

LCB File No. 146-99

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

RED #98-10-01-R

Authority: NRS 645.190

Note: Matter italicized is new; matter in brackets **[H]** is material to be omitted.

Section 1. Chapter 645 of NAC is hereby amended by adding thereto sections two to four, inclusive of these proposed regulations.

Sec. 2. *1. The commission will, when appropriate, establish an advisory committee of at least three members to:*

(a) Provide assistance in an area that the commission considers necessary; or

(b) Assist the commission in the review of complaints which has been filed pursuant to NAC 645.680 or other matters under investigation if the respondent agrees to participate in an informal review of the complaint or other matter by an advisory committee.

2. The administrator shall appoint members to an advisory committee from a list of volunteers. The list of volunteers must consist of persons approved by the commission. The administrator shall designate one member of the advisory committee to serve as the chairman of the committee.

3. Members of an advisory committee:

(a) Serve at the pleasure of the commission;

(b) Are prohibited from participating in a proceeding in which a member of the commission would be required to abstain under similar circumstances; and

(c) Serve without compensation, but are entitled to travel expenses and subsistence allowances from the division.

Sec. 3. *1. An advisory committee established to assist the commission in the review of a complaint may:*

(a) Review the complaint or other matter under investigation and the written report submitted by an investigator pursuant to NAC 645.680 to determine whether probable cause exists that the respondent has violated a provision of chapter 119, 119A, 119B, or 645 of NRS or the regulations promulgated thereunder;

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

(c) Work with the respondent to arrive at a resolution of the complaint.

2. If the respondent and the administrator accept the recommendations of the advisory committee regarding resolution of the complaint or other matter under investigation, the administrator may enter into a written agreement with the respondent setting forth the resolution recommended by the advisory committee. If the agreement provides for the imposition of any discipline authorized by NRS 645.630, the administrator is authorized to impose such discipline on behalf of the commission. If discipline is imposed pursuant to this

section, the administrator shall file with the commission a written summary of the matter and discipline imposed for discussion at the next regularly scheduled meeting of the commission.

3. If the respondent or the administrator do not accept the recommendations of the advisory committee, the administrator may:

- (a) Dismiss the complaint or other matter under investigation;*
- (b) Schedule a formal hearing; or*
- (c) Take any other appropriate action regarding the complaint or other matter under investigation.*

Sec. 4. 1. *If an advisory committee is established to assist the commission in the review of a complaint, the administrator shall schedule an informal conference between the advisory committee and the respondent. The administrator shall provide written notice of the time and place of the conference to:*

- (a) Each member of the advisory committee;*
- (b) The respondent; and*
- (c) Each witness whose appearance has been requested at the informal conference.*

2. In conducting an informal conference, an advisory committee is not bound by the technical rules of evidence. The chairman of an advisory committee shall rule on the admissibility of evidence and accept all evidence, which is relevant to the complaint. All evidence admitted is confidential.

3. The chairman shall report in writing to the administrator the results of the informal conference within 30 days after the conclusion of the informal conference. The report is confidential.

Sec. 5. NAC 645.680 is hereby amended to read as follows:

1. The division will prepare and require a standard form or affidavit for use in making a citizen's complaint. This form may require any information the division considers pertinent.

2. If a complaint is made, the ~~[division]~~ *administrator will appoint a member of the division's staff to [will]* investigate any action which appears to violate a provision of chapter 119, 119A, 645, or 645A of NRS or the regulations promulgated thereunder. *The investigation [and] need not be limited to the matter in the complaint and the division may investigate a suspected violation regardless of whether a citizen's complaint has been received.*

3. A licensee shall disclose all facts and documents pertinent to an investigation to members of the division's staff conducting the investigation.

4. ~~[If the division determines that sufficient evidence exists to establish a violation, it will prepare and file a formal complaint with the commission. If insufficient evidence exists, the division may dismiss the matter without prejudice at any time.]~~ *The division's investigator shall submit a written report to the administrator, which describes the results of his investigation. The administrator shall review the report and may:*

- (a) Dismiss the complaint or other matter under investigation;*
- (b) Settle and/or negotiate a resolution of the complaint or other matter, to include but not be limited to Administrative sanctions as set out in NAC 645.695;*
- (c) Authorize the creation of an advisory committee to review the complaint or other matter if the respondent agrees to participate in an informal conference with an advisory committee;*
- (d) Schedule an informal hearing; or*
- (e) Schedule a formal hearing.*

Sec. 6. NAC 645.205 is hereby amended to read as follows:

Schedule for ~~[written]~~ examination; authorization required.

1. ~~[Written]~~ examinations will be held at least once in each 2 months on dates and at times and places designated by the division.
2. An applicant will not be permitted to take the ~~[written]~~ examination until the ~~[division authorizes him in writing to appear for the examination]~~ *authorization has been obtained and a date and time have been scheduled at a specific location.*
3. An applicant must take the examination prescribed by the division.
4. *A Division approved current Candidate Examination Handbook shall be available at the Real Estate Division at no cost. This handbook shall set forth the following examination information:*
 - a. *Registration procedures;*
 - b. *Scheduling process; and*
 - c. *Test procedures.*

Sec. 7. NAC 645.210 is hereby amended to read as follows:

Scope of examination. The examination for salesmen may be a different examination from the examination for brokers. Each of the examinations will consist of questions covering any or all of the following subjects:

1. Principles:
 - (a) Contract ~~[and agency]~~ law;
 - (b) Real estate law and conveyancing; and
 - (c) Listing~~[s]~~ *property and services to the seller* and deposits ~~[receipts]~~; and.
 - (d) *Selling property and services to buyer.*
2. Practices:
 - (a) Land economics and appraising;
 - (b) Land descriptions;
 - (c) Financing and insurance;
 - (d) Mathematics;
 - (e) Escrows and closings; ~~[and]~~
 - (f) Subdivisions and developments;
 - (g) *Property management;*
 - (h) *Environmental issues; and*
 - (i) *Tax issues affecting real estate ownership.*
3. Procedures and ethics:
 - (a) Chapters *116.4109-116.1095, inclusive, 113.060-113.150, inclusive, 119, 119A, 119B,* and 645 of NRS and the regulations adopted pursuant to them;
 - (b) Federal ~~[housing]~~ laws ~~[and land sales]~~ : *fair housing, Interstate Land Sales Full Disclosure Act, Truth in Lending Act Americans with Disabilities Act, RESPA, Equal Credit Opportunity Act, Lead-Based Paint Hazard Reduction Act; and*
 - (c) Real estate brokerage and ethics, *Professional responsibility, fair practice and duties owed.*

Sec. 8. NAC 645.215 is hereby amended to read as follows

Length of examination; disclosure of results. The examination period ~~[will not be less than 4 hours and no more than 8 hours]~~ *shall not exceed 4 hours, without prior written consent from the Division..* ~~[The times may be different for brokers and salesmen examinations.]~~ The division will establish the time for each examination. ~~[and notify the applicants before the closing day for applications.]~~ ~~[Test books and answer sheets will not be returned to the applicants.]~~ *Exam materials shall not be released to exam candidates with the exception of score reports.* Examinations must not be made public except as provided by NRS 645.180.

**INFORMATIONAL STATEMENT FOR THE ADOPTED TEMPORARY
REGULATION OF THE REAL ESTATE COMMISSION
RED #98-10-01-R**

The following statement is submitted for temporary adopted amendments to Nevada Administrative Code (NAC) 645.

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

Temporary Regulation RED #98-10-01-R was noticed by posting the Notice of Workshop to Solicit Public Comment and Notice of Intent to Act Upon a Regulations at all of the county libraries. Additionally, said notices were sent to the Boards of Realtors in the state as well as the real estate schools registered with the Division. Public response focused on the fact that they would like to see the majority of the committee members, on the proposed Advisory Review Committee, be active real estate licensees. There was a tremendous amount of support from the public for the passage of this regulation, as they felt it would assist the Commission with their caseload, as well as disposing of minor violations in a more relaxed atmosphere. A copy of the summaries for each of the workshops conducted, as well as any written comments may be obtained by calling or writing to the Real Estate Division at (702)486-4033 ext. 222, 2501 E. Sahara Avenue, Suite 102, Las Vegas, Nevada 89104.

2. The number of persons who:

- | | | | |
|-----|--|-----------|--|
| (a) | Attended each workshop: | 19 | |
| (b) | Testified at hearing: | 2 | |
| (c) | Submitted to the agency written statements: | 3 | |

Written comments were submitted by the Nevada Association of Realtors, Southern Nevada School of Real Estate and AMP the current testing service for the Nevada Real Estate Division.

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.

The Notice of Intent, as shown in paragraph number one herein solicited comments from affected businesses.

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 sections 6-8 of the proposed regulations were adopted at the Real Estate Commission hearing on December 8, 1998, without change due to the fact that everyone in attendance agreed that these changes were simply bringing these regulations up to date.

Sections 1-5 of the proposed regulations were adopted at the Real Estate Commission hearing on December 17, 1998, after some research and discussion regarding the effect of the Open Meeting Law. These regulations were adopted as proposed due to the fact that the only concerns expressed by the Commissioners and members of the public could be addressed with the issuance of a policies and procedures manual for the Advisory Review Committee, as opposed to changing the regulations every time there is need for changes in procedure.

5. The estimated economic effect of the regulation on the business which 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.**

The adverse effects of the regulations include the additional workload on the Legal Administrative Officer's position, and the necessity for additional filing cabinets and office supplies to organize the committee. In addition, there may be some travel cost involved in order to solicit membership from the rural areas for the committee. The beneficial effects of the regulation include settling a significant number of disciplinary actions through the informal review process, thereby reducing Commission hearings, and related cost and staff time. Immediately, the regulations will lessen the caseload that the Commissioners will be hearing. Over the long term, this committee will get a better response from the real estate licensees, and help to settle disciplinary matters in a more amicable manner. Between the committee and the Commission, complaints will be resolved in a more timely manner.

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

The cost involved to the agency would consist of possible travel expenses for staff if there would be a need for a committee meeting in areas other than Las Vegas. Otherwise, there should not be any increased cost to the agency due to the fact that the committee members would be volunteers, and would not be paid for their time.

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.

This regulation does not duplicate the practices of any other state government agencies.

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

There are no provisions that are more stringent than a federal regulation.

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.

This regulation does not provide for any new or increased fees.