

LCB File No. 092-00

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

NOTICE OF INTENT TO ACT UPON A REGULATION

**NOTICE OF HEARING FOR THE ADOPTION, AMENDMENT AND
REPEAL OF REGULATIONS OF THE
NEVADA REAL ESTATE DIVISION
RED # R00-03-01**

The Nevada Real Estate Division of the Department of Business & Industry of the State of Nevada (the "Division") will hold a public hearing at GRANT SAWYER STATE BUILDING, 555 E. WASHINGTON AVENUE, ROOM 4412, LAS VEGAS, NEVADA 89104 on JUNE 6, 2000, at 9:30 A.M. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapter 645 of the Nevada Administrative Code.

LAS VEGAS, NEVADA

JUNE 6, 2000

9:30 A.M.

GRANT SAWYER STATE BUILDING
555 E. WASHINGTON AVENUE
ROOM 4412
LAS VEGAS, NV 89104

The following information is provided pursuant to the requirements of NRS 233B.060:

Information Regarding Adoption

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Information about Proposed Regulations

1. Purpose and need of the Proposed Regulations. The Division is the agency, which administers the licensing, education and compliance program under NRS 645. The purpose of the

regulations is to define and clarify the rights and responsibilities of persons licensed under this chapter.

2. Terms of the proposed regulations. The regulations to be adopted are stated as follows:

Authority: NRS 645.190

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

Section 1. Chapter 645 of NAC is hereby amended by adding thereto section(s)2 - 4, of these proposed regulations.

Sec. 2 *The three semester units or equivalent number of quarter units of instruction in broker management required pursuant to paragraph (d) of subsection 2 of NRS 645.343 must include, without limitation:*

- *Six hours of office policy and procedure, risk management, E & O, controlled business arrangements, compensation, employer/employee or independent contractor relationship and expectations;*
- *Three hours of the business plan - the business “blueprint”;*
- *Three hours familiarizing and review of all transaction forms used by brokerage;*
- *Six hours overview of financing programs, terminology, transaction cost and net sheets, customary transaction closing costs;*
- *Six hours of state and local legislative update;*
- *Six hours of federal laws governing real estate transactions;*
- *Six hours of client & customer relations;*
- *Three hours of valuation and economics- knowing your market;*
- *Six hours of emerging trends & practices (including internet);*

Notwithstanding NAC 645.440(2), the division will not accept a course in broker management unless the course has been approved by the commission to fulfill the course of instruction required by paragraph (d) of subsection 2 of NRS 645.343. Such a course may be offered by any accredited college or university or by any other institution which meet the standards of education established by the commission.

Sec. 3 *Designated property manager means a broker or broker salesman with 2 years full time active experience out of the past 4 years and holds a property management permit.*

Sec. 4 *1. If the division, after an application for a course in proper form has been filed with it, accompanied by the proper fee, denies an application, the division shall give notice of the fact to the applicant within 15 days after its ruling, order or decision.*

2. The applicant may file an appeal of the Division’s denial to the Commission, within 30 days after receipt of that notice by the applicant. The president of the commission shall 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 license.

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 the possession of the division relevant to the matter in question. Written notice of the 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 by a majority of its members, and a hearing must be held, if the applicant so desires. 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 shall render a written decision on any appeal within 60 days after the final hearing and shall notify the parties to the proceedings, in writing, of its ruling, order or decision within 15 days after it is made.

6. If an applicant has made a false statement of material fact on his application, the false statement may in itself be sufficient ground for denial of a course.

Sec. 5 Amend NAC 645.463 as follows:

1. A licensee may receive credit for continuing education if he teaches an approved course. Credit will be given only once for teaching the course. The licensee must submit proof that he taught the course during the applicable period of licensing.
 2. A course may not be taken for credit ~~[more than once]~~ *within consecutive renewal periods.* ~~[unless the material in the course has been significantly changed or brought up to date.]~~
 3. 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.
 4. A licensee may receive credit for continuing education only upon certification by the sponsor that the licensee has attended and completed at least 90 percent of the course.
 5. The sponsor shall determine whether a final examination is required for the completion of a course.
- (Added to NAC by Real Estate Comm'n, eff. 8-21-81; A 12-16-82; 8-26-83; 6-3-86; 12-27-89)

Sec. 6 Amend NAC 645.450 as follows:

1. The courses for continuing education must contain:
 - (a) Current information on real estate which will improve the professional knowledge of the licensee and enable him 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) Estates and management of a portfolio;
- (m) Accounting and taxation as applied to real property;
- (n) The development of land; and
- (o) Agency and subjects related to agency.

3. If the sponsor agrees to comply with the provisions of subsections 3 and 4 of NAC 645.455, NAC 645.457, 645.460 and 645.463 and subsection 1 of NAC 645.465, the **[commission] division** will 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] division**.
- (b) Any course in real estate or a directly related subject if the course is offered by an accredited university or community college.
- (c) Any course in real estate or a directly related subject if the course is offered by the National Association of Realtors or its societies, institutes or councils.

4. The administrator may, without specific approval by the commission, approve a course offered by the Nevada Association of Realtors upon its submission of an application for the approval. The **[commission] division** will, upon application, approve a course conducted by any other school, professional society, or organization if the **[commission] division** 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, such as typing, shorthand, the operation of business machines, 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 one 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.
- (b) Eight full hours of credit per day of instruction in a course of continuing education if a final examination is given.

[Real Estate Adv. Comm'n, § X subsec. F pars. 5-7, eff. 4-20-78]—(NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 6-3-86; A by Real Estate Div., 11-30-87; 11-8-88; A by Real Estate Comm'n, 12-27-89; 5-14-96; R146-99, 1-21-2000)

Sec. 7 Amend NAC 645.455 as follows:

1. An application for the approval of a course for continuing education must be submitted to the division on a form provided by the division for review and presentation to the ~~commission~~ *division*.

2. The ~~commission~~ *division* will not grant retroactive approval for a course for continuing education.

3. The ~~commission~~ *division* will grant credit for a course for continuing education only if:

(a) The course consists of at least 3 hours of distance education or instruction in a classroom.

(b) For a course of instruction in a classroom, the sponsor of the course:

(1) Certifies to the attendance of licensees who take the course for credit.

(2) Maintains for 3 years a record of attendance which contains the following information with respect to each licensee who has taken the course for credit:

(I) The name of the licensee in attendance and the number of his license.

(II) The title and number of the course.

(III) The hours of instruction attended and dates of attendance by the licensee.

(IV) A statement that the licensee has successfully completed the course, if applicable.

(3) Assures the ~~commission~~ *division* that an approved instructor will preside throughout the course.

(c) For a course of distance education, the sponsor of the course *shall*:

1. Require each student to:

(a) Take a closed-book final examination with a proctor present at a location designated by the sponsor in its application for approval filed with the division and receive a score of at least 75 percent to pass the course;

(b) Prove his identity before he is allowed to take any examination; and

(c) Complete each course within an established minimum and maximum time.

2. Certify the completion of only the number of hours for which the course has been approved by the division. A portion of a course does not satisfy the requirements for continuing education.

~~[1. — Administers a final examination on which a licensee must receive a score of at least 75 percent to pass the course.]~~

(1) Publishes a policy for retaking an examination which a licensee failed.

(2) Maintains for 3 years a record of completion of the course which contains the following information with respect to each licensee who has taken the course for credit:

(I) The name of the licensee who completes the course and the number of his license.

(II) The title and number of the course.

(III) A statement that the licensee has successfully completed the course which includes, without limitation, the date that the course was completed and the number of hours completed.

4. If a course is approved, the sponsor shall provide a certified copy of the record of attendance or record of completion to the licensee upon his completion of the course. The division shall accept the certificate as proof of the attendance of the licensee or completion of the course by the licensee for the purpose of renewal or reinstatement of his license. If the course is taken at a

university or community college, the proof of attendance must be a certified transcript. The certificate of a sponsor must contain the:

- (a) Name of the sponsor;
- (b) Name of the licensee and his license number;
- (c) Number of hours of instruction;
- (d) Dates of instruction for a course of instruction in a classroom;
- (e) Date of completion of the course for a course of distance education;
- (f) Title of the course or seminar;
- (g) Number of the sponsor assigned by the division and a statement that the course was approved by the ~~commission~~ *division*;
- (h) Signature of the person authorized to sign for the sponsor; and
- (i) Grade received by the licensee or a statement of whether the licensee passed the class if an examination was given.

[Real Estate Adv. Comm'n, § X subsec. F par. 10, eff. 4-20-78]—(NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 8-26-83; 12-27-89; 5-14-96; R146-99 & R186-99, 1-21-2000)

Sec. 8 Amend NAC 645.695 as follows:

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

	First Offense	Second or Subsequent Offense
NRS 645.252.	\$500.....	\$1,000
Subsection 4, 5 or 6 of NRS 645.310.....	500.....	1,000
NRS 645.530.	100 per license	200 per license
<i>NRS 645.550</i>	<i>500</i>	<i>1,000</i>
<i>NRS 645.560</i>	<i>500</i>	<i>1,000</i>
Subsection 1 of NRS 645.570.	250.....	500
Subsection 1 of NRS 645.580.	250.....	500
Subsection 1, 2, 3, 5, 6, 8, 9, 10, 11 or 12 of NRS 645.630.....	500	1,000
Subsection 7 of NRS 645.630.	1,000.....	2,000
Subsection 3, 5, 7 or 8 of NRS 645.633.	500.....	1,000
Subsection 6 of NRS 645.633.	250.....	500
Subsection 1, 2, 5, 6 or 8 of NRS 645.635.	500.....	1,000
NRS 645.660.	500.....	1,000
NAC 645.180....	500.....	1,000
Subsection 1, 2 or 4 of NAC 645.610.....	250.....	500
Subsection 3 of NAC 645.610.....	500.....	1,000
NAC 645.615.....	250.....	500
NAC 645.625.....	250.....	500
NAC 645.627.....	250 500.....	500 1,000
NAC 645.637.....	250.....	500

NAC 645.640.....	500.....	1,000
NAC 645.645.....	500.....	1,000
NAC 645.650.....	500.....	1,000
NAC 645.655.....	250.....	500

2. In addition to imposing an administrative fine pursuant to subsection 1, the administrator may:

(a) Recommend to the commission that the license of the licensee, the permit of the licensee if he holds a permit to engage in property management, or both, be suspended or revoked if the licensee is found guilty of a third or subsequent offense of any of the provisions set forth in subsection 1.

(b) Require a licensee to complete not more than 9 hours of continuing education.
 (Added to NAC by Real Estate Comm'n., eff. 5-14-96; A by R059-98, 7-1-98; R146- 99 & R186-99, 1-21-2000)

Sec. 9 Amending NAC 645.615 as follows:

1. The sign which NRS 645.560 requires each broker to erect and maintain in a conspicuous place upon the premises of his place of business must be visible *and readable* from the nearest public sidewalk, street, or highway.

2. If the broker's place of business is located in an office building, hotel, or apartment house, the broker's sign must be posted on the building directory or on the exterior of the entrance to the business.

3. Upon request by the division, the broker shall furnish a photograph of his sign as proof of his compliance with NRS 645.560 and this section.

[Real Estate Adv. Comm'n, § VI subsecs. 5-7, eff. 10-31- 75]—(NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 4-27-84; A by Real Estate Div., 11-30 87)

Sec. 10 Amend NAC 645.657 as follows:

Payment of deposit to broker or owner developer. Every real estate broker salesman or salesman who receives a deposit on any transaction in which he is engaged on behalf of a broker or owner developer shall pay over the deposit to that broker or owner developer ~~[within 1 business day]~~ *promptly* after receiving the deposit. *The term promptly as used in this section and NRS 645.310 shall mean within one business day of receipt.*

(Added to NAC by Real Estate Comm'n, eff. 8 21 81; A 12 16 82)

Sec. 11 Amend NAC 645.805 as follows:

1. Except as otherwise provided in subsection 4, if a person to whom a permit is issued pursuant to NRS 645.6054 ceases to be connected or associated with the partnership, corporation, limited liability company or sole proprietor for whom he is acting as a property manager, the partnership, corporation, limited liability company or sole proprietor shall not engage in the business of property management unless, not later than 30 days after that person ceases to be

connected or associated with the partnership, corporation, limited liability company or sole proprietor, the partnership, corporation, limited liability company or sole proprietor designates another person to hold the permit on behalf of the partnership, corporation, limited liability company or sole proprietor pursuant to the requirements set forth in subsection 3 of NRS 645.6054.

2. The real estate broker of a partnership, corporation, limited liability company or sole proprietorship who is required pursuant to NRS 645.310 to maintain a trust account */custodial account* for money received for property management shall:

(a) Request a statement from the bank in which the trust account */custodial account* is being held not later than 5 days after the date that the designated property manager ceases to be connected or associated with the partnership, corporation, limited liability company or sole proprietor; and

(b) Submit to the division, on a form provided by the division, a reconciliation of the trust account */custodial account* for the 30 days immediately preceding the date that the designated property manager ceases to be connected or associated with the partnership, corporation, limited liability company or sole proprietor.

3. A reconciliation required pursuant to paragraph (b) of subsection 2 must be submitted to the division not later than 15 days after the designated property manager ceases to be connected or associated with the partnership, corporation, limited liability company or sole proprietor or by the end of the month in which the designated property manager ceases to be connected or associated with the partnership, corporation, limited liability company or sole proprietor, whichever occurs later.

4. A partnership, corporation, limited liability company or sole proprietor may petition, in writing, the administrator for an extension of time in which to designate another property manager after the designated property manager ceases to be connected or associated with the partnership, corporation, limited liability company or sole proprietor. The administrator may grant such an extension, in writing, if he finds the partnership, corporation, limited liability company or sole proprietor has a severe hardship resulting from circumstances beyond the control of the partnership, corporation, limited liability company or sole proprietor which has prevented the partnership, corporation, limited liability company or sole proprietor from meeting the requirements of subsection 1.

(Added to NAC by Real Estate Comm'n by R059-98, eff. 7-1-98)

Sec. 12 Amend NAC 645.806 as follows:

1. On or before the date of expiration of his license as a real estate broker, a broker who engages in property management or who associates with a property manager who engages in property management shall provide to the division, on a form provided by the division, an annual accounting as required by subsection 5 of NRS 645.310 which shows an annual reconciliation of each trust account */custodial account* related to property management that he maintains.

2. The reconciliation required pursuant to subsection 1 must include the 30 days immediately preceding the expiration date of his license as a real estate broker.

3. A broker who engages in property management or who associates with a property manager who engages in property management shall maintain complete accounting records of each trust account */custodial account* related to property management that he maintains for at least 7 years

after the last activity by the broker which involved the trust account */custodial account*. If the records are maintained by computer, the broker shall maintain an additional copy of the records on computer disc for at least 7 years after the last activity by the broker which involved the trust account */custodial account*.

(Added to NAC by Real Estate Comm'n by R059-98, eff. 7-1-98)

3. Estimated Economic Effect. None know at this time.
4. Estimated Cost to the Agency. Cost savings will be realized in Education and Legal Assistant staff time and costs in the preparation, reproduction and mailing of commission education packets for the approval of continuing education courses, of which, currently approximately 200 per year are presented.

Revision of the administrative sanctions provides the option of fines for location of office and sign violations to be handled without the formal filing of a complaint and the scheduling of a hearing, this provides a savings of the Deputy Attorney General's time as well as commission time. In the period of one year, 4/99 to 5/99 approximately 10 complaints have been prepared for commission hearing.

Savings estimate: hearing costs, paper, mailing, staff time, legal staff time and commission time. Approximately 500 hours per year collectively and accumulatively will be saved.

5. Duplication with other Agencies: None known at this time.
6. Federal Law. None.
7. Federal Regulation. None.
8. New Fee Established. None known at this time.

Comments and Written Submissions

Persons wishing to comment on the proposed action of the Division may appear at the scheduled public hearings or may address their comments, data, views or arguments, in written form to:

Nevada Real Estate Division
Bradley Building
2501 E. Sahara Avenue, Room 100
Las Vegas, NV 89104-4137
Attn: Tami DeVries, Legal Administrative Officer

Written submissions must be received by the Division by MAY 25, 2000. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

Copies of Proposed Regulation

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation will be available at the following Division offices:

Nevada Real Estate Division
788 Fairview Drive, Suite 200
Carson City, NV 89701-5453

Nevada Real Estate Division
Bradley Building
2501 East Sahara, Suite 100
Las Vegas, NV 89104-4137

and in all counties in which an office of the Division is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

Posting

This notice of hearing has been posted at the following locations:

Nevada Real Estate Division
1665 Hot Spring Road
Carson City, NV 89710

Nevada Real Estate Division
Bradley Building
2501 East Sahara, Suite 202
Las Vegas, NV 89104-4137

Elko Conference Center
700 Moren Way (Silver Room)
Elko, Nevada

State Library
100 Stewart Street
Carson City, Nevada

Churchill County Library
553 South Maine Street
Fallon, Nevada 89406

Douglas County Library
1625 Library Lane
Minden, Nevada 89423

Elko County Library
720 Court Street
Elko, Nevada 89801

Goldfield Public Library
Fourth & Crook Street
Goldfield, Nevada 89013

Eureka Branch Library
10190 Monroe Street
Eureka, Nevada 89316

Lincoln County Library
93 Main Street
Pioche, Nevada 89043

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Tonopah Public Library
171 Central Street
Tonopah, Nevada 89049

Washoe County Library
301 South Center Street
Reno, Nevada 89505

Battle Mountain Library
625 Broad Street
Battle Mountain, Nevada 89820

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Storey County Library
95 South R Street
Virginia City, Nevada 89440

Mineral County Library
First & A Street
Hawthorne, Nevada 89415

Pershing County Library
1125 Central Avenue
Lovelock, Nevada 89419

White Pine County Library
950 Campton Street
Ely, Nevada 89301