

**PROPOSED REGULATION OF THE
REAL ESTATE COMMISSION**

LCB File No. R058-98

May 8, 1998

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

AUTHORITY: §§2-18, NRS 116.31139.

Section 1. Chapter 116 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Certificate” means a certificate for the management of common-interest communities issued to a person by the commission pursuant to NRS 116.31139.*

Sec. 4. *“Commission” means the real estate commission.*

Sec. 5. *“Division” means the real estate division of the department of business and industry.*

Sec. 6. *“Property management” means the physical, administrative or financial maintenance and management of real property, or the supervision of those activities for a fee, commission or other compensation or valuable consideration.*

Sec. 7. *1. A person who wishes to obtain a certificate must submit an application to the division on a form prescribed by the commission.*

2. *The application must be accompanied by:*

(a) A 2-inch by 2-inch photograph of the applicant taken within the 2 years immediately preceding the date of the application;

(b) Two sets of fingerprint cards which have been completed by a recognized law enforcement agency;

(c) An executed Law Enforcement Record Form No. 3321-SA or equivalent authorization for the release of information contained in records of law enforcement;

(d) Written authorization for the division to submit the fingerprint cards to the central repository for Nevada records of criminal history for further submission to the Federal Bureau of Investigation and to receive reports regarding the criminal histories of the subjects of the fingerprint cards;

(e) Payment of the fees charged by any local agencies of law enforcement, the central repository for Nevada records of criminal history and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories;

(f) The social security number of the applicant;

(g) Evidence that the applicant has a reputation for honesty, integrity and trustworthiness;

(h) A statement concerning whether the applicant has been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or possessing for the purpose of sale any controlled substance or any crime involving moral turpitude;

(i) Documentation that the applicant possesses the education and experience required pursuant to section 9 of this regulation;

(j) Documentation of the employment history of the applicant for the 10 years immediately preceding the date of the application, including, without limitation, letters of recommendation and affidavits of employment from common-interest communities;

(k) A fee of \$75.00; and

(l) Such other pertinent information as the commission may require.

Sec. 8. *An application will not be accepted from a person under the age of 17 years for a certificate. A certificate will not be issued to a person under the age of 18 years.*

Sec. 9. 1. *Except as otherwise provided in subsection 2, an applicant must:*

(a) Have successfully completed at least 30 hours of instruction in courses in property management for a common-interest community that have been approved by the commission and the commission on postsecondary education, including, without limitation:

(1) At least 14 hours of instruction relating to federal, state and local laws applicable to property management, including, without limitation, instruction relating to:

(I) The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.);

(II) The Uniform Common-Interest Ownership Act as set forth in chapter 116 of NRS;

(III) The Nevada Fair Housing Law as set forth in chapter 118 of NRS;

(IV) The Residential Landlord and Tenant Act as set forth in chapter 118A of NRS;

(V) The disclosure of required information in real estate transactions;

(VI) Defects in construction;

(VII) Alternative dispute resolution for claims relating to residential property within a common-interest community as set forth in NRS 38.300 to 38.360, inclusive;

(VIII) Corporation law;

(IX) Industrial insurance; and

(X) Health and safety.

(2) Instruction in each of the following subjects:

(I) The maintenance of real property;

(II) Accounting, including, without limitation, budgets for revenues, expenditures and reserves;

(III) Governmental relations concerning issues that affect a common-interest community, including, without limitation, zoning and planning;

(IV) The management of facilities;

(V) The management of human resources;

(VI) Governing documents;

(VII) Risk management; and

(VIII) The types of insurance that must be maintained by a common-interest community pursuant to NRS 116.3113.

(b) Provide evidence that he has been engaged full-time in property management for a common-interest community for:

(1) The 12 months immediately preceding the date of his application; or

(2) At least 2 of the 4 years immediately preceding the date of his application.

2. An applicant may provide evidence of any other combination of education and experience that the commission may deem to be equivalent to the requirements set forth in this section.

Sec. 10. *1. Each applicant for a certificate must take an examination which has been approved by the commission. The commission will notify an applicant of the time and place of each examination not later than 30 days before the date scheduled for the examination.*

2. To pass the examination, an applicant must receive a score of at least 75 percent on the examination.

3. An applicant who fails the examination may retake the examination.

Sec. 11. *1. The commission will deny an application for a certificate if:*

(a) The application is not in the proper form;

(b) The application is not accompanied by the fees required by section 7 of this regulation;

(c) The accompanying forms or documentation 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;

(g) The applicant has willfully acted or attempted to act in violation of chapter 116, 119, 119A, 645 or 645A of NRS or the regulations adopted pursuant to those chapters or has willfully aided or abetted another person to act or attempt to act in violation of those chapters or regulations;

(h) The check used to pay the fee for the application for a certificate is not honored by the financial institution upon which it is drawn;

(i) The applicant has had a license, certificate or permit revoked in another state;

(j) The applicant has been convicted of, or entered a plea of guilty, guilty but mentally ill or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or possessing for the purpose of sale any controlled substance or any crime involving moral turpitude; or

(k) Any combination thereof.

2. Except as otherwise provided in subsections 3 and 4, the commission will not refund a fee for the application for a certificate.

3. The commission will refund the portion of the fee that is attributable to the cost of the investigation if the investigation was not conducted by the Federal Bureau of Investigation.

4. If an applicant reapplies within 90 days after the denial of his application, the commission will give him credit for the fee that he paid with the original application.

Sec. 12. *1. If the commission, after an application for a certificate in proper form has been filed with the division, accompanied by the proper fees, denies an application, the division shall give notice of the fact to the applicant within 15 days after the ruling, order or decision.*

2. Upon written request from the applicant, filed within 30 days after receipt of that notice by the applicant, the president of the commission will set the matter for a hearing to be conducted within 90 days after receipt of the applicant's request if the request contains allegations which, if true, qualify the applicant for a certificate.

3. The hearing must be held at such time and place as the commission prescribes. At least 15 days before the date set for the hearing, the division shall notify the applicant and shall accompany the notification with an exact copy of any protest filed, together with copies of all

communications, reports, affidavits or depositions in possession of the division relevant to the matter in question. Written notice of hearing may be served by delivery personally to the applicant, or by mailing it by certified mail to the last known address of the applicant.

4. The hearing may be held by the commission or a majority thereof, and a hearing must be held, if the applicant so wishes. A record of the proceedings, or any part thereof, must be made available to each party upon the payment to the division of the reasonable cost of transcription.

5. The commission will render a written decision on any appeal within 60 days after the final hearing and will notify the parties to the proceedings, in writing, of its ruling, order or decision within 15 days after it is made.

Sec. 13. *1. A certificate must be renewed biennially.*

2. The commission will renew a certificate if the applicant submits to the division at least 30 days before the expiration of his certificate:

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

(b) A renewal fee of \$30; and

(c) Documentation of the applicant's successful completion of at least 6 hours of continuing education in courses approved by the commission within the 2 years immediately preceding the date on which the certificate expires. At least 3 hours of the continuing education must consist of instruction relating to laws of this state that are applicable to property management.

3. The renewal of a certificate is effective on the date on which the application for renewal is filed with the division or on the date on which the renewal fee is paid, whichever is later.

4. *If the holder of a certificate fails to complete the required hours of continuing education or fails to file an application for the renewal of his certificate before it expires, he may not engage in property management for a common-interest community until his certificate is reinstated.*

5. *In addition to submitting the documents and fee set forth in subsection 2, an applicant who wishes to reinstate his certificate must submit to the division:*

(a) *Current fingerprint cards which have been completed by a recognized law enforcement agency;*

(b) *An executed Law Enforcement Record Form No. 3321-SA or equivalent authorization for the release of information contained in records of law enforcement;*

(c) *Written authorization for the division to submit the fingerprint cards to the central repository for Nevada records of criminal history for further submission to the Federal Bureau of Investigation and to receive reports regarding the criminal histories of the subjects of the fingerprint cards; and*

(d) *Payment of the fees charged by any local agencies of law enforcement, the central repository for Nevada records of criminal history and the Federal Bureau of Investigation for the handling of the fingerprint cards and issuance of the reports of criminal histories.*

Sec. 14. *1. Any course designed to fulfill the educational requirements for the issuance or renewal of a certificate must be approved by the commission. The commission's approval of such a course is effective for 1 year after the original approval or a reapproval.*

2. *An application for the original approval of such a course must be submitted to the division on a form prescribed by the commission. The commission will assign a number to the sponsor of each course that it approves.*

3. *A sponsor of an approved course must submit an application for reapproval to the division on a form prescribed by the commission and attach to that form an updated outline for the course. An application for reapproval must be filed at least 2 weeks before the previous approval expires. If a sponsor fails to submit an application for reapproval in a timely manner, the sponsor must apply for an original approval.*

4. *The commission may audit an approved course to ensure that the course, instructor or sponsor continues to meet the requirements of this chapter.*

5. *The sponsor of a course approved by the commission shall require each student to complete an evaluation of the course on a form approved by the commission. The sponsor shall retain the evaluations for 3 years after the date on which the course was provided and shall make the evaluations available for inspection by the commission, upon its request, during regular business hours.*

6. *The commission may withdraw its approval of a course if it finds through an audit or evaluations completed by students in the course that:*

(a) The quality of the curriculum or instruction is unsatisfactory; or

(b) Any of the provisions of this chapter governing courses designed to fulfill the educational requirements for the issuance or renewal of a certificate have been violated.

7. *If the commission denies or withdraws approval of a course, the sponsor may file a written request for a hearing before the commission pursuant to the procedures set forth in NAC 645.415.*

Sec. 15. *1. If the commission approves a course designed to fulfill the educational requirements for the issuance or renewal of a certificate, the sponsor of the course shall provide a certified copy of the record of attendance of a student to that student upon his successful completion of the course. The commission will accept the certified copy as proof of the attendance of the student for the purpose of obtaining or renewing a certificate.*

2. The record of attendance of a student must contain the:

(a) Name of the sponsor;

(b) Name of the student and, if the student is the holder of a certificate, the number of his certificate;

(c) Number of hours of instruction;

(d) Dates of instruction;

(e) Title of the course;

(f) Number assigned to the sponsor by the commission and a statement that the course was approved by the commission;

(g) Grade received by the student or a statement of whether the student passed the course if an examination was given; and

(h) Signature of the person authorized to sign for the sponsor.

3. *The sponsor shall maintain a record of each student's attendance in a course for 5 years after his enrollment in the course and shall make such records available for inspection by the commission, upon its request, during regular business hours.*

Sec. 16. *An instructor of a course that has been approved by the commission to fulfill the educational requirements for the issuance or renewal of a certificate must possess:*

1. *A good reputation for honesty, integrity and trustworthiness; and*

2. *At least one of the following qualifications, unless granted a special exception by the commission:*

(a) *A bachelor's degree in the field in which the person is instructing or a directly related field.*

(b) *A license from this state or another state that authorizes the holder to teach the subject being offered.*

(c) *Five years of full-time experience, other than in a secretarial position, working in a job directly related to the subject taught.*

(d) *Three years of experience teaching a course in real estate or a directly related subject.*

Sec. 17. 1. *A course that has been approved by the commission to fulfill the educational requirements for the issuance or renewal of a certificate may not be taken for credit more than once unless the material in the course has been changed or updated significantly.*

2. *A holder of a certificate may receive credit for a course only upon certification by the sponsor that the holder of the certificate has attended and completed at least 90 percent of the course.*

3. The sponsor shall determine whether a final examination is required for the completion of a course.

Sec. 18. This regulation becomes effective on July 1, 1998, or the date on which it is filed with the secretary of state, whichever is later.