

**PROPOSED REGULATION OF THE
REAL ESTATE COMMISSION**

LCB File No. R031-04

July 9, 2004

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

AUTHORITY: §§1, 5-12, 14, 29-34, 37, 39-50, 68-70, 83-85, 87, 92 and 93, NRS 645.190; §§2-4, 15-21, 23-26 and 60-67, NRS 645.190 and 645.575; §§13, 28, 71-75, 77 and 79-81, NRS 645.050 and 645.190; §§22 and 27, NRS 645.190, 645.343 and 645.575; §§35 and 36, NRS 645.190 and 645.605; §38, NRS 645.190 and 645.410; §51-59, NRS 645.050, 645.190 and 645.343; §76, NRS 645.190 and 645.313; §78, NRS 645.190 and 645.195; §82, NRS 645.190 and 645.324; §86, NRS 645.190, 645.6052 and 645.630; §88, NRS 645.190 and 645.630; §§89-91, NRS 645.190 and 645.6052.

A REGULATION relating to real estate; revising provisions relating to the collection of evidence during the investigation and the presentation of evidence during a hearing; revising provisions relating to motions and complaints; providing for the voluntary surrender of a license, permit, registration or certificate in lieu of disciplinary action; providing for the reporting of disciplinary action against licensees to national repositories and governmental entities; prohibiting the use of certain terms and information in advertising by licensees under certain circumstances; limiting the amount of fees for background investigations to the actual cost to conduct the investigation; setting forth the fee to be assessed when a person submits a bad check or draft; establishing the requirements for the approval and offering a distance education course; establishing the requirements for the approval and offering of courses in postlicensing and continuing education; establishing the requirements for the approval of instructors of such approved courses; setting forth the requirements that a licensee must meet to receive a certificate of completion of an approved course; authorizing the Real Estate Division of the Department of Business and Industry to conduct audits of approved courses and instructors of approved courses; establishing the number of hours of postlicensing and continuing education that a licensee must have to renew his license; providing for the regulation of dissemination of information through the Internet or electronic mail; providing for informal conferences between an advisory committee and a person being investigated by the advisory committee; revising provisions governing the creation of advisory committees; revising provisions governing applications and examinations for licensure; revising provisions governing the issuance of a certificate of cooperation to out-of-state brokers; establishing the fee for an examination that must be taken to reinstate a license; authorizing the use of certain calculators in examinations for licensure; revising provisions governing a

change in the association, name, address or status of a licensee; revising provisions relating to the termination, suspension, revocation and reinstatement of licenses; revising provisions governing schools that offer courses to meet the educational requirements for an original license; revising the administrative fines to be assessed by the Real Estate Commission; revising provisions governing the operation of brokerages and the workplace of a broker; requiring that agreements for advance fees include information about full refunds if the services agreed to are not substantially or materially provided; revising the information that must be included in an application for registration as an owner-developer; revising provisions governing the application for a permit to engage in property management; and providing other matters properly relating thereto.

Section 1. Chapter 645 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive, of this regulation.

Sec. 2. *“Approved course” means a course of education that has been approved as a course for continuing education pursuant to NAC 645.455 or a course for postlicensing education pursuant to section 17 of this regulation.*

Sec. 3. *“Distance education” means an educational program in which instruction is provided through the use of media whereby the teacher and student are separated by distance or by time, or by both distance and time.*

Sec. 4. *“Postlicensing education” means the postlicensing curriculum of continuing education that, pursuant to NRS 645.575, a person is required to complete within the first year after his initial licensing.*

Sec. 5. 1. *In conducting any investigation, inquiry or hearing, the Commission, its officers and the employees of the Division are not bound by the technical rules of evidence, and any informality in a proceeding or in the manner of taking testimony does not invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission. The rules of evidence of courts of this State will be followed generally but may be relaxed at the*

discretion of the Commission if deviation from the technical rules of evidence will aid in determining the facts.

2. Any evidence offered at a hearing must be material and relevant to the issues of the hearing.

3. The Commission may exclude inadmissible, incompetent, repetitious or irrelevant evidence or order that presentation of that evidence be discontinued.

4. A party who objects to the introduction of evidence shall briefly state the grounds of the objection at the time the evidence is offered. The party who offers the evidence may present rebuttal evidence to the objection.

5. If an objection is made to the admissibility of evidence, the Commission may:

(a) Note the objection and admit the evidence;

(b) Sustain the objection and refuse to admit the evidence; or

(c) Receive the evidence subject to a subsequent ruling by the Commission.

Sec. 6. 1. All motions, unless made during a hearing, must be in writing.

2. A written motion must be served on the opposing party and the Commission at least 10 working days before the time set for the hearing on the motion.

3. An opposing party may file a written response to a motion within 7 working days after the receipt of the motion by serving the written response on all parties and the Commission, except that a written response may be filed less than 3 working days before the time set for the hearing on the motion only with the permission of the Commission upon good cause shown.

4. The Commission may require oral argument or the submission of additional information or evidence to decide the motion.

Sec. 7. 1. A complaint may be amended at any time.

2. *The Commission will grant a continuance if the amendment materially alters the complaint or a respondent demonstrates an inability to prepare for the case in a timely manner.*

3. *A complaint may be withdrawn at any time before the hearing begins.*

Sec. 8. *If a party fails to appear at a hearing scheduled by the Commission and a continuance has not been requested or granted, upon an offer of proof by the Division that the absent party was given proper notice and upon a determination by the Commission that proper notice was given, the Commission may proceed to consider the case without the participation of the absent party and may dispose of the matter on the basis of the evidence before it. If the respondent fails to appear at the hearing or fails to reply to the notice, the charges specified in the complaint may be considered as true.*

Sec. 9. *The Commission may accept the voluntary surrender of a license, permit, registration or certificate in lieu of imposing any other disciplinary action set forth in chapter 645 of NRS.*

Sec. 10. *The Commission may report any disciplinary action it takes against a licensee or any denial of an application for a license to:*

1. *Any national repository which records disciplinary actions taken against licensees;*
2. *Any agency of another state which regulates the practice of real estate; and*
3. *Any other agency or board of the State of Nevada.*

Sec. 11. 1. *Not less than 5 working days before a hearing before the Commission, the respondent must provide to the Division a copy of all documents that are reasonably available to the respondent which the respondent reasonably anticipates will be used in support of his position. The respondent shall promptly supplement and update any such documents.*

2. *The respondent shall provide, at the time of the hearing, 10 copies of each document he wishes to have admitted into evidence at the hearing.*

3. *If the respondent fails to provide any document required to be provided by the provisions of this section, the Commission may exclude the document.*

Sec. 12. *The broker of record with whom a person licensed as a real estate salesman or real estate broker-salesman is associated shall attend any disciplinary hearing before the Commission concerning that licensee.*

Sec. 13. *A licensee may use the term “team” or “group” to advertise the services provided by the licensee if:*

1. *The use of the term does not constitute the unlawful use of a trade name and is not deceptively similar to a name under which any other person is lawfully doing business;*

2. *The team or group is composed of more than one licensee;*

3. *The members of the team or group are employed by the same broker;*

4. *The name of the team or group contains the last name of at least one of the members of the team or group; and*

5. *The advertising complies with all other applicable provisions of this chapter and chapter 645 of NRS.*

Sec. 14. 1. *If a person submits a check or draft to the Division to obtain a certificate, approval, accreditation or other type of authorization to engage in an activity for which authorization is required pursuant to this chapter, or chapter 645 of NRS, and the check or draft is returned to the Division because the person had insufficient money or credit with the drawee to pay the check or draft or because the person stopped payment on the check or draft:*

(a) The certificate, approval, accreditation or other type of authorization obtained by the person from the Division is automatically invalidated; or

(b) If the person has not obtained the certificate, approval, accreditation or other type of authorization from the Division, the Division may refuse to issue or reinstate the authorization.

2. In accordance with NRS 353C.115 and section 1 of LCB File No. R121-03, which was adopted by the State Controller pursuant thereto and filed with the Secretary of State on February 4, 2004, the Division shall charge a person, for each check or draft returned to the Division because the person had insufficient money or credit with the drawee to pay the check or draft or because the person stopped payment on the check or draft, a fee of \$25 or such other amount as may subsequently be required by NRS 353C.115 and section 1 of LCB File No. R121-03.

Sec. 15. 1. *A person who requests approval of a distance education course must demonstrate to the satisfaction of the Commission that the proposed distance education course satisfies the following requirements:*

(a) The course must be designed to ensure that students actively participate in the instructional process by utilizing techniques that require substantial interaction with the instructor, other students or a computer program. If the subject matter of the course is such that the learning objectives for the course cannot be reasonably accomplished without direct interaction between the instructor and the students, the course design must provide for such interaction.

(b) If the course does not provide students with the opportunity for continuous audio and visual communication with the instructor during the presentation of the course, the course

must utilize testing and remedial processes appropriate to ensure mastery of the subject matter of the course by the students.

(c) If the course involves self-paced study, the course must be designed so that the time required for a student of average ability to complete the course is within the number of hours for which the course is approved, and the sponsor of the course shall utilize a system which ensures that students have actually performed all tasks designed to ensure participation and mastery of the subject matter of the course by the students.

(d) The proposed methods of instruction used in the course must be appropriate to the proposed learning objectives of the course, and the scope and depth of the instructional materials must be consistent with the proposed learning objectives.

(e) The sponsor of the course shall provide appropriate technical support to enable students to complete the course satisfactorily.

(f) An approved instructor must be reasonably available to respond timely to questions asked by students concerning the subject matter of the course and to direct students to additional sources of information. Instructors must have appropriate training in the proper use of the methods of instruction used in the course, including, without limitation, the use of computer hardware and software or other equipment and systems. For the purposes of this paragraph, a response by an approved instructor shall be deemed timely if the response is made within 2 business days after the question is submitted.

(g) The sponsor of the course shall provide students with an orientation or information package which contains all information that the Division requires be provided to students and all necessary information about the course, including, without limitation, information concerning fees and refund policies, subject matter and learning objectives, procedures and

requirements for satisfactory completion, any special requirements with regard to computer hardware and software or other equipment, and instructor and technical support.

(h) The sponsor of the course shall utilize procedures which reasonably ensure that a student who receives continuing education credit for completing the course actually performed all the work required to complete the course. If the course involves independent study by students, such procedures must include, without limitation, direct contact by the sponsor with the student at the student's home or business via the telephone or electronic mail and a signed statement by the student certifying that he personally completed all course work. The sponsor shall retain such signed statements and records of student contact together with all other course records the sponsor must maintain.

2. An entity seeking approval of a computer-based distance education course must submit a complete copy of the course to the Division in the medium to be used and, if requested, must make available, at a date and time satisfactory to the Division and at the sponsor's expense, all computer hardware and software necessary to enable the Division to review the course. In the case of an Internet-based course, the sponsor shall provide the Division with access to the course via the Internet at no charge at a date and time satisfactory to the Division.

3. In determining whether to approve a distance education course pursuant to this section, the Commission will consider whether:

- (a) The course consists of at least 3 hours of instruction;*
- (b) Students are required to complete a written examination proctored by an official approved by the Division or using a secure electronic method acceptable to the Division; and*
- (c) The course is presented by an accredited college or university that offers distance education in other disciplines, or whether the course design and method of delivery has been*

accredited by an accrediting agency which accredits distance education and which is approved by the Commission. For an accrediting agency to be approved by the Commission for the purposes of this paragraph, the accrediting agency must use the following considerations when making its determination on whether to accredit a distance education course:

- (1) The mission statement of the sponsor of the course;*
- (2) The minimum design of the course and the procedures for updating the course;*
- (3) The interactivity of the instruction with the students;*
- (4) Whether the instruction provided in the course teaches mastery of the course material;*
- (5) The support services that are available to students;*
- (6) The medium through which the course is delivered to students;*
- (7) A time study of the range of instructional hours for which a course should be approved or accredited;*
- (8) For each module of instruction, whether there is:*
 - (I) At least one learning objective for the module of instruction;*
 - (II) A structured learning method to enable the student to achieve each such learning objective;*
 - (III) A method of assessment of the student's performance during the module of instruction; and*
 - (IV) A method of remediation pursuant to which a student who, based on the assessment of his performance, is determined to be deficient in his mastery of the course material may repeat the module until the student understands the course material; and*

(9) Whether a complete syllabus or student manual, or both, for all courses or programs is provided in written form and includes accurate and clearly stated information about admissions, progression, completion, criteria, dismissal and any applicable licensing requirements.

Sec. 16. *1. Each first-year licensee shall take a prescribed postlicensing course of education that focuses on practical applications of the sale of real estate. 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 30 hours of education required pursuant to NRS 645.575;

(c) Must be offered in modules; and

(d) Must be provided through live instruction in which the licensee and the instructor are in the same room, except that first-year 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 course that involves interaction with the instructor and other students.

2. The postlicensing course 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.

3. 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.

Sec. 17. 1. *An application for the approval of a course for postlicensing education must be submitted to the Division on a form provided by the Division for review and presentation to the Commission.*

2. The Commission will not grant retroactive approval for a course in postlicensing education.

3. The Commission will grant credit for a course for postlicensing education only if the sponsor of the course:

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

(b) Maintains for at least 4 years a record of attendance which contains the following information with respect to each licensee who has taken the course for credit:

(1) The name of the licensee in attendance and the number of his license;

(2) The title and number of the course;

(3) The hours of instruction attended and the dates of attendance by the licensee; and

(4) A statement that the licensee has successfully completed the course.

(c) Assures the Commission that an approved instructor will preside throughout the course.

(d) Requires each licensee who takes the course to:

(1) 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 to receive a score of at least 75 percent to pass the course;

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

(3) Complete the entire course to receive credit for taking the course.

(e) Gives credit for only the number of hours for which the course has been approved by the Division to a licensee who completes the course.

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

4. If a course for postlicensing education has been approved, the sponsor of the course shall provide a certified copy of the record of completion to the licensee upon his completion

of the course. The Division shall accept the certificate as proof of completion of the course by the licensee. The certificate of a sponsor must contain:

(a) The name of the sponsor;

(b) The name of the licensee and his license number;

(c) The title of the course and the number of hours for which the course has been approved;

(d) The dates of instruction;

(e) The number of the sponsor assigned by the Division and a statement that the course was approved by the Commission;

(f) The signature of the person who is authorized to sign for the sponsor; and

(g) A statement indicating that the licensee fulfilled the requirements to pass the course.

Sec. 18. 1. *If a course has been approved and is being offered for postlicensing education, the sponsor must state on all the course materials:*

(a) That the course is approved for postlicensing education in Nevada;

(b) The number of hours of credit for postlicensing education for which the course is approved; and

(c) The number of the sponsor assigned by the Division.

2. *If a course offered by a sponsor that is a professional organization has been approved for postlicensing education, the sponsor shall not restrict attendance at the course to members of that organization.*

Sec. 19. *Any advertising, promotional brochure or form for registration for a course for postlicensing education must contain, in writing, the policy of the sponsor concerning cancellations and refunds.*

Sec. 20. 1. *Except as otherwise provided in subsection 3, a real estate salesman who wishes to renew his license must complete at least 24 hours of continuing education at approved educational courses, seminars or conferences during the license period for the license. Not less than 12 of the hours must be devoted to ethics, professional conduct or real estate law, including:*

- (a) Three hours in the area of agency relationships;*
- (b) Three hours in the area of Nevada law;*
- (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-salesman who wishes to renew his license must complete at least 24 hours of continuing education at approved educational courses, seminars or conferences during the license period for the license. Not less than 15 of the hours must be devoted to ethics, professional conduct or real estate law, including:*

- (a) Three hours in the area of agency relationships;*
- (b) Three hours in the area of Nevada law;*
- (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 do not apply to the renewal of a license upon the expiration of the initial license period for the 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 2 years or less, any part of which was during the initial license period for the license, the licensee must complete at least 48 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 real estate law, including:

- (1) Three hours in the area of agency relationships;*
- (2) Three hours in the area of Nevada law;*
- (3) Three hours in the area of contracts; and*
- (4) Three hours in the area of ethics.*

(b) If the license was on inactive status for 2 years or less, no part of which was during the initial license period for the 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 real estate law, including:

- (1) Three hours in the area of agency relationships;*
- (2) Three hours in the area of Nevada law;*
- (3) Three hours in the area of contracts; and*
- (4) Three hours in the area of ethics.*

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

- (1) The 30-hour postlicensing course described in section 16 of this regulation; and*

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

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

(II) Three hours in the area of Nevada law;

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

(IV) Three hours in the area of ethics.

(d) If the license was on inactive status for more than 2 years, no part of which was during the initial license period, the licensee must complete at least 48 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 real estate law, including:

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

(2) Three hours in the area of Nevada law;

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

(4) Three hours in the area of ethics.

Sec. 21. 1. *If the Division determines, whether pursuant to an audit or otherwise, that an approved course does not meet the standards for such a course set forth in this chapter, the Division may, on behalf of the Commission, withdraw approval of the course. The Administrator shall give the sponsor written notice that approval of the course has been withdrawn and shall provide specific reasons for the withdrawal. The withdrawal of approval of a course is effective upon receipt of the written notice by the sponsor.*

2. If the Division withdraws approval of a course, the Division shall give credit to a student for completing the course if the student began the course before the sponsor received written notice of the withdrawal of approval of the course.

3. *The sponsor may appeal the decision of the Division to withdraw approval of a course by filing an appeal with the Commission not later than 20 days after the sponsor receives written notice of the withdrawal of approval.*

4. *If the sponsor files a timely appeal, the Commission will, as soon as practicable, hold a hearing concerning the withdrawal of approval of the course at a regularly scheduled meeting and will:*

(a) Affirm the decision of the Division to withdraw approval of the course;

(b) Suspend approval of the course for a limited period and under such conditions as the Commission deems appropriate; or

(c) Reverse the decision of the Division to withdraw approval of the course.

Sec. 22. *The Division may, on behalf of the Commission, reapprove an approved course if no changes in the course have occurred since the course was last approved or reapproved.*

Sec. 23. 1. *An instructor must have written approval from the Division before teaching an approved course.*

2. *An applicant for approval as an instructor must apply on a form prescribed by the Division.*

3. *The Division shall not, without the approval of the Commission, approve a person as an instructor if the person:*

(a) Has been disciplined by the Commission or the Division acting on behalf of the

Commission:

(1) Within the immediately preceding 5 years; or

(2) More than one time; or

(b) Has been determined in an administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to real estate in this or any other state.

4. A person may be approved as an instructor to teach an approved course relating to his principal occupation if:

(a) He has:

(1) A bachelor's degree in the field of instruction plus at least 2 years of full-time experience in the field of instruction;

(2) Teaching experience of at least 75 hours in the field of instruction within the 3 years immediately preceding the date of his application for approval plus at least 3 years of full-time experience in the field of instruction;

(3) At least 6 years of full-time experience in the field of instruction; or

(4) Any combination of at least 6 years of college-level course work in the field of instruction and full-time experience in the field of instruction; and

(b) He submits to the Division satisfactory documentation of his qualifications and a resume outlining his experience, education and teaching experience in the field of instruction.

5. The Division shall periodically review and evaluate each approved instructor.

Sec. 24. 1. *To receive a certificate of completion for an approved course a student must:*

(a) Direct his attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction; and

(b) Refrain from engaging in activities which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class, including, without limitation, the use of voice pagers, beepers and telephones.

2. *An instructor shall not award a certificate of completion to a student who fails to satisfy the conditions set forth in subsection 1.*

Sec. 25. 1. *Each approved course and each instructor of an approved course must be evaluated by students on a form prescribed by the Division and provided by the sponsor after every course offering.*

2. *The sponsor shall:*

(a) *Ensure that the students in each approved course offered by the sponsor complete the evaluations;*

(b) *Arrange for the collection of the completed evaluations by a person other than the instructor of the approved course; and*

(c) *Submit copies of the completed evaluations to the Division within 5 working days after the last day of class for the course.*

Sec. 26. 1. *An instructor shall ensure that:*

(a) *Class sessions are commenced in a timely manner and are conducted for the full amount of time that is approved; and*

(b) *Each course is taught according to the course plan and instructor guide that was approved by the Commission, including the furnishing to students of appropriate student materials.*

2. *An instructor shall conduct himself in a professional and courteous manner when performing his instructional duties and shall conduct classes in a manner that demonstrates the following basic teaching skills:*

(a) The ability to communicate effectively through speech, including the ability to speak clearly at an appropriate rate of speed and with appropriate voice inflection, grammar and vocabulary;

(b) The ability to present an effective visual image to a class, including appropriate appearance and physical mannerisms;

(c) The ability to present instruction in a thorough, accurate, logical, orderly and understandable manner, to utilize illustrative examples as appropriate and to respond appropriately to questions from students;

(d) The ability effectively to utilize varied instructional techniques in addition to lectures, including, without limitation, class discussion, role-playing and other techniques;

(e) The ability to utilize varied instructional aids effectively to enhance learning;

(f) The ability to maintain an appropriate learning environment and effective control of a class; and

(g) The ability to interact with adult students in a positive manner that:

(1) Encourages students to learn;

(2) Demonstrates an understanding of varied student backgrounds;

(3) Avoids offending the sensibilities of students; and

(4) Avoids personal criticism of any other person, agency or organization.

Sec. 27. 1. The Division may revoke or suspend the approval of an instructor, school or sponsor that:

(a) Is a party to the falsification of any document, verification or other information provided to the Division.

- (b) Does an inadequate job of teaching the subject matter of a course as evidenced by student evaluations or an audit conducted by the Division.*
- (c) Publishes or causes to be published any advertising that violates federal or state law.*
- (d) Has been determined in any administrative or judicial proceeding in this State to have violated any statute, rule, regulation or order pertaining to real estate.*
- (e) After receiving a written warning from the Division, continues to make inaccurate comments to students regarding course content or continues to offer to students opinions represented as being the law on principles of law which are in conflict with any material contained in an approved course.*
- (f) Engages in conduct which constitutes or demonstrates dishonest dealings, bad faith or untrustworthiness.*
- (g) Engages in inappropriate conduct in the classroom, including, without limitation, using profanity, telling offensive jokes or making inappropriate remarks.*
- (h) Fails to file with the Commission, either by paper or electronically, accurate and complete records by the required deadlines.*
- (i) Awards credit to any student who fails to comply with the requirements relating to student attendance and participation.*

2. A revocation or suspension of an instructor or a course approval will be for a period prescribed by the Division. An instructor whose approval has been suspended or revoked will not be reapproved without meeting all current requirements and the approval of the Commission.

Sec. 28. *A licensee disseminating information concerning real property or marketing real property through the Internet or electronic mail:*

1. Shall be deemed to be engaged in advertising and shall comply with the applicable provisions of this chapter and chapter 645 of NRS relating to advertising.

2. Shall make all disclosures, obtain appropriate signatures and follow all requirements set forth in this chapter and chapter 645 of NRS before entering into a relationship as the agent of a client. The clicking of an acceptance box on the Internet or in an electronic mail is insufficient to create such a relationship between the licensee and the client. As used in this subsection, “appropriate signature” means the actual signature of the client.

Sec. 29. *1. If an advisory committee is established to assist the Administrator with the review of an investigation conducted pursuant to NRS 645.610, the Administrator shall schedule an informal conference between the advisory committee and the licensee who is the subject of the investigation. The Administrator shall provide written notice of the time and place of the informal conference to:*

(a) Each member of the advisory committee;

(b) The licensee who is the subject of the investigation; and

(c) Each witness who has been requested to appear at the informal conference.

2. An advisory committee may request the attendance at an informal conference of any person whom the advisory committee believes to have information that is relevant to the matter.

3. When conducting an informal conference, an advisory committee:

(a) May consider all evidence that it deems relevant to the investigation;

(b) Shall rule on the admissibility of evidence;

- (c) *Is the controlling authority with regard to the admissibility of evidence; and*
- (d) *Need not follow the rules of admissibility of evidence that a court must follow.*

4. The chairman of an advisory committee shall file a written report with the Administrator that explains the results of the informal conference within 30 days after the conclusion of the informal conference.

5. A written report reviewed pursuant to subsection 1 of NAC 645.493, a written report filed pursuant to subsection 4 and all proceedings before an advisory committee are confidential.

Sec. 30. NAC 645.005 is hereby amended to read as follows:

645.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 645.007 to 645.055, inclusive, *and sections 2, 3 and 4 of this regulation* have the meanings ascribed to them in those sections.

Sec. 31. NAC 645.052 is hereby amended to read as follows:

645.052 “Single-family ~~residence~~ *residence*,” for the purposes of NRS 645.018, includes *, without limitation, an attached residential dwelling*, a condominium, *a* cooperative apartment, ~~mobile~~ *a manufactured* home and *a* townhouse unit.

Sec. 32. NAC 645.115 is hereby amended to read as follows:

645.115 ~~Any~~ *If an* applicant for a license ~~which~~ is a partnership *, limited-liability company* or corporation *, the applicant* must file with the Division a certified or verified copy of the partnership agreement *, operating agreement* or articles of incorporation ~~;~~ *, as appropriate.*

Sec. 33. NAC 645.120 is hereby amended to read as follows:

645.120 The Division shall consider the financial condition of each applicant for a ~~[broker's]~~ license *as a real estate broker* and require the following financial information with his application:

1. The applicant's current employer and the employer's address;
2. The applicant's current *financial* obligations, including charge accounts;
3. The applicant's cash on hand;
4. The applicant's checking accounts with amounts;
5. The applicant's savings accounts with amounts;
6. The names and values of securities and stocks held by the applicant;
7. The value and identification of any other assets; and
8. Such other information concerning the applicant's finances as the Division deems

pertinent.

Sec. 34. NAC 645.150 is hereby amended to read as follows:

645.150 1. The Division may investigate the financial responsibility 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-salesman until he meets the requirements of financial responsibility as determined by the Commission. ~~[An]~~ *The Division may require an* applicant for a *license as a* real estate ~~[broker's license may be required]~~ *broker* to submit a credit report to the Division at his own expense.

2. An applicant for a ~~[real estate broker's]~~ license *as a real estate broker* shall be deemed financially responsible if he can show liquid assets sufficient to maintain an office for ~~[120]~~ *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

right to appeal pursuant to NRS 645.440 by acceptance of a ~~real estate broker salesman's license.~~ *license as a real estate salesman.*

3. The Administrator may require other proof of the honesty, truthfulness and good reputation of any applicant, including 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.

Sec. 35. NAC 645.180 is hereby amended to read as follows:

645.180 1. A real estate broker who is licensed in another state and ~~desires~~ *wishes* to work in cooperation with a Nevada real estate broker must apply to do so on a form provided by the Division. The application must be accompanied by:

- (a) A copy of his current license issued in the other state;
- (b) A history of his employment for the past 10 years;
- (c) Information identifying him and the Nevada broker with whom he ~~desires~~ *wishes* to cooperate;
- (d) A history of any disciplinary, criminal or other legal proceeding involving ~~any~~ *the* real estate salesman *or broker-salesman* who will be working for the applicant under the cooperative certificate;
- (e) A list of other cooperative agreements currently in effect with the Nevada broker;
- (f) A photograph of the applicant;
- (g) A copy of the license of ~~any~~ *the* real estate salesman *or broker-salesman* who will be working for the applicant; and
- (h) A statement of consent by the Nevada broker to the cooperative agreement.

2. The Nevada broker and out-of-state broker must verify the truth of the contents of the application.

3. The application must be completed personally by the out-of-state broker, and *no* licensed Nevada ~~[brokers and employees]~~ *broker or employee* of the Division may ~~[not]~~ assist in the preparation of any part of the application.

4. The required fee must be paid at the time of filing. If the Administrator does not issue the certificate as applied for, the fee will not be refunded.

5. The applicant must furnish proof satisfactory to the Administrator that ~~[he]~~ *the applicant* has a current active real estate *broker's* license issued by the state in which his principal place of business is located.

6. A ~~[real estate broker or salesman]~~ *person* who resides in this state *and holds a real estate license issued by another state* is not eligible to hold a cooperative certificate or act on behalf of a holder of a certificate.

7. The Administrator may require proof of the applicant's moral character. In determining that character, the Administrator ~~[shall]~~ *may* 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]~~ :

(1) Any requirement of chapter 113, 116, 119, 119A, 645, 645A, 645C or 645D of NRS ~~[]~~ *or any other specific statute that is applicable to real estate transactions; or*

(2) Any similar statutory or regulatory requirement of another jurisdiction that is applicable to real estate transactions.

Sec. 36. NAC 645.185 is hereby amended to read as follows:

645.185 1. A certificate authorizing an out-of-state broker to cooperate with a Nevada broker is valid for 12 months after the date of issuance. The fee paid for the issuance covers that period. The certificate is not transferable.

2. An out-of-state broker holding such a certificate shall immediately report any change in his address to the Administrator.

3. If, at any time during which a cooperative certificate is in effect, the out-of-state broker or the Nevada broker ~~[desires]~~ *wishes* to terminate the relationship, he must give written notice of the termination to the Division and the broker with whom he has been cooperating and the out-of-state broker shall immediately surrender his certificate to the Division.

4. If the license of the out-of-state broker expires or is inactivated, suspended, revoked ~~[,]~~ or cancelled, he shall immediately give written notice to the Division of each Nevada broker with whom he is cooperating and surrender his cooperative certificate to the Division.

5. The Administrator may not issue a *cooperative* certificate to an out-of-state association, partnership or corporation which is licensed as a broker. Only a natural person who is a broker may be issued such a certificate.

6. When acting ~~[as a real estate broker or salesman within this state,]~~ *under a cooperative certificate*, an out-of-state broker shall work through the cooperating Nevada broker or a licensee associated with a Nevada broker. The Nevada broker is in charge of the transaction from beginning to end.

7. Any money received in a cooperative transaction may be handled only by the cooperating Nevada broker in accordance with NRS 645.310.

8. Each out-of-state broker, while cooperating with a Nevada broker, is governed by the provisions of *this chapter and* chapter 645 of NRS . ~~[and this chapter.]~~ Any violation of such a provision by the out-of-state broker subjects his cooperative certificate and the Nevada broker's license to fine or suspension, or both, or revocation. By accepting a cooperative certificate, the out-of-state broker shall be deemed to have appointed the Nevada broker as his agent for service of all notices and process in any proceeding initiated by the Division pursuant to chapter 645 of NRS.

9. A cooperating out-of-state broker may authorize only one broker-salesman or one salesman employed by him to act in his behalf. The authorization must be on a form supplied by the Division, and a copy must be sent to the Division before ~~[his]~~ *the* authorized representative *of the out-of-state broker* may conduct any transaction. The authorized representative shall carry the completed form with him whenever he is in Nevada for the purpose of conducting his real estate business. The Division ~~[will]~~ *shall* establish the time during which the authorization is valid. Such an authorization is renewable.

10. An out-of-state broker may cooperate with more than one Nevada broker and a Nevada broker may cooperate with more than one out-of-state broker. Each arrangement is considered ~~[as]~~ a separate agreement for which the appropriate form must be completed and submitted, the appropriate fee paid and a separate cooperative certificate obtained.

11. An out-of-state broker may not use a cooperating broker's certificate as authority to sell or attempt to sell real estate in Nevada to a resident of Nevada. Such a certificate may be used

only for the purpose of allowing the out-of-state broker or salesman to offer real estate in Nevada for sale to a person other than a resident of Nevada.

Sec. 37. NAC 645.205 is hereby amended to read as follows:

645.205 ~~[1.—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 examination until the applicant is authorized to take the examination by the Division or another appropriate entity.~~

~~—3.—An applicant must take the examination prescribed by the Division at the time and place set forth in the notice sent to him.~~

~~—4.]~~ An applicant may obtain the handbook on candidate examinations that is currently approved by the Division at an office of the Division at no cost.

Sec. 38. NAC 645.207 is hereby amended to read as follows:

645.207 The fee for an examination for ~~[a]~~ *an original* license *or the reinstatement of a license* as a real estate broker, broker-salesman or salesman is \$100.

Sec. 39. NAC 645.215 is hereby amended to read as follows:

645.215 The examination period must not exceed 4 hours without prior written consent of the Division. ~~[The Division will establish the time for each examination.]~~ An applicant may not retain any examination materials. Examinations must not be made public except as provided ~~[by]~~ *in* NRS 645.180.

Sec. 40. NAC 645.220 is hereby amended to read as follows:

645.220 ~~[1.—If the same examination is given to applicants for licenses as broker and as salesman, an applicant for a license as a broker must achieve a grade of 75 percent on each~~

~~section of the examination, and an applicant for a license as a salesman must achieve a grade of 70 percent on each section, in order to pass the examination.~~

~~—2.— If the examinations are different, both classes of applicants]~~ *To pass an examination, an applicant* must achieve ~~[grades]~~ *a grade* of *at least* 75 percent on each section of the examination . ~~[in order to pass.]~~

Sec. 41. NAC 645.225 is hereby amended to read as follows:

645.225 ~~[1.—An applicant who fails an examination may apply for reexamination on forms furnished by the Division. 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.~~

~~—2.]~~ The Division ~~[will]~~ *shall* only accept results of an examination taken during the ~~[year]~~ *12 months, to the day*, immediately preceding the date of application for a license.

Sec. 42. NAC 645.230 is hereby amended to read as follows:

645.230 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 license.

2. ~~[Silent,]~~ *A silent*, cordless, electronic ~~[calculators]~~ *calculator* may be used by ~~[applicants]~~ *an applicant* during the examination ~~[.]~~ *if the calculator:*

(a) Is not programmable;

(b) Does not have the capability to print on paper tape; and

(c) Does not have a keyboard containing the alphabet.

Sec. 43. NAC 645.305 is hereby amended to read as follows:

645.305 1. Within 10 days after a licensee changes his association with a real estate broker ~~[1.]~~ *or changes his* name , *address* or status, the licensee shall:

(a) Submit a request to the Division to change his license on a form provided by the Division;
and

(b) Pay the required fees.

2. ~~[When]~~ *If* a licensee requests a change and pays the required fee, the receipt issued by the Division constitutes a temporary working permit pending receipt of the requested license.

3. A real estate broker may change his status to that of a real estate broker-salesman by filing an application on a form supplied by the Division.

4. Licensees associated with a real estate broker licensed pursuant to chapter 645 of NRS as a manager of a limited-liability company, member of a partnership ~~[, or as an]~~ *or* officer of a corporation ~~[1.]~~ are not considered to have changed their association with the real estate broker if the corporation, limited-liability company or partnership designates a new real estate broker to act in the capacity of a manager of the limited-liability company, member of the partnership or ~~[as an]~~ officer of the corporation on or before the last date that the former real estate broker works in that capacity.

Sec. 44. NAC 645.310 is hereby amended to read as follows:

645.310 *1.* If a real estate broker-salesman or salesman terminates, for any reason, his association with the real estate broker with whom he ~~[was]~~ *is* associated, or his employment with the owner-developer by whom he ~~[was]~~ *is* employed, the real estate broker or owner-developer shall, in addition to complying with the requirements of NRS 645.580, file with the Division:

~~[1.]~~ *(a)* A notice of termination on a form provided by the Division; and

~~[2.]~~ *(b)* Any other pertinent information the Division requests.

2. A real estate broker-salesman or salesman whose association or employment with a real estate broker or owner-developer is terminated may personally deliver his broker-salesman or salesman license to the Division on behalf of the real estate broker or owner-developer if the real estate broker-salesman or salesman, at the time he submits the license, also submits to the Division the original notice of termination that has been completed and signed by the real estate broker or owner-developer.

3. If a real estate broker or owner-developer does not comply with subsections 1 and 2 and NRS 645.580 in a timely manner, the licensee may apply for an administrative termination on a form provided by the Division.

Sec. 45. NAC 645.315 is hereby amended to read as follows:

645.315 If a licensee fails to file an application for the renewal of his license before it expires, he ~~may~~ *shall* not engage in the business of real estate until his license is reinstated. To have his license reinstated, he must:

1. Apply on the appropriate form;
2. Pay the required fees; ~~and~~
3. *If required, pass the examination; and*
4. Submit any other information required by the Administrator, including, without limitation, current fingerprint cards.

Sec. 46. NAC 645.325 is hereby amended to read as follows:

645.325 1. A licensee who is in good standing with the Division and whose license is on inactive renewed status may apply to the Division to have his license reinstated to active status.

The application must:

- (a) Be on a form supplied by the Division;

- (b) Be accompanied by the required fees;
- (c) Contain evidence that he has paid the required fee for the Real Estate Education, Research and Recovery Fund;
- (d) If the application is for reinstatement of a real estate broker's license, be accompanied by a completed financial statement that is prepared on the form prescribed by the Division;
- (e) Contain evidence that requirements for continuing education have been met; and
- (f) Include any other information required by the Administrator, including, without limitation, current fingerprint cards.

2. If a license has been on inactive renewed status for more than 2 years, the licensee must, in addition to fulfilling the requirements of subsection 1:

(a) Show, to the Administrator's satisfaction, that he has the competency to engage in the business of real estate; and

(b) Complete an examination, ~~[in the form of a questionnaire,]~~ *including payment of the appropriate examination fees*, and attain a score of at least 75 percent.

3. If the licensee fails the ~~[first such]~~ examination, he may ~~[take another one after at least 10 days have elapsed. If the licensee fails the second examination or any subsequent examinations, he may not take another examination until at least 30 days have elapsed after the last examination was taken.]~~ *retake the examination after paying the appropriate examination fee.*

4. A license placed on inactive status for the holder's failure to comply with NRS 645.570 or for any of the reasons listed in NRS 645.577 remains inactive until an application for reinstatement has been approved by the Division.

Sec. 47. NAC 645.330 is hereby amended to read as follows:

645.330 In reviewing the application for reinstatement , the Division shall apply the same standards as are applied for original applicants. The Division shall determine whether the application is accepted or denied within 10 days after the *later of:*

1. The determination by the Division that the ~~[candidate]~~ *applicant* has passed the ~~[questionnaire and the following has been received by the Division, if so required:~~
~~—1.] examination, if required; and~~

2. The receipt by the Division of the following, if required:

(a) The FBI report;

~~[2.] (b)~~ A completed financial statement that is prepared on a form prescribed by the Division;

~~[3.] (c)~~ The required fees and forms; and

~~[4.] (d)~~ Such other information as may be requested by the Division.

Sec. 48. NAC 645.345 is hereby amended to read as follows:

645.345 If a real estate broker fails to renew his license ~~[.]~~ *and the Division places the license of the real estate broker on inactive status pursuant to NRS 645.577*, the license of a licensee with whom he is associated who has renewed that license will immediately be placed on inactive renewed status . ~~[until the real estate broker with whom the licensee is associated reinstates and renews his license, or the licensee applies for a transfer to the association of another real estate broker and pays the required fees.]~~ *A licensee whose license is placed on inactive renewed status pursuant to this section may reinstate his license pursuant to NAC 645.325.*

Sec. 49. NAC 645.350 is hereby amended to read as follows:

645.350 1. If the license of a real estate broker is ~~cancelled,~~ *terminated*, suspended or revoked, he shall deliver his license to the Division with the license of each licensee with whom he is associated. A licensee who is associated with the real estate broker may, upon proper application and payment of the required fee, transfer to the association of another real estate broker. No refund ~~is~~ *will be* made when a license is ~~cancelled,~~ *terminated*, suspended or revoked.

2. Upon the death of a licensee, the Division shall ~~cancel~~ *terminate* the license held by that licensee. ~~The license may not be renewed or transferred.~~

~~—3.— A real estate salesman or broker salesman may be temporarily licensed under another real estate broker or broker salesman who is appointed for this purpose upon the death of the real estate broker under whom the real estate salesman or broker salesman is licensed. Such an appointment must be made within 3 business days after the death of the real estate broker and may continue for a period of not more than 30 days. Notice of such an appointment must be submitted to the Division, in writing, on the day that the appointment is made.]~~

Sec. 50. NAC 645.360 is hereby amended to read as follows:

645.360 1. The Division may ~~cancel~~ *terminate* a license if:

- (a) A real estate broker has discontinued business at the address at which he is registered;
- (b) A licensee is no longer associated with a real estate broker under whom he is shown to be licensed;
- (c) A licensee, whether active or inactive, fails to inform the Division within 10 days after a change in the address of his business or residence;
- (d) A licensee has not paid the required fees;

(e) A licensee delivers a check to the Division that is not honored by the financial institution upon which it is drawn; or

(f) A licensee fails to submit a request to the Division as required by NAC 645.305 to change his license within 10 days after he changes his association, name, *address* or status.

2. A licensee whose license is ~~terminated~~ *terminated* pursuant to this section must satisfy the applicable requirements for reinstatement as set forth in NAC 645.325 to have his license reinstated.

Sec. 51. NAC 645.400 is hereby amended to read as follows:

645.400 For the purposes of NAC 645.400 to 645.467, inclusive, *and sections 15 to 27, inclusive, of this regulation*, “school” includes:

1. ~~The~~ *Any university, school or community college which is a part of the* University *and Community College System* of Nevada, or any other university or college bearing the same or an equivalent accreditation.

2. Any professional school or college licensed by the Nevada Commission on Postsecondary Education.

3. Any out-of-state professional school or college licensed or accredited by a real estate commission, a department of education or an equivalent agency of any other state.

Sec. 52. NAC 645.403 is hereby amended to read as follows:

645.403 A school ~~which desires~~ *that wishes* to offer courses to meet the educational requirements for licensure under chapter 645 of NRS must ~~make its application for the Commission's~~ *apply to the Commission annually for* approval on a form prescribed by the Division ~~and pay the appropriate fees~~. The application must include ~~and pay the appropriate fees~~, *without limitation:*

1. The name and address of the school;

2. The type of school and a description of its facilities;

3. ~~The~~ *Information concerning the* ownership of the school ~~(A)~~, *including* the business organization and the names and addresses of all directors, principals, officers, and others having interests as owners ; ~~(D)~~

4. A list of the instructors;

5. A list of the courses to be offered and a topical syllabus for each;

6. The allotment of time for each subject;

7. A proposed schedule of courses for 1 year;

8. The titles, authors ~~(A)~~ and publishers of all required textbooks;

9. A copy of each examination to be used and the correct answer for each question; ~~(and)~~

10. A statement of:

(a) The purpose of the school;

(b) The fees to be charged;

(c) The days, times ~~(A)~~ and locations of classes;

(d) The number of quizzes and examinations;

(e) The grading systems, including the methods of testing and standards of grading;

(f) The requirements for attendance; and

(g) The location of the students' records ~~(A)~~; *and*

11. A statement as to whether the school or any instructor employed by the school has been disciplined by any governmental agency in this or any other state.

Sec. 53. NAC 645.410 is hereby amended to read as follows:

645.410 1. Except as otherwise provided in NAC 645.412, a school which the Commission has approved to give a course fulfilling the educational requirements for original

licensing shall require each student to attend the required number of hours of instruction and take at least two examinations in the course as a condition of ~~[his certification.]~~ *receiving certification for the course.*

2. The school may certify only the number of hours for which the course has been approved by the Commission.

3. ~~[A portion of a course is not acceptable as satisfying]~~ *The entire course must be completed by the applicant or licensee to satisfy the* licensing requirements.

4. ~~[As used in this section, an]~~ *For the purposes of this section:*

(a) *An* “hour of instruction” means 50 minutes or more ~~[. Fifteen hours of instruction equal one semester credit.]~~; *and*

(b) *One semester credit is equal to 15 hours of instruction.*

Sec. 54. NAC 645.425 is hereby amended to read as follows:

645.425 A school which conducts courses approved by the Commission:

1. May employ as instructors of those courses only persons who:

(a) Hold a bachelor’s degree or a more advanced degree in the field in which they are instructing;

(b) Teach ~~[at]~~ *in* the University and Community College System of Nevada or the university system of another state in the field in which the school has assigned them to give instruction;

(c) Hold a valid license issued by the State of Nevada or another state which authorizes the holder to teach the subject being offered;

(d) Have 5 years of full-time experience, other than secretarial, in the subject taught; or

(e) Have 3 years of full-time experience teaching the subject taught at a school which offers adult education.

2. Shall limit noncertificated guest lecturers ~~who are~~ experts in the related fields ~~to~~ a total of 9 instructional hours per approved course.

3. ~~May~~ **Shall** not employ ~~a person~~ as an instructor, without the approval of the Commission, **a person** who has been disciplined by the Commission ~~or its designee~~:

- (a) Within the last 5 years; or
- (b) More than ~~two times~~ **one time**.

4. Shall include a statement that the school is approved by the Commission on all advertisements of the school.

Sec. 55. NAC 645.435 is hereby amended to read as follows:

645.435 1. A course of instruction in real estate principles, practices, procedures, law and ethics which is designed to meet the educational requirements of an applicant for ~~a~~ **an original** license as a salesman must consist of:

- (a) At least 90 hours of classroom lectures; or
- (b) The equivalent in a correspondence or extension course.

2. The content of the course must be divided among subjects ~~as follows~~ **listed in NAC 645.210, including**:

- (a) At least 45 hours on the principles and practices of real estate, which must include:
 - (1) Brokerage and laws of agency, 21 hours.
 - (2) Valuation and economics, 12 hours.
 - (3) Finance, 12 hours.
- (b) At least 45 hours on the law of property and the regulation of brokers and salesmen and the ethics of selling real estate, which must include:
 - (1) Ownership, transfer and use of property, 25 hours.

(2) Chapters *113, 116*, 119, 119A, ~~and~~ 645 , *645C and 645D* of NRS and the regulations adopted ~~thereunder,~~ *pursuant thereto*, 18 hours.

(3) Applied practice ~~and~~ *and statutory disclosures*, 2 hours.

Sec. 56. NAC 645.437 is hereby amended to read as follows:

645.437 1. A course of instruction in broker management that is designed to fulfill the educational requirements for issuance of ~~an~~ *an original* license which are described in paragraph (d) of subsection 2 of NRS 645.343 must be approved by the Commission.

2. To be approved by the Commission, a course in broker management must include, without limitation:

(a) Six hours of instruction relating to office policy and procedure, risk management, errors and omissions, controlled business arrangements, compensation, employee-employer relationships and the status of independent contractors;

(b) Three hours of instruction relating to creating business plans;

(c) Three hours of instruction on forms used by real estate brokerages for real estate transactions;

(d) Six hours of instruction that provides an overview of programs for financing real estate transactions, including, without limitation, terminology relating to such programs, the cost of transactions, customary transaction closing costs, and transaction cost and net sheets;

(e) Six hours of instruction ~~on recent changes~~ in state and local laws;

(f) Six hours of instruction on federal laws governing real estate transactions;

(g) Six hours of instruction on professional relationships between agents and their clients;

(h) Three hours of instruction on valuation of real estate and general principles of economics;
and

(i) Six hours of instruction on emerging trends and practices.

Sec. 57. NAC 645.440 is hereby amended to read as follows:

645.440 1. Except as otherwise provided in subsection 2, before any school offers or conducts a course of instruction designed to fulfill the educational requirements for issuance of an original license under chapter 645 of NRS, the school must be approved by the Commission.

2. Unless the course is a course in broker management, the Commission ~~will~~ *may* accept such a course from any of the following schools without prior approval of the school:

(a) ~~The University of Nevada or other university or college bearing the same or equivalent accreditation.~~

~~(b)~~ Any *university, school or community* college of the University and Community College System of Nevada ~~;~~

~~(c)~~ *or other university or college bearing the same or equivalent accreditation.*

(b) Any other school offering a course in real estate, business or economics if the course is:

(1) Approved by any real estate commission or division in any state of the United States or province of Canada; or

(2) In the judgment of the Commission, equivalent in quality to the courses of colleges or universities accredited by any regional accrediting agency recognized by the United States Department of Education.

~~(d)~~ (c) The American Institute of Real Estate Appraisers, the American Society of Appraisers, the Appraisal Institute, the International Association of Assessing Officers or the Society of Real Estate Appraisers for courses in real estate appraisal consisting of not less than 45 hours of instruction. Forty-five hours of instruction shall be deemed to be the equivalent of 3 semester credits in appraisal.

Sec. 58. NAC 645.441 is hereby amended to read as follows:

645.441 1. The Division shall not accept an applicant's completion of ~~[a course of a kind]~~ *any course* which is designed to prepare students for examination, commonly known as a "cram course," as fulfillment of ~~[his]~~ *the* educational requirements for his original licensing.

2. None of the following kinds of courses will be accepted from an applicant as fulfillment ~~[of any part of the first 24 semester units]~~ of *the* education which ~~[are]~~ *is* required by subsections 1 to 4, inclusive, of NRS 645.343 for original licensing:

(a) Courses 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, operation of business machines, *the use of computers, the use of computer software*, improvement of memory, or writing of letters and reports; or

(b) Business courses in advertising or psychology.

3. The Division shall not accept a course in broker management required pursuant to paragraph (d) of subsection 2 of NRS 645.343 unless the course and the school that offers the course have been approved by the Commission.

Sec. 59. NAC 645.446 is hereby amended to read as follows:

645.446 1. Within 15 days after the occurrence of any material change in *the information provided by the school in its application pursuant to NAC 645.403* which would affect its approval by the Commission, the school shall give the Division written notice of that change.

2. To qualify for annual renewal of approval by the Commission, a school must submit to the Commission before July 1:

(a) A written certification, in a form prescribed by the Division, declaring that the school has met all applicable requirements of this chapter; ~~[and]~~

(b) A sworn statement, in a form prescribed by the Division, declaring that the information contained in the original application is current or , if it is not current, a list of all material changes

~~};~~ *and*

(c) Payment of the appropriate fee for each course for which renewal is being sought.

3. The Commission may deny renewal of approval to any school that does not meet the standards required by this chapter.

4. Within 60 days after a decision is made to deny renewal of approval, the Commission must give written notice of the decision and the basis for that decision by certified mail to the last known address of the school.

Sec. 60. NAC 645.450 is hereby amended to read as follows:

645.450 1. ~~{The courses}~~ *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 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)~~ (m) The development of land; ~~and~~
- ~~(o)~~ (n) Agency and subjects related to agency ~~and~~;
- (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) *Not more than 3 hours of 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, 645.460 and 645.463 and subsection 1 of NAC 645.465, the ~~Commission will~~ *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 ~~[-~~

~~—(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.] for college credit.~~

4. The Commission ~~[will,]~~ *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 ~~[one]~~ *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. 61. NAC 645.455 is hereby amended to read as follows:

645.455 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.

2. The Commission ~~{will not}~~ *may* grant retroactive approval for a course for continuing education.

3. The Commission 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}~~ *at least 4* 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 that an approved instructor will preside throughout the course.

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

(1) Requires each student to:

(I) 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;

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

(III) Complete an entire course to receive credit for taking the course; and

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

(2) ~~{Only gives}~~ Gives credit for *only* the number of hours for which the course has been approved by the Division to a licensee who has completed the course.

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

(4) Maintains for ~~{3}~~ *at least 4* 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;}~~ *credit for continuing education for which the course is approved;*
- (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;
- (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 ~~{;}~~ *and*
- (j) Manner in which instruction for the course was delivered.*

Sec. 62. NAC 645.457 is hereby amended to read as follows:

645.457 1. If a course has been approved and is being offered for continuing education, the sponsor must state on all the course materials:

- (a) That the course is approved for continuing education in Nevada;
- (b) The number of hours of credit for continuing education for which the course is approved; ~~{and}~~
- (c) The ~~{sponsor's code}~~ number *of the sponsor* assigned by the Division ~~{;}~~ *and*
- (d) The manner in which instruction for the course will be delivered.*

2. If a course offered by a *sponsor that is a* professional organization has been approved for continuing education, the ~~[organization]~~ *sponsor* shall not restrict attendance at the course to members of that organization.

Sec. 63. NAC 645.458 is hereby amended to read as follows:

645.458 ~~[1.]~~ Any advertising, promotional brochure or form for registration for a course for continuing education must contain, in writing, the policy of the sponsor concerning ~~[cancellation]~~ *cancellations* and refunds.

~~[2.— Each sponsor shall provide evaluations for a course for continuing education and shall maintain a tabulation of the results of the evaluations for 2 years. The Division may request review of those evaluations.]~~

Sec. 64. NAC 645.460 is hereby amended to read as follows:

645.460 An instructor of a continuing education course must possess:

1. A good reputation for honesty, integrity, and trustworthiness; and
2. ~~[A.]~~ *Except as otherwise provided in section 23 of this regulation, 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.
 - (b) A valid license from Nevada or another state which authorizes the holder to teach the subject being offered.
 - (c) Five years of full-time experience, other than secretarial, in the subject taught.
 - (d) Three years of experience teaching a course in real estate or a directly related subject.

Sec. 65. NAC 645.463 is hereby amended to read as follows:

645.463 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 *to meet the requirements for continuing education* more than once during any two consecutive periods for renewal of a license.

~~{3.}~~ 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.

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

Sec. 66. NAC 645.465 is hereby amended to read as follows:

645.465 1. The sponsor of an approved course ~~{for the continuing education of licensees shall:~~

~~—(a) Not:}~~

(a) *Shall not* allow a licensee to pass the course by taking ~~{the}~~ *an* examination without having the required attendance;

(b) ~~{Admit}~~ *Shall admit* authorized personnel of the Division to audit and evaluate the presentation of the course;

(c) ~~{Notify}~~ *Shall notify* the Division within 15 days after making any material change in the course; and

(d) ~~[Not]~~ *Shall not* present a course for the main purpose of selling products and shall limit the announcement of products during the course to not more than 1 minute for each credit hour.

2. The Commission's approval of ~~[such a]~~:

(a) *A course to meet the educational requirements for an original license;*

(b) *A course for postlicensing education; and*

(c) *A course for continuing education,*

↪ is effective for 1 year after the original approval or a ~~[reapproval.]~~ *renewal*.

3. The *school or* sponsor must apply for ~~[reapproval]~~ *renewal* on a form provided by the Division and describe on that form any changes in the course. An application for ~~[reapproval]~~ *renewal* must be filed at least 2 weeks before the previous approval expires. ~~[and, if he]~~ *If the school or sponsor* does not ~~[do so, he]~~ *timely file the application for renewal, the school or sponsor* must apply for an original approval.

4. *Each approved course and instructor is subject to review and audit by the Division. If the Division conducts such a review or audit, the sponsor shall make available to the Division all records requested which are necessary to the review.*

5. *The Division may renew the approval of a course if the information concerning the course has been updated and there is no material change in the content of the course.*

6. Each of the following acts and conditions is a ground for the Commission to withdraw *or refuse to renew* its approval of a course:

(a) ~~[Poor quality of the]~~ *The* curriculum or instruction, as shown by evaluations ~~[~~ *—(b) Violation] or audits, is of poor quality.*

(b) *The violation* of any ~~[of the provisions on]~~ *provision of this chapter relating to* continuing education. ~~[in this chapter.]~~

~~—5. In determining whether to withdraw its approval of such a course, the Commission will follow a procedure similar to that used for suspension or revocation of a license.]~~

(c) The course is not taught within the last period for which the course is approved.

(d) The sponsor of the course has made a false statement or has presented any false information in connection with an application for the approval of the course, the renewal of such approval or the approval of the sponsor.

(e) The sponsor of the course or any official or instructor employed by the sponsor has refused or failed to comply with any provision of this chapter or chapter 645 of NRS.

(f) The sponsor of the course or any official or instructor employed by the sponsor has provided false or incorrect information in connection with any report the sponsor is required to submit to the Commission.

(g) The sponsor of the course has engaged in a pattern of consistently cancelling scheduled courses.

(h) The sponsor of the course has remitted to the Commission in payment for required fees a check which was dishonored by a bank.

(i) An instructor employed by the sponsor of an approved course fails to conduct approved courses in a manner that demonstrates possession of the teaching skills described in this chapter.

(j) A court of competent jurisdiction has found the sponsor of the approved course or any official or instructor employed by the sponsor to have violated, in connection with the offering of education courses, any applicable federal or state law or regulation:

(1) Prohibiting discrimination on the basis of disability;

(2) Requiring places of public accommodation to be in compliance with prescribed standards relating to accessibility; or

(3) Requiring that courses related to licensing or certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities.

(k) The sponsor of the course or any official or instructor employed by the sponsor has been disciplined by the Commission or any other occupational licensing agency in this State or any other jurisdiction.

(l) The sponsor of the course or any official or instructor employed by the sponsor has collected money for an educational course but has refused or failed to provide the promised instruction.

7. A licensee who is the sponsor of an approved course is subject to disciplinary action pursuant to this chapter for any dishonest, fraudulent or improper conduct by the licensee, or an instructor of the approved course employed by the licensee, in connection with activities related to the approved course.

Sec. 67. NAC 645.467 is hereby amended to read as follows:

645.467 1. ~~[Notwithstanding the provisions of NAC 645.450, 645.455, 645.457, 645.460 and 645.465, the Division may grant to a licensee, once during any 2-year period, not more than 6 hours of credit for continuing education if he:~~

~~—(a) Attends a meeting of the Commission in its entirety which lasts at least 3 hours;~~

~~—(b) Personally signs a roster at the meeting on a form provided by the Division;~~

~~—(c) Submits to the Division a written certificate of credit; and~~

~~—(d) Is not affiliated with or otherwise specifically participating in the meeting of the~~

~~Commission as a person who is named on the agenda for the meeting.] *The Commission will*~~

grant credit for continuing education, not to exceed 6 hours during a licensing period, to a licensee for attending a meeting of the Commission if:

(a) The meeting of the Commission for which credit for continuing education is being sought is not a meeting in which the licensee was participating in or otherwise affiliated with a specific disciplinary hearing;

(b) The meeting of the Commission for which credit for continuing education is being sought lasts at least 3 hours; and

(c) The Commission certifies, for the purposes of providing credit for continuing education, the attendance of the licensee at the meeting.

2. If a licensee attends only part of a meeting of the Commission, the Division may determine the number of hours of credit, if any, that the licensee may receive for ~~his attendance.]~~ *credit for continuing education pursuant to this section.*

Sec. 68. NAC 645.470 is hereby amended to read as follows:

645.470 1. Within 60 days after the close of the fiscal year, the Administrator shall deliver to the Commission a financial statement showing beginning balances, receipts, expenditures ~~and~~ and ending balances of the Real Estate Education, Research and Recovery Fund in such detail as the Commission requires.

2. Before the first meeting of each fiscal year, the Commission will have a budget prepared for the yearly allocation of expenditures of the Fund from money available for research and education. *The budget so prepared will be presented at the first meeting of the Commission in the fiscal year.*

Sec. 69. NAC 645.490 is hereby amended to read as follows:

645.490 1. The Commission may establish an advisory committee to assist the Commission with any matter that the Commission determines to be appropriate for submission to an advisory committee.

2. The Administrator may establish an advisory committee to assist the Administrator in ~~the:~~

~~—(a) Evaluation]:~~

(a) *The evaluation* of any educational course, seminar or conference; or

(b) ~~Review] The review~~ of a matter that is the subject of an investigation conducted pursuant to NAC 645.680, if the licensee who is the subject of the investigation agrees to participate in an informal review of the matter with an advisory committee.

3. The Commission will create and maintain a list of persons who are approved by the Commission to serve on an advisory committee. *The Commission will not include any person on the list unless that person meets the qualifications for appointment to the Commission set forth in subsection 3 of NRS 645.090.*

4. If the Administrator or the Commission determines that an advisory committee should be formed, the Administrator shall appoint three persons to serve on the advisory committee from the list of persons approved by the Commission to serve on the advisory committee. *At least one person so appointed must be a current or former member of the Commission.* The Administrator shall appoint one member of the advisory committee, *who must be a current or former member of the Commission,* to serve as chairman of the advisory committee.

~~4.]~~ 5. A member of an advisory committee:

(a) Serves at the pleasure of the Commission and without compensation; and

(b) ~~Must~~ *Shall* abstain from participating in any proceeding in which he would be prohibited from participating if he were a member of the Commission.

~~5.1~~ **6.** Each member of an advisory committee is entitled to receive a per diem allowance and travel expenses as provided for state officers and employees generally for the period during which the member was engaged in the discharge of his official duties.

Sec. 70. NAC 645.493 is hereby amended to read as follows:

645.493 1. An advisory committee which is established to assist the Administrator with the review of a matter that is the subject of an investigation conducted pursuant to NAC 645.680 shall:

(a) Review the written report submitted by an investigator pursuant to NAC 645.680 and any other information that is relevant to the matter to determine whether there is probable cause to show that the licensee who is the subject of the investigation has violated a provision of chapter *113, 116, 119, 119A, 119B, ~~645~~, 645C or 645D* of NRS or the regulations ~~enacted~~ *adopted* pursuant to those chapters;

(b) Hold an informal conference in accordance with NAC 645.497;

(c) Work with the licensee who is the subject of the investigation to attempt to arrive at a recommendation for resolution of the matter; and

(d) Submit a recommendation for resolution of the matter to the Administrator or recommend that the matter be submitted to the Commission.

2. If the Administrator and the licensee who is the subject of the investigation accept the advisory committee's recommendation for resolution of the matter, the Administrator shall enter into a written agreement with the licensee who is the subject of the investigation which must contain the terms of the resolution recommended by the advisory committee. If the agreement

provides for disciplinary action that is authorized pursuant to NRS 645.630, the Administrator may impose the discipline on behalf of the Commission.

3. If disciplinary action is taken pursuant to this section against a licensee who is the subject of an investigation, the Administrator shall file with the Commission a written summary of the facts and disciplinary actions taken against the licensee.

4. If the Administrator or the licensee who is the subject of the investigation does not accept the advisory committee's recommendation for resolution of the matter, the Administrator shall:

(a) ~~Dismiss the matter which is the subject of the investigation.~~ *Schedule a hearing which must be conducted pursuant to NAC 645.810; or*

(b) Negotiate a resolution of the matter with the licensee who is the subject of the investigation, which may include, without limitation, assessing administrative sanctions pursuant to NAC 645.695. A resolution negotiated pursuant to this paragraph is contingent upon the approval of the Commission at a hearing in which the licensee who is the subject of the investigation is in attendance.

~~[(e) Schedule a hearing which must be conducted pursuant to NAC 645.810.]~~

Sec. 71. NAC 645.525 is hereby amended to read as follows:

645.525 ~~[The]~~ *Regardless of disclosure or any agreement on the part of the seller, a licensee shall not participate in the naming of a false consideration in any document, unless it is an obviously nominal consideration . ~~[named for recording purposes.]~~*

Sec. 72. NAC 645.600 is hereby amended to read as follows:

645.600 1. Every real estate broker shall teach the licensees associated with him the fundamentals of real estate or ~~[timeshare]~~ *time-share* practice, or both, and the ethics of the

profession. ~~He~~ *The broker* shall supervise ~~their~~ *the* activities *of those licensees, the activities of his employees* and the operation of his business.

2. The supervision described in subsection 1 includes, without limitation, the establishment of policies, rules, procedures and systems that allow the real estate broker to review, oversee and manage:

(a) The real estate transactions performed by a licensee who is associated with him;

(b) Documents that may have a material effect upon the rights or obligations of a party to such a real estate transaction;

(c) The filing, storage and maintenance of such documents;

(d) The handling ~~by a licensee~~ of money received on behalf of a real estate broker;

(e) The advertising ~~by a licensee~~ of any service for which a real estate license is required;
and

(f) The familiarization by the licensee of the requirements of federal and state law governing real estate transactions, including, without limitation, prohibitions against discrimination.

3. In establishing such policies, rules, procedures and systems, the real estate broker shall consider the number of licensees associated with the real estate broker, *the number of employees employed by the real estate broker* and the number and location of branch offices operated by the real estate broker.

4. A real estate broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. The real estate broker may use a real estate broker-salesman to assist in administering the provisions of this section so long as the real estate broker does not relinquish overall responsibility for the supervision of the acts of the licensees associated with the real estate broker.

5. A real estate broker may enter into a written agreement with each licensee associated with the real estate broker to retain the licensee as an independent contractor. If such an agreement is entered into, it must:

(a) Be signed and dated by the real estate broker and the licensee; and

(b) Include the material aspects of the relationship between the real estate broker and the licensee, including, without limitation, the supervision by the real estate broker of the activities of the licensee for which a real estate license is required.

Sec. 73. NAC 645.605 is hereby amended to read as follows:

645.605 In determining whether a licensee has been guilty of gross negligence or incompetence under paragraph (h) of subsection 1 of NRS 645.633 or conduct which constitutes deceitful, fraudulent or dishonest dealing under paragraph (i) of that subsection, the Commission will consider, among other things, whether the licensee:

1. Has done his utmost to protect the public against fraud, misrepresentation or unethical practices related to real estate or time shares.

2. Has ascertained all pertinent facts concerning any time share or property for which he accepts an agency.

3. Has attempted to provide specialized professional services concerning a type of property or service that is outside ~~of~~ his field of experience or competence without the assistance of a qualified authority unless the facts of such lack of experience or competence are fully disclosed to his client.

4. Has disclosed, in writing, his interest or contemplated interest in any property or time share with which he is dealing. The disclosure must include, but is not limited to, a statement of:

(a) Whether he expects to receive any direct ~~[and]~~ *or* indirect compensation, ~~[dividends and profits]~~ *dividend or profit* from any person or company ~~[who]~~ *that* will perform services related to the property and, if so, the identity of the person or company;

(b) His affiliation with or financial interest in any person or company ~~[who]~~ *that* furnishes services related to the property;

(c) If he is managing the property, his interest in or financial arrangement with any person or company ~~[who]~~ *that* provides maintenance or other services to the property;

(d) If he refers one of his clients or customers to another person or company, such as a contractor, title company, attorney, engineer or mortgage ~~[company,]~~ *banker*, his expectation of a referral fee from that person or company; and

(e) If he receives compensation from more than one party in a real estate transaction, full disclosure to and consent from each party to the real estate transaction. A licensee shall not accept compensation from more than one party in a real estate transaction, even if otherwise permitted by law, without full disclosure to all parties.

5. Has kept informed of current statutes and regulations governing real estate, time shares and related fields in which he attempts to provide guidance.

6. Has breached his obligation of absolute fidelity to his principal's interest or his obligation to deal fairly with all parties to a real estate transaction.

7. Has ensured that each agreement for the sale, lease or management of property or time shares is contained in a written agreement *that has been signed by all parties* and that his real estate broker and each party to the real estate transaction has a copy of the written agreement.

8. Has obtained all changes of contractual terms in writing and whether such changes are signed or initialed by the parties concerned.

9. Understands and properly applies federal and state statutes relating to the protection of consumers.

10. Has acquired knowledge of all material facts that are reasonably ascertainable and are of customary or express concern and has conveyed that knowledge to the parties to the real estate transaction.

11. Has impeded or attempted to impede any investigation of the Division by:

(a) Failing to comply or delaying his compliance with a request by the Division to provide documents;

(b) *Failing to supply a written response, including supporting documentation, if available;*

(c) Supplying false information to an investigator, auditor or any other officer of the Division;

~~(e)~~ (d) Providing false, forged or altered documents; or

~~(d)~~ (e) Attempting to conceal any documents or facts relating to a real estate transaction.

Sec. 74. NAC 645.610 is hereby amended to read as follows:

645.610 1. In addition to satisfying the requirements set forth in NRS 645.315:

(a) An advertisement of the services of a licensee for which a license is required under chapter 645 of NRS must not be false or misleading.

(b) ~~(A)~~ *Except as otherwise provided in this paragraph, a licensee shall not use his name or telephone number ~~(F)~~ or the name or telephone number of another licensee of the brokerage firm with which he is associated in any advertisement which contains the words “for sale by owner,” “for lease by owner” or similar words. A licensee may use his name or telephone number in an advertisement for property if the licensee has an ownership interest in the advertised property and the advertisement contains:*

(1) If the licensee is a real estate broker, the words “for sale by owner-broker,” “for lease by owner-broker” or substantially similar words; or

(2) If the licensee is an agent, the words “for sale by owner-agent,” “for lease by owner-agent” or substantially similar words.

(c) The name of a brokerage firm under which a real estate broker does business or with which a real estate broker-salesman or salesman is associated must be clearly identified with prominence in any advertisement . ~~[that includes the name of the real estate broker, real estate broker-salesman or salesman.]~~ In determining whether the name of the brokerage firm is identified with prominence, the Division ~~[will]~~ **shall** consider, without limitation, the style, size and color of the type or font used ~~[]~~ and the location of the name of the brokerage firm as it appears in the advertisement.

(d) A licensee shall not publish or cause to be published any advertisement or place any sign that makes any reference to the availability of a specific property which is exclusively listed for sale by another broker unless the licensee obtains the prior written consent of the broker with whom the property is listed. Such consent must not be given or withheld by the listing broker without the knowledge of the owner of the property.

(e) A licensee shall not advertise or otherwise conduct business under a name, including a nickname, other than the name under which he is licensed to engage in business.

2. If advertising under the name of a franchise, a broker shall incorporate in a conspicuous way in the advertisement the real, fictitious or corporate name under which he is licensed to engage in business and an acknowledgement that each office is independently owned and operated.

3. As used in this section, “advertisement” includes, without limitation ~~[-any communication:~~

~~—(a) Published]:~~

(a) *Any printed material and any broadcast made* by radio, television or electronic means ~~[-]~~, *including, without limitation, by electronic mail and the Internet, billboards and signs;* and

(b) ~~[-Printed on business]~~ *Business* cards, stationery, ~~[-signs, billboards or]~~ forms and other documents used in a real estate transaction.

Sec. 75. NAC 645.640 is hereby amended to read as follows:

645.640 1. A licensee shall not acquire, *lease* or dispose of any time share, real property or ~~[-an]~~ interest in any time share or real property for himself, any member of his immediate family, his firm, or any member thereof, or any entity in which he has an interest as owner unless he first discloses in writing ~~[-, on the offer to purchase or counteroffer, to the buyer and seller in the transaction]~~ that:

(a) He is acquiring, *leasing* or disposing of the time share or property for himself or for a member, firm, or entity with which he has such a relationship; and

(b) He is a licensed real estate broker, licensed real estate broker-salesman ~~[-]~~ or licensed real estate salesman, whether his license is active or inactive. This disclosure may be accomplished with a reference to himself as an agent, licensee, salesman, broker or broker-salesman, whichever is appropriate.

2. If a licensee advertises any time share or real property or his ~~[-desire]~~ *wish* to enter into a transaction which is subject to the provisions of subsection 1, he shall include in the advertisement the disclosure required by that subsection.

Sec. 76. NAC 645.645 is hereby amended to read as follows:

645.645 A broker shall, upon demand, provide the Division with the documents and the permission necessary *for the Division* to ~~fully~~ complete *fully* an inspection and audit, including *an* inspection and audit of any money accounts as provided ~~by~~ *in* NRS 645.310 ~~and~~ *645.313*. Permission may be given on a form provided by the Division. The form must provide ~~for release from liability to~~ a bank, depositor ~~,~~ or other holder of information *with release from liability* which might result from disclosure of the information required by the Division.

Sec. 77. NAC 645.650 is hereby amended to read as follows:

645.650 1. A broker shall keep complete real estate transaction and property management records for at least 5 years after the date of the closing or the last activity involving the property, including, without limitation, offers that were not accepted and transactions that were not completed, unless otherwise directed by the Division.

2. A salesman or broker-salesman must provide any paperwork to the broker with whom he is associated ~~and~~ *within 5 calendar days after that paperwork is executed by all the parties*.

Sec. 78. NAC 645.655 is hereby amended to read as follows:

645.655 1. ~~A~~ *Each* real estate transaction of a ~~licensee~~ *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 business ~~and~~ *;* *and*
- (c) *Signed and dated by the real estate broker.*

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 ~~{licensee}~~ *real estate broker* shall give written notice to the Division of the exact location of his records and ~~{may}~~ *shall* not remove them until he has delivered a notice which informs the Division of the new location.

5. A licensee shall not maintain a custodial 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 salesman may not be the only required signatory on a custodial or trust fund account. A real estate salesman may be a cosigner of an account with his 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 ~~{funds}~~ *money* pursuant to the agreement under which ~~{the money}~~ *it* was originally deposited.

8. A real estate broker who is engaged in property management for one or more clients shall maintain ~~{a}~~ *two* separate property management trust ~~{account}~~ *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 rental income, 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 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 his designee within 30 days after receipt of the bank statement. ~~[(f-a)]~~ 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 ~~[(, he will be)]~~ *is* subject to discipline pursuant to paragraph (h) of subsection 1 of NRS 645.633 ~~[(, or subject to)]~~ *or* other applicable charges, or both.

Sec. 79. NAC 645.657 is hereby amended to read as follows:

645.657 ~~[(Every real estate broker salesman or salesman)]~~ *A licensee* 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 , *or to the escrow business or company designated in the contract,* within 1 business day after receiving the deposit.

Sec. 80. NAC 645.660 is hereby amended to read as follows:

645.660 A licensee shall not deposit money received by him in any escrow business or company in which he or anyone associated with him in the real estate or time-share business has an interest without disclosing this association to ~~[(his client.)]~~ *all parties to the transaction.*

Sec. 81. NAC 645.665 is hereby amended to read as follows:

645.665 A broker shall not be absent from his business for 30 days or more if he is the only broker in his office unless he inactivates his license or otherwise notifies the Division in advance. Failure to observe this requirement is a ground for suspension. *If a broker will be absent from*

his business for 30 days or more, he must designate an office manager in accordance with NAC 645.178 or make other arrangements approved by the Division in advance.

Sec. 82. NAC 645.675 is hereby amended to read as follows:

645.675 1. Each agreement for an advance fee used in Nevada must:

- (a) Be in writing;
- (b) Contain a definite and complete description of the services to be rendered;
- (c) Specify the total amount of the fee involved and clearly state when the fee is due;
- (d) Not imply or purport to guarantee that the real property involved will be purchased, sold, rented, leased ~~and~~ or exchanged as a result of the services rendered;
- (e) Specify the date of full performance of the services contracted for; ~~and~~
- (f) Not imply or purport to represent to purchasers and prospective purchasers of the advertising or promotional services offered ~~and~~ that a buyer for the property is immediately or soon available ~~and~~; *and*

(g) Provide that a full refund will be made to the customer if the services for which the advance fee is being received are not substantially or materially provided to the customer.

2. Any oral representation or promise made to a purchaser or a prospective purchaser of the advertising and promotional services offered pursuant to an agreement for an advance fee to induce the purchaser or prospective purchaser of the services to sign the agreement ~~and~~ is incorporated into the agreement. The agreement ~~may~~ *must* not relieve or exempt the vendor of the services from any oral representation or promise incorporated into the agreement.

Sec. 83. NAC 645.678 is hereby amended to read as follows:

645.678 A broker operating an agency which lists rentals for an advance fee shall:

1. Not publish, advertise ~~[.]~~ or distribute information concerning ~~[rentals]~~ *a rental* without first receiving approval from the owner of ~~[such rental unit.]~~ *the rental*.
2. Provide for full refunds to customers if the services for which payment was received was substantially or materially not received by the customer.
3. ~~[Insure through the exercise of reasonable care that all advertisements are not false, deceptive, or misleading.~~
- ~~—4.]~~ Inform each customer in writing of the term for which the rental service is to be provided.
- ~~[5.]~~ 4. Make no additional charge for services rendered during the period for which ~~[such]~~ *the* services were initially purchased.

Sec. 84. NAC 645.680 is hereby amended to read as follows:

- 645.680 1. The Division ~~[will]~~ *shall* 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 or if the Division requests an investigation of a licensee, the Administrator shall appoint a member of the staff of the Division to investigate any action of a licensee which appears to violate a provision of chapter *113, 116,* 119, 119A, 119B, ~~[or]~~ 645, *645C or 645D* of NRS or the regulations ~~[promulgated thereunder.]~~ *adopted pursuant thereto*. An investigation that is initiated by a complaint need not be limited to the matter in the complaint.
3. A licensee shall disclose all facts and documents pertinent to an investigation to members of the Division's staff conducting the investigation.

4. A person appointed to investigate a matter pursuant to this section shall submit a written report to the Administrator which describes the results of the investigation.

5. The Administrator shall review a report submitted pursuant to subsection 4 and based upon the review shall:

(a) Dismiss the matter that is the subject of the investigation;

(b) *Impose an administrative fine pursuant to NAC 645.695;*

(c) Negotiate a resolution of the matter that is the subject of the investigation, which may include, without limitation, administrative sanctions pursuant to NAC 645.695;

~~(e)~~ (d) Create an advisory committee to review the matter that is the subject of the investigation pursuant to NAC 645.490, if the licensee who is the subject of the investigation agrees to participate in an informal conference with an advisory committee; or

~~(d)~~ (e) Schedule a hearing that must be conducted pursuant to NAC 645.810.

Sec. 85. NAC 645.690 is hereby amended to read as follows:

645.690 1. The Division may grant ~~any~~ a licensee up to 10 days to correct any deficiency involving advertising, business location, office operation ~~;~~ or a broker's sign. A notice of the deficiency and a request to correct ~~a~~ the deficiency will be mailed to the licensee. Failure to comply with the request ~~may be grounds~~ is a ground for the suspension or revocation of the license. The notice must ~~be sent on a form provided by the Division and~~ state the deficiencies or violations, the recommended action, and the date by which the deficiencies must be corrected.

2. The Division may grant an extension for a definite time to correct the deficiency whenever the correction may, practicably, require additional time.

Sec. 86. 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 ~~the~~ *each* violation of the following provisions:

	First <i>For each</i>	Second or
	Offense	Subsequent Offense
<i>NRS 645.235</i>	<i>\$1,000</i>	
NRS 645.252.....	500 <i>500</i>	1,000
Subsection 4, 5 or 6 of NRS 645.310.....	1,000	2,000
NRS 645.530.....	100 per license	200 per license
NRS 645.550.....	500	1,000
NRS 645.560.....	500	1,000
Subsection 1 of NRS 645.570.....	250	500
<i>Subsection 2 of NRS 645.570</i>	<i>500</i>	
Subsection 1 of NRS 645.580.....	250	500
Subsection 1, 2, 3, 5, 6, 9, 10, 11 or 12		
<i>Paragraph (a), (b), (c), (e), (f), (i), (j), (k) or</i>		
<i>(l) of subsection 1</i> of NRS 645.630	500	1,000
Subsection 7 or 8 <i>Paragraph (g) of subsection</i>		
<i>1</i> of NRS 645.630.....	1,000	2,000
Paragraph (c), (e), (g), (h), (j), <i>(k)</i> or (l) of		
subsection 1 of NRS 645.633.....	500	1,000
Paragraph (a), (f) or (k) <i>(a) or (f)</i> of subsection	250	500

	{First} <i>For each</i>	{Second or
	Offense	Subsequent Offense}
1 of NRS 645.633.....		
Paragraph (i) of subsection 1 of NRS 645.633	1,000	{2,000}
Subsection 1, 2, 3 , 4, 5 {, 6 or 8} <i>or 6</i> of NRS		
645.635.....	500	{1,000}
<i>Subsection 7 or 8 of NRS 645.635.....</i>	<i>1,000</i>	
{NRS 645.660	500}	{1,000}
{NAC 645.185	500}	{1,000}
NAC 645.610	500	{1,000}
NAC 645.620	500	{1,000}
{NAC 645.625	250}	{500}
NAC 645.627	500	{1,000}
<i>NAC 645.632</i>	<i>500</i>	
NAC 645.637	{250} <i>500</i>	{500}
NAC 645.640	500	{1,000}
NAC 645.645	500	{1,000}
NAC 645.650	{500} <i>1,000</i>	{1,000}
NAC 645.655	{500} <i>1,000</i>	{1,000}

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 ~~is~~ *or* the permit of the licensee if he holds a permit to engage in property management, or both, 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. 87. NAC 645.710 is hereby amended to read as follows:

645.710 1. An application for an original registration as an owner-developer must be completed by the owner-developer, unless the applicant is a partnership or corporation, and in that case ~~is~~ *the application* must be completed by a partner or the principal officer. The application must be filed with an office of the Division and must be accompanied by fingerprint cards. The applicant's fingerprints must be taken by a regular law enforcement agency. If a search of criminal records has been requested by the Division, an application for registration is not complete until the Division has received the appropriate information.

2. The applicant must provide ~~the following information:~~ *in the application:*

(a) A statement of his arrests and convictions, if any, and any proceedings against him brought by governmental agencies;

(b) A brief history of his business;

(c) The legal description of the property to be covered by the registration, as shown on a recorded map, which shows all the certificates of approval required by law;

(d) The location of each of his sales offices;

(e) A statement which shows his financial condition; and

(f) A history of his bankruptcies, if any.

3. The application must be accompanied by:

(a) The applicant's sworn verification of the truthfulness of the matters stated in the application and its attachments; and

(b) A statement that he understands the responsibilities of an owner-developer ~~[under]~~ *pursuant to this chapter and* chapter 645 of NRS and *that he could be subject to disciplinary action pursuant to* this chapter ~~[]~~ *and chapter 645 of NRS.*

4. The fee for the original registration must accompany the application and is not refundable after the owner-developer has been registered.

5. If the applicant is a partnership or corporation, it must file with the Division a certified or verified copy of the partnership agreement or articles of incorporation.

6. The application must be submitted with a copy of:

(a) The applicant's notice of exemption under subsection 5 of NRS 119.120;

(b) His business license, if one is required by the local government;

(c) If the applicant is a partnership or corporation, the provisions authorizing it to employ salesmen to sell the lots and residences; and

(d) The applicant's certificate of fictitious name, if such a certificate has been filed.

7. An application by a registered owner-developer to enlarge the geographical area covered by his registration must be made on a form prepared by the Division. The applicant must provide the Division with the same information as is required for an original application, and the application must be accompanied by the appropriate fee.

Sec. 88. NAC 645.770 is hereby amended to read as follows:

645.770 1. The Commission may fine an owner-developer, revoke or suspend the registration of an owner-developer, or impose a fine and revoke or suspend the registration of an owner-developer for any violation of chapter *113, 116,* 119, 119A, 645, ~~[or 645A]~~ *645C or 645D*

of NRS or the regulations ~~[promulgated thereunder pursuant to the hearing requirements of this chapter.]~~ *adopted pursuant thereto.*

2. If the Administrator has reason to believe that there has been a substantial change in the financial status of the owner-developer since his original application, the Administrator shall investigate ~~[such]~~ *the* financial status ~~[and if]~~ *of the owner-developer. If the Administrator determines that the* owner-developer is ~~[determined to be]~~ financially incompetent to maintain his business, the Administrator shall bring a complaint for revocation of ~~[his registration.]~~ *the registration of the owner-developer.*

Sec. 89. NAC 645.800 is hereby amended to read as follows:

645.800 1. ~~[Except as otherwise provided in subsection 2, a]~~ 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; and
- (c) A certificate of completion, in a form that is satisfactory to the Division, that indicates his successful completion of the 24 classroom hours of instruction in property management required by paragraph (a) of subsection 2 of NRS 645.6052.

2. ~~[If the license of the person as a real estate broker, real estate broker-salesman or real estate salesman expires less than a year before the date he applies for the initial issuance of a permit, the fee for the permit is \$20.~~

~~—3.]~~ 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; and
 - (4) The Fair Credit Reporting Act, 15 U.S.C. §§ 1681 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 116 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 salesmen and real estate broker-salesmen 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.

~~{4.} The Division will not accept a course consisting of 45 hours of classroom instruction in property management that is offered to a real estate salesman to obtain a license as a real estate broker-salesman or a license as a real estate broker to fulfill any part of the 24 classroom hours of instruction required by paragraph (a) of subsection 2 of NRS 645.6052 unless the certificate of completion of the course indicates that the course has been approved by the Commission to fulfill all or part of the 24 classroom hours of instruction required by paragraph (a) of subsection 2 of NRS 645.6052.~~

~~—5.} 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 ~~{3.} 2~~, if the successful completion of that course would qualify the applicant to engage in property management pursuant to the requirements of that organization.

~~{6.} 4.~~ The applicant must complete the hours of instruction set forth in paragraphs (d), (e), (f) and (g) of subsection ~~{3} 2~~ at an accredited educational institution in this State.

~~[7.]~~ 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.

~~[8.]~~ 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 ~~[3.]~~ 2; and

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

↪ The fee for the examination is \$75.

Sec. 90. NAC 645.804 is hereby amended to read as follows:

645.804 1. ~~[Any course designed to fulfill the educational requirements for the issuance or renewal of a permit to engage in property management]~~ *For an applicant to receive credit for a course of instruction in property management that is designed to fulfill the educational requirements for the issuance of a permit which are described in paragraph (a) of subsection 2 of NRS 645.6052, the course* must be approved by the Commission.

2. An educational institution that wishes to obtain approval to offer courses that meet the educational requirements for the issuance or renewal of a permit to engage in property management must apply to the Division pursuant to the applicable procedures set forth in NAC 645.400 to 645.467, inclusive ~~[]~~, *and sections 15 to 27, inclusive, of this regulation.*

Sec. 91. NAC 645.807 is hereby amended to read as follows:

645.807 A real estate broker-salesman who holds a permit to engage in property management may sign checks on a trust account without the signature of the real estate broker who employs him if the broker-salesman has obtained the written permission of the broker authorizing him to do so. *A signature applied by use of a rubber stamp does not constitute the signature of a real estate broker-salesman for the purposes of this section.*

Sec. 92. NAC 645.810 is hereby amended to read as follows:

645.810 1. The presiding officer of a hearing shall : ~~{do the following:}~~

(a) Ascertain whether all persons commanded to appear under subpoena are present ~~{}~~ and whether all documents, books, records and other evidence under subpoena are present in the hearing room.

(b) Administer the oath to the reporter as follows:

Do you solemnly swear or affirm that you will report this hearing to the best of your stenographic ability?

(c) Administer the oath to all persons whose testimony will be taken:

Do you and each of you solemnly swear or affirm to tell the truth and nothing but the truth in these proceedings?

(d) Ascertain whether either party ~~{desires}~~ *wishes* to have a witness excluded from the hearing except during the testimony of the witness. A witness may be excluded upon the motion of the Commission or upon the motion of either party. If a witness is excluded, he will be

instructed not to discuss the case during the pendency of the proceeding. The respondent will be allowed to remain present at the hearing. The Division may designate a person who is a member of the staff of the Division and who may also be a witness to act as its representative. Such a representative will be allowed to remain present at the hearing.

(e) Ascertain whether a copy of the complaint or decision to deny has been filed and whether an answer has been filed as part of the record in the proceedings.

(f) Hear any preliminary motions, stipulations or orders upon which the parties agree and address any administrative details.

(g) Request the Division to proceed with the presentation of its case.

2. The Division may not submit any evidence to the Commission before the hearing except for the complaint and answer.

3. The respondent may cross-examine witnesses in the order that the Division presents them.

4. Witnesses or counsel may be questioned by the members of the Commission at any time during the proceeding.

5. Evidence which is to be introduced:

(a) Must first be marked for identification ; ~~by the Secretary for the Commission;~~ and

(b) May be received by the Commission at any point during the proceeding.

6. When the Division has completed its presentation, the presiding officer shall request the respondent to proceed with the introduction of evidence and calling of witnesses on his behalf.

7. The Division may cross-examine witnesses in the order that the respondent presents them.

8. When the respondent has completed his presentation, the Division may call any rebuttal witnesses.

9. When all testimony for the Division and respondent has been given and all evidence submitted, the presiding officer may request the Division and the respondent to summarize their presentations.

10. The Commission may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.

11. The date of decision for the purpose of subsection 2 of NRS 645.760 is the date the written decision is signed by a Commissioner or filed with the Commission, whichever occurs later . ~~[in time.]~~

12. In the absence of the President of the Commission, any matter which must be acted upon may be submitted to the Vice President or to the Secretary.

13. Upon the presentation of evidence that the respondent received notice of the hearing and has not filed an answer within the time prescribed pursuant to NRS 645.685, his default may be entered and a decision may be issued based upon the allegations of the complaint.

Sec. 93. NAC 645.037, 645.060, 645.415 and 645.625 are hereby repealed.

TEXT OF REPEALED SECTIONS

645.037 “Inactive not renewed status” defined. “Inactive not renewed status” means that the licensee failed to renew his license for the current license year.

645.060 “Deceitful, fraudulent or dishonest dealing” interpreted. (NRS 645.190)

1. For the purposes of NRS 645.633, the Commission interprets the term “deceitful, fraudulent or dishonest dealing” to include any conduct by a licensee, pursuant to any real estate transaction or referral, that involves the giving to or acceptance from:

- (a) A lending institution;
- (b) An insurance company;
- (c) An appraiser;
- (d) An inspector;
- (e) A title insurance company;
- (f) An escrow company;
- (g) A contractor;
- (h) An attorney; or
- (i) Any other person involved in a real estate transaction with the licensee,

↳ of a fee, rebate, kickback or anything of value.

2. The term does not include any conduct of a licensee that involves:

- (a) The payment or acceptance of a commission or fee that is:
 - (1) Approved by a principal to the real estate transaction;
 - (2) Payable on or before the close of escrow; and
 - (3) Specified in a document evidencing the real estate transaction; or

(b) The giving to or acceptance from a client of a gift that does not exceed \$100 in aggregate value for each real estate transaction involving the licensee and the client.

3. As used in this section:

- (a) “Contractor” has the meaning ascribed to it in NRS 40.620.
- (b) “Inspector” has the meaning ascribed to it in NRS 645D.080.

645.415 Denial or withdrawal of approval.

1. A school whose application for approval of a course is denied and which desires a hearing before the Commission upon the matter must file a written request for the hearing within 20 days after receiving the order of denial. The Commission will hold the hearing within 90 days after the request for hearing is made unless the school makes a written request for a continuance and that request is granted. The Commission will decide the matter within 90 days after the hearing.

2. If the Administrator determines that an approved school or course no longer complies with the standards prescribed in this chapter, he shall file a complaint seeking a temporary or permanent withdrawal of the approval. The Commission will hear the complaint following a procedure similar to that used for revocation or suspension of a real estate license.

645.625 Use of name of franchise.

1. A broker who operates under or uses a name authorized by a franchise shall:

- (a) Register the name with the Division on a form supplied by the Division.
- (b) Submit a copy of the executed franchise to the Division.

2. When advertising under the name of a franchise, the broker shall incorporate in a conspicuous way in the advertisement the real, fictitious, or corporate name under which he is licensed to engage in business and an acknowledgment that each office is independently owned and operated.

3. The Division will not accept for registration the name of a franchise if the name is the same as or confusingly similar to:

- (a) The real, fictitious, or corporate name of a licensee; or
- (b) The registered name of another franchise.

↳ This subsection does not prohibit more than one broker from registering the name of the same