area of agency relationships;
- (b) Three hours in the area of Nevada law with an emphasis on recent statutory and

regulatory changes;

- (c) Three hours in the area of contracts; and
- (d) Three hours in the area of ethics.

2. Except as otherwise provided in subsection 3, a real estate broker or real estate broker-salesperson who wishes to renew his or her license must *successfully* complete at least 48 hours of continuing education at approved educational courses, seminars or conferences during the *4-year* license renewal period. Twenty-four of the hours must be completed before the end of each 2-year period ~~H~~ *during the license renewal period*. Each licensee must provide the Division with proof of *successful* completion before the end of each 2-year period. Not less than 15 of the hours in each 2-year period *during the license renewal period* must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

- (a) Three hours in the area of agency relationships;
- (b) Three hours in the area of Nevada law with an emphasis on recent statutory and

regulatory changes;

- (c) Three hours in the area of contracts;
- (d) Three hours in the area of ethics; and
- (e) Three hours in the area of broker management.

3. The requirements for continuing education set forth in ~~{subsections 1 and 2}~~ *this section* do not apply to the renewal of a license upon the expiration of the initial license.

4. ~~If a license has been placed on inactive status and the licensee wishes to have the license reinstated, the licensee must comply with the following requirements:~~

~~—(a) If the license was on inactive status for 1 year or less, all of which was during the period of the initial license, the licensee must complete the postlicensing course described in NAC 645.4442.~~

~~—(b) If the license was on inactive status for more than 1 year but less than 2 years, any part of which was during the period of the initial license, the licensee must complete at approved educational courses, seminars or conferences:~~

~~——(1) The postlicensing course described in NAC 645.4442; and~~

~~——(2) At least 18 hours of continuing education. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:~~

~~———(I) Three hours in the area of agency relationships;~~

~~———(II) Three hours in the area of Nevada law with an emphasis on recent statutory and regulatory changes;~~

~~———(III) Three hours in the area of contracts; and~~

~~———(IV) Three hours in the area of ethics.~~

~~—(c) If the license was on inactive status for 2 years or less, no part of which was during the period of the initial license, the licensee must complete at least 24 hours of continuing education at approved educational courses, seminars or conferences. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:~~

~~——(1) Three hours in the area of agency relationships;~~

~~——(2) Three hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;~~

~~—— (3) Three hours in the area of contracts; and~~

~~—— (4) Three hours in the area of ethics.~~

~~— (d) If the license was on inactive status for more than 2 years, any part of which was during the period of the initial license, the licensee must complete at approved educational courses, seminars or conferences:~~

~~—— (1) The postlicensing course described in NAC 645.4442; and~~

~~—— (2) At least 24 hours of continuing education. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:~~

~~—— (I) Three hours in the area of agency relationships;~~

~~—— (II) Three hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;~~

~~—— (III) Three hours in the area of contracts; and~~

~~—— (IV) Three hours in the area of ethics.~~

~~— (e) If the license was on inactive status for more than 2 years, no part of which was during the period of the initial license, the licensee must complete at least 48 hours of continuing education at approved educational courses, seminars or conferences. Not less than 24 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:~~

~~—— (1) Six hours in the area of agency relationships;~~

~~—— (2) Six hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;~~

~~—— (3) Six hours in the area of contracts; and~~

~~—— (4) Six hours in the area of ethics.~~

~~—5.1~~ Not more than 3 hours of any of the required hours in each 2-year period *during the license renewal period* set forth in this section for continuing education may be taken in courses for personal development.

~~16.1~~ 5. At least 50 percent of the total hours of required continuing education set forth in this section must be taken through live instruction ~~by a licensee.~~

~~—7.1~~ *in which the licensee and the instructor are in the same room, except that a licensee who lives in a rural area may, with the prior written approval of the Division, complete the required hours of continuing education in distance education courses that involve interaction with the instructor and other students.*

6. A licensee who fails to comply with the requirements for continuing education set forth in this section is subject to immediate involuntary inactivation of the license by the Division and an administrative fine in the amount set forth in subsection 1 of NAC 645.695.

~~18. As used in this section, “initial license” means the license of a licensee who:~~

~~—(a) Did not hold a real estate license issued by another state or territory of the United States, or the District of Columbia, on the date on which the licensee obtained a real estate license issued by the State of Nevada;~~

~~—(b) Had not held a license as a real estate broker, real estate broker-salesperson or real estate salesperson issued by the State of Nevada within the 5 years immediately preceding the date on which the licensee obtained a license as a real estate salesperson; or~~

~~—(c) Is licensed as a real estate broker-salesperson and obtained the qualifications for licensure as a real estate broker-salesperson pursuant to the provisions of subsection 2 of NRS 645.343.]~~

Sec. 14. NAC 645.450 is hereby amended to read as follows:

645.450 1. A course for continuing education must contain:

(a) Current information on real estate which will improve the professional knowledge of the licensee and enable him or her 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 and employees' contracts;

(g) Real estate mathematics;

(h) The management of real property, including leasing agreements, procedures for accounting and contracts for management;

(i) The exchange of real property;

(j) Planning and zoning for land use;

(k) Real estate securities and syndications;

(l) Accounting and taxation as applied to real property;

(m) The development of land;

- (n) Agency and subjects related to agency;
- (o) The use of calculators and other technologies as applied to the practice of real estate;
- (p) The preparation of real estate contracts; and
- (q) Personal development courses.

3. If the sponsor agrees to comply with the provisions of subsections 3 and 4 of NAC 645.455, NAC 645.457 ~~and~~, *subsections 2 and 3 of NAC* 645.463 and subsection 1 of NAC 645.4432, the Administrator may 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 for college credit.

4. The Commission may, 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 that are not related to the activities described in NRS 645.030, 645.035 and 645.040, such as typing, shorthand, the operation of business machines, the use of computers, the use of computer software, 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 a course 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; or

(b) Eight full hours of credit per day of instruction in a course for continuing education if a final examination is given.

Sec. 15. NAC 645.463 is hereby amended to read as follows:

645.463 1. A course may not be taken for credit to meet the requirements for continuing education more than once during any two consecutive periods *in which continuing education is required* for renewal of a license.

2. ~~{Courses taken to satisfy requirements for renewal or reinstatement of a license must be completed within 2 years immediately before the latest date for renewing or reinstating the license.~~

~~—3.}~~ A licensee may receive credit for continuing education only upon certification by the sponsor that the licensee has attended and *successfully* completed at least 90 percent of the course.

~~{4.}~~ 3. The sponsor shall determine whether a final examination is required for the *successful* completion of a course.

Sec. 16. NAC 645.655 is hereby amended to read as follows:

645.655 1. Each real estate transaction of a brokerage must be numbered consecutively or indexed to permit audit by a representative of the Division.

2. A complete record of each real estate transaction, together with records required to be maintained pursuant to NRS 645.310, must be:

(a) Kept in this State; and

(b) Open to inspection and audit by the Division upon its request during its usual business hours, as well as other hours during which the licensee regularly conducts his or her business.

3. If any records the Division requests to inspect or audit pursuant to subsection 2 are stored electronically, access to a computer or other equipment used to store the information must be made available to the Division for use in its inspection or audit.

4. The real estate broker shall give written notice to the Division of the exact location of the records of the real estate broker and shall not remove them until he or she has delivered a notice which informs the Division of the new location.

5. A licensee shall not maintain a ~~feustodial or~~ trust account from which money may be withdrawn without the signature of a licensee. A signature applied by use of a rubber stamp does not constitute the signature of a licensee for the purposes of this subsection.

6. A real estate salesperson may not be the only required signatory on a custodial or trust fund account. A real estate salesperson may be a cosigner of an account with his or her real estate broker.

7. A real estate broker who files for relief under the bankruptcy laws of the United States shall immediately terminate each trust account established pursuant to NRS 645.310 and deposit all money from each trust account into escrow with executed instructions to the escrow agent or officer to disburse the money pursuant to the agreement under which it was originally deposited.

8. A real estate broker who is engaged in property management for one or more clients shall maintain two separate property management trust accounts distinct from any trust account that the real estate broker may have for other real estate transactions. One trust account must be used solely for activities relating to rental operations, and the other trust account must be used solely for security deposits. A real estate broker shall maintain a ledger account for each unit of property he or she manages regardless of whether the client owns more than one unit under the real estate broker's management. All rents and deposits for each unit must be deposited into and credited to each property's management trust account, and all authorized repairs and expenses must be paid out of the corresponding ledger account. For the purposes of this subsection, "unit" means one single-family dwelling unit.

9. Property management and real estate transaction trust accounts must be reconciled monthly by the real estate broker or the designee of the real estate broker within 30 days after receipt of the bank statement. A real estate broker who permits any trust account, including any ledger account, to fall into deficit and remain in deficit for more than 45 consecutive days in 1 year is subject to discipline pursuant to paragraph (h) of subsection 1 of NRS 645.633 or other applicable charges, or both.

Sec. 17. NAC 645.695 is hereby amended to read as follows:

645.695 1. The Administrator may require a licensee to pay an administrative fine in the amount set forth in this subsection for each violation of the following provisions:

For each
Offense

	For each Offense
NRS 645.252.....	\$500
Subsection 4, 5 or 6 of NRS 645.310.....	1,000
NRS 645.530.....	100 per license
NRS 645.550.....	500
NRS 645.560.....	500
Subsection 1 of NRS 645.570.....	250
Subsection 2 of NRS 645.570.....	500
Subsection 1 of NRS 645.580.....	250
Paragraph (a), (b), (c), (e), (f), (i), (j), (k) or (l) of subsection 1 of NRS 645.630.....	500
Paragraph (g) of subsection 1 of NRS 645.630.....	1,000
Paragraph (c), (e), (g), (h), (j), (k) or (l) of subsection 1 of NRS 645.633.....	500
Paragraph (a) or (f) of subsection 1 of NRS 645.633.....	250
Paragraph (i) of subsection 1 of NRS 645.633.....	1,000
Subsection 1, 2, 3, 4, 5 or 6 of NRS 645.635.....	500
Subsection 7 or 8 of NRS 645.635.....	1,000
Subsection 3 of NRS 645.660.....	1,000
NAC 645.4442.....	100
NAC 645.448.....	100

For each
Offense

<i>Section 5 of this regulation.....</i>	<i>100</i>
NAC 645.610	500
NAC 645.620	500
NAC 645.627	500
NAC 645.632	500
NAC 645.637	500
NAC 645.640	500
NAC 645.645	500
NAC 645.650	1,000
NAC 645.655	1,000
NAC 645.855	2,000

2. In addition to or in lieu of imposing an administrative fine pursuant to subsection 1, the Administrator may:

(a) Recommend to the Commission that the license of the licensee and any permit of the licensee be suspended or revoked;

(b) Require a licensee to complete continuing education; or

(c) Take any combination of the actions set forth in paragraphs (a) and (b).

Sec. 18. NAC 645.800 is hereby amended to read as follows:

645.800 1. A person who wishes to obtain a permit to engage in property management must submit to the Division:

(a) A completed application on a form prescribed by the Division;

(b) A fee of ~~+\$40;~~ **+\$80;** and

(c) A certificate of completion, in a form that is satisfactory to the Division, that indicates the person's successful completion of the 24 classroom hours of instruction in property management required by paragraph (a) of subsection 2 of NRS 645.6052.

2. The 24 classroom hours of instruction in property management required pursuant to paragraph (a) of subsection 2 of NRS 645.6052 must include, without limitation:

(a) Four hours of instruction relating to:

(1) Contracts for management services;

(2) Leases of real property;

(3) Applications to rent real property;

(4) The Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq.; and

(5) The Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 ~~to 1692e, inclusive;~~ *et*

seq.;

(b) Two hours of instruction relating to the maintenance of records of money deposited in trust accounts and the requirements for reporting to the Division set forth in chapter 645 of NRS;

(c) One hour of instruction relating to the use of a computerized system for bookkeeping;

(d) Two hours of instruction relating to the laws of this State governing property management;

(e) Two hours of instruction relating to the disclosure of required information in real estate transactions, including, without limitation:

- (1) Disclosures required pursuant to NRS 645.252; and
 - (2) Disclosures related to environmental issues as governed by state and federal law;
 - (f) Five hours of instruction relating to:
 - (1) The Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.;
 - (2) The Residential Landlord and Tenant Act as set forth in chapter 118A of NRS;
 - (3) The Nevada Fair Housing Law as set forth in chapter 118 of NRS; and
 - (4) State and federal law governing unlawful discrimination based on sex, including, without limitation, sexual harassment;
 - (g) Three hours of instruction relating to property management for a common-interest community as set forth in ~~chapter~~ *chapters* 116 *and 116A* of NRS;
 - (h) One hour of instruction relating to the duties and responsibilities of a real estate broker, including the supervision of employees and real estate salespersons and real estate broker-salespersons associated with the real estate broker;
 - (i) Two hours of instruction relating to risk management, including, without limitation:
 - (1) The maintenance of real property;
 - (2) The health and safety of a tenant;
 - (3) Fire insurance;
 - (4) Rental insurance; and
 - (5) Disability insurance; and
 - (j) Two hours relating to the management of commercial property.
3. The Division may accept a course in property management from a nationally recognized or accredited organization to fulfill the requirements set forth in paragraphs (a), (b), (c), (h), (i)

and (j) of subsection 2, if the successful completion of that course would qualify the applicant to engage in property management pursuant to the requirements of that organization.

4. The applicant must *successfully* complete the hours of instruction set forth in paragraphs ~~[(d), (e), (f) and]~~ (d) to (g), *inclusive*, of subsection 2 at an accredited educational institution in this State.

5. A permit to engage in property management initially issued by the Division is effective on the date the application for the permit is submitted to the Division or the date on which the fee for the permit is paid, whichever occurs later.

6. As used in this section and paragraph (a) of subsection 2 of NRS 645.6052, the Commission will interpret the term “successfully completed” or “successful completion” to include, without limitation, passing an examination which is prepared and administered by an organization designated by the Division, with a score of at least 75 percent that:

(a) Includes the subject matter presented in the hours of instruction required pursuant to subsection 2; and

(b) Consists of at least 50 multiple-choice questions.

↪ The fee for the examination is \$75.

Sec. 19. NAC 645.802 is hereby amended to read as follows:

645.802 1. The Division may renew a permit to engage in property management if the holder of the permit submits to the Division:

(a) A request for the renewal of the permit with the holder’s application to renew his or her license as a real estate broker, real estate broker-salesperson or real estate salesperson;

(b) A renewal fee of ~~[\$40;]~~ **\$80;** and

(c) Documentation of his or her successful completion of ~~the requirements for continuing education required by paragraph (a) of subsection 4 of NRS 645.6052.~~

~~2. The hours of continuing education used to fulfill the requirements set forth in paragraph (c) of subsection 1 must include:~~

~~(a) Instruction relating to any amendments to the laws of this State governing property management; and~~

~~(b) If the holder of the permit is a manager of a common interest community pursuant to chapters 116 and 116A of NAC, 3 hours of instruction relating to the laws of this State that are applicable to the responsibilities and duties involved in the management of a common interest community.~~

~~3. 6 hours of approved courses in property management, with 3 of those hours completed within the 2 years immediately preceding the date of the request for renewal.~~

2. The renewal of a permit is effective on the date on which the application for renewal of a license is submitted to the Division or on the date on which the renewal fees for the license and the permit are paid, whichever occurs later.

~~4.~~ 3. A permit expires on the same date as the holder's license expires.

Sec. 20. NAC 645.913 is hereby amended to read as follows:

645.913 1. A licensee who wishes to obtain a permit must:

(a) Submit to the Division:

(1) A completed application on a form prescribed by the Division;

(2) A fee of ~~40;~~ **80;**

(3) A fee of \$75 for the examination required by paragraph (b); and

(4) A certificate of completion, in a form satisfactory to the Division, indicating that the applicant has successfully completed the 24 hours of ~~classroom~~ instruction relating to business brokerage required by paragraph (a) of subsection 2 of NRS 645.863; and

(b) Pass an examination which is prepared and administered by an organization designated by the Division, with a score of at least 75 percent. The examination must:

(1) Include the subject matter presented in the hours of ~~classroom~~ instruction required pursuant to subsection 2; and

(2) Consist of at least 50 multiple-choice questions.

2. The 24 hours of ~~classroom~~ instruction relating to business brokerage required by paragraph (a) of subsection 2 of NRS 645.863 must include, without limitation:

(a) Eight hours of instruction relating to financial statements, including, without limitation:

(1) Income statements, balance sheets and cash flow statements;

(2) Reformatting and recasting income statements and balance sheets; and

(3) Terms and concepts used in financial statements;

(b) Six hours of instruction relating to the valuation of a business, including, without limitation:

(1) Business value and alternative purchase offers;

(2) Cash equivalent value;

(3) Business purchase price and seller carry-back notes;

(4) Investment value and fair market value;

(5) Determining the value of goodwill;

(6) The significance of a business's assets in creating market value;

(7) The market value of a franchised business; and

(8) The rules of thumb of business valuation;

(c) Six hours of instruction relating to purchase offer and sale considerations, including, without limitation:

(1) Structuring the transaction;

(2) Describing the business;

(3) Asset sales and stock sales;

(4) Describing the tangible assets being acquired;

(5) Describing the goodwill being acquired;

(6) Including real property in the transaction;

(7) Describing the assets included in the purchase;

(8) Describing the assets excluded from the purchase;

(9) Cash on hand;

(10) Method and terms of payment;

(11) Assumption by the buyer of liabilities of the seller;

(12) Notification of creditors of the seller;

(13) Method for the calculation of the purchase price of a business when the buyer of the business assumes the liabilities of the seller;

(14) Adjustments at the close of escrow to the liabilities of the seller assumed by the buyer; and

(15) Summarizing the structure of the transaction; and

(d) Four hours of instruction relating to business brokerage and professional practices, including, without limitation:

(1) Business opportunity contracts, agreements and disclosure forms;

- (2) Marketing, preparing a business for sale and advertising a business for sale;
- (3) Understanding the significance of the “potential” of a business;
- (4) Offering prospectus and confidentiality agreement;
- (5) Issues of business brokerage compensation;
- (6) Purchase offer and acceptance forms used for business opportunities; and
- (7) Business broker and business appraiser associations.

3. The Division may accept a course in business brokerage from a nationally recognized or accredited organization to fulfill the educational requirements set forth in subsection 2 if the successful completion of that course would qualify the applicant to engage in business as a business broker pursuant to the requirements of that organization.

4. Each applicant must pay a fee determined by the Division for the costs of an investigation of the applicant’s background.

5. Each applicant must, as part of his or her application and at the applicant’s own expense:

(a) Arrange to have a complete set of his or her fingerprints taken by a law enforcement agency or other authorized entity acceptable to the Division; and

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the applicant’s fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the applicant’s background and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by other means to the Central Repository and that the applicant has given written permission to the law enforcement

agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background and to such other law enforcement agencies as the Division deems necessary.

6. The Division may:

(a) Unless the applicant's fingerprints are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 5, submit those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the applicant's background as the Division deems necessary.

Sec. 21. NAC 645.915 is hereby amended to read as follows:

645.915 1. A permit expires on the same date as the license of the holder of the permit expires.

2. The Division may renew a permit if the holder of the permit submits to the Division:

(a) A request for the renewal of the permit with the application to renew his or her license;

(b) A renewal fee of ~~[\$40;]~~ **\$80;** and

(c) Documentation indicating that the holder of the permit has successfully completed ~~the continuing education required by paragraph (a) of subsection 4 of NRS 645.863.]~~ ***6 hours of approved courses in doing business as a business broker, with 3 of those hours completed within the 2 years immediately preceding the date of the request for renewal.***

Sec. 22. NAC 645.120 and 645.799 are hereby repealed.

Sec. 23. 1. The provisions of NAC 645.4442, as amended by section 11 of this regulation, apply only to a first-time licensee whose initial license is issued on or after the effective date of this regulation.

2. As used in this section:

- (a) “First-time licensee” has the meaning ascribed to it in section 2 of this regulation.
- (b) “Initial license” has the meaning ascribed to it in section 3 of this regulation.

TEXT OF REPEALED SECTIONS

645.120 Financial condition of applicant for license as real estate broker. (NRS 645.190, 645.400)

1. Before a person who wishes to apply for a license as a real estate broker submits an application for the license pursuant to NRS 645.350, the Division shall consider the financial condition of the person and require the person to submit to the Division the following financial information:

- (a) The person’s current employer and the employer’s address;
- (b) The person’s checking accounts with amounts;
- (c) The person’s savings accounts with amounts; and
- (d) Such other information concerning the person’s finances as the Division deems pertinent.

2. A person may not apply for a license as a real estate broker unless the person has submitted to the Division the information required by this section and the Division has approved the financial condition of the person.

645.799 Applicability of certain provisions regarding management of common-interest communities. (NRS 645.050, 645.190) A person who holds a permit and engages in the management of a common-interest community is subject to the provisions of chapter 116 of NRS and chapters 116 and 116A of NAC relating to managers of common-interest communities.