

LCB File No. R012-04

**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 REAL ESTATE DIVISION ADMINISTRATOR
RED # R04-002-IOS**

The Nevada Real Estate Division of the Department of Business & Industry of the State of Nevada (the "Division") will hold a public hearing at 11:00 A.M. on Tuesday, February 24, 2004, at the Bradley Building, 2501 E. Sahara Avenue, 2nd Floor Conference Room, Las Vegas, Nevada with a video-link to the Department of Business & Industry, hearing Room, 788 Fairview Drive, Carson City, Nevada. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapter 645D of the Nevada Administrative Code.

Las Vegas, Nevada

Bradley Building
2501 E. Sahara Avenue
2nd Floor Conference Room
Las Vegas, NV 89104

Carson City, Nevada

Dept. of Business & Industry
Hearing Room
788 Fairview Drive
Carson City, NV 89701

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.

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

3. Estimated Economic Effect. Applicants applying for licenses under this chapter will have to pay an additional fee for the cost to investigate his background. Applicants will also have to pay the fee for examination.
4. Estimated Cost to the Agency. None known at this time.
5. Duplication with other Agencies: None known at this time.
6. Federal Law. None known at this time.
7. Federal Regulation. None known at this time.
8. New Fee Established. New fees are established in these proposed regulations pursuant to Senate Bill 428 allowing the Division to charge a fee for the investigation of the background of an applicant and for an examination.

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 February 13, 2004. 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

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
788 Fairview Drive, Suite 200
Carson City, NV 89701

Nevada Real Estate Division
Bradley Building
2501 East Sahara, Suite 102
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

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

Lincoln County Library
93 Main Street
Pioche, Nevada 89043

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

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Mineral County Library
First & A Street
Hawthorne, Nevada 89415

Tonopah Public Library
171 Central Street
Tonopah, Nevada 89049

Pershing County Library
1125 Central Avenue
Lovelock, Nevada 89419

Washoe County Library
301 South Center Street
Reno, Nevada 89505

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Battle Mountain Library
625 Broad Street
Battle Mountain, Nevada 89820

LCB File No. R012-04

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

Authority: NRS 645D.120 and NRS 645D.240(2)

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

Section 1. Chapter 645D of NAC is hereby amended by adding thereto section(s) 1- 10 , of these proposed regulations.

Sec. 2. NAC 645D is hereby amended by adding thereto the following:

The fee for the investigation of the background of an applicant or certificate holder will not exceed the actual cost to conduct the investigation.

Sec. 3. NAC 645D is hereby amended by adding thereto the following:

Any application; license; certification; education accreditation granted to a provider, sponsor or school under this chapter shall be canceled and the applicant; certificate holder; education provider, sponsor or school shall be fined, if any instrument given to the division is not honored by the financial institution upon which it is drawn.

Sec. 4. NAC 645D is hereby amended by adding thereto the following:

Examination on subjects applicable to the type of certificate for which application is made:

Fee

The fee for an examination to obtain a certificate as a residential inspector, general inspector or master inspector shall be \$100.00.

Sec. 5. NAC 645D is hereby amended by adding thereto the following:

An applicant may obtain the current handbook on candidate examinations at an office of the division at no cost.

Sec. 6. NAC 645D is hereby amended by adding thereto the following:

The examination period must not exceed 4 hours without prior written consent of the division. An applicant may not retain any examination materials. Examinations must not be made public except as provided by NRS 645D.130.

Sec. 7. NAC 645D is hereby amended by adding thereto the following:

Examination aids.

1. The use or possession of any unfair methods or notes, the giving or receiving of aid of any kind, or the failure to obey instructions during the examination will result in a denial of the application and the certificate.

2. Silent, cordless, nonprogrammable electronic calculators that do not have paper tape printing capabilities, and that do not have a keyboard containing the alphabet may be used by applicants during the examination.

Sec. 8. NAC 645D.150 is hereby amended as follows:

NAC 645D.150 Information required; period of validity. (NRS 645D.120, 645D.170, 645D.180, 645D.190)

1. The application for a certificate as an inspector provided by the division requires the following information:

- (a) Two completed fingerprint cards;
- (b) One recent photograph of the applicant;
- (c) The social security number of the applicant;
- (d) His place of business;
- (e) A document which proves that the applicant has:
 - (1) Error and omissions insurance of at least \$100,000; and
 - (2) Liability insurance of at least \$100,000; and
- (f) Such other pertinent information as the division may require.

~~[2. An application for a certificate is valid for 1 year after the date it is filed with the division. The division may require an applicant to complete a supplemental form provided by the division to ensure that all the information required by the division is current.]~~

Sec. 9. NAC 645D.160 is hereby amended as follows:

NAC 645D.160 Fee for application nonrefundable; refund of fee for issuance or renewal of certificate. (NRS 645D.120)

1. The fee for application for a certificate is nonrefundable.

~~[2. If the division rejects an application for the issuance or renewal of a certificate, it will refund the fee submitted for the issuance or renewal of the certificate.]~~

Sec. 10. NAC 645D.250 is hereby amended as follows:

NAC 645D.250 Scope; types; passing score. (NRS 645D.120)

1. The examination must test the applicant on his knowledge and understanding of:

- (a) The subjects applicable to the type of certificate for which he is applying;
- (b) Chapter 645D of NRS and any regulations adopted pursuant thereto; and
- (c) NAC 645D.460 to 645D.580, inclusive.

2. Separate examinations will be given for certification as a residential inspector, general inspector and master inspector.

3. A scaled score of 75 must be achieved to pass each test.

4. Each of the examinations will consist of questions covering the subjects set forth in subsection 1.

5. The division will only accept results of an examination taken during the year immediately preceding the date of the application for a certificate.

TEXT OF REPEALED SECTIONS

NAC 645D.260 Authorization to take written examination; examination given by person other than division. (NRS 645D.120)

1. An applicant for a certificate as an inspector may not take the written examination for certification until the division authorizes him in writing to appear for the examination. An applicant will not receive such authorization unless his application is on file with the division.
2. The applicant must:
 - (a) Take the examination prescribed by the division at the time and place set forth in the written authorization sent to him; or
 - (b) If the examination will be given to the applicant by a person other than the division, notify the division of the date and time of his examination. The results of such an examination must be mailed directly to the division from the person administering the examination.

NAC 645D.270 Duration; time; test books and answer sheets; disclosure. (NRS 645D.120)

1. The examination for a certificate as an inspector will be at least 4 hours, but not more than 8 hours.
2. The times may be different for the examination for each type of certificate.
3. The division will establish the time for each examination and notify the applicants before the closing day for applications.
4. Test books and answer sheets will not be returned to the applicants.
5. Examinations must not be made public.

NAC 645D.275 Postponement. (NRS 645D.120)

1. If an applicant postpones his examination and notifies the division at least 30 days before the date of the examination, the fee for the examination may be applied to a subsequent examination that the applicant wishes to take.
2. An examination may be postponed only once.

NAC 645D.280 Reexamination; withdrawal; period for acceptance of results. (NRS 645D.120)

1. An applicant for a certificate who fails an examination may apply for reexamination on a form furnished by the division not less than:
 - (a) Thirty days after the date of his first failed examination; or
 - (b) Sixty days after the date of his second failed examination.
2. If an applicant for a certificate fails an examination on a third or subsequent occasion, he is not eligible to take an examination again until 1 year after the date of his last failed examination and must submit a new application for examination together with all required fees and materials.
3. If an applicant, after filing an application for examination, withdraws and requests the division to postpone action on the application for reasons acceptable to the division, the applicant may apply for the next examination.

4. The division will only accept results of an examination taken during the year immediately preceding the date of the application for a certificate.

NAC 645D.290 Compliance with instructions; use of aids. (NRS 645D.120)

1. An application for a certificate as an inspector will be denied or the results of an examination will be invalidated, or both, if the applicant:

- (a) Uses or possesses any unfair methods or notes during the examination;
- (b) Gives or receives aid of any kind during the examination; or
- (c) Fails to obey instructions during the examination.

2. Silent, cordless, electronic calculators may be used by the applicants during the examination.