

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

LCB File No. R126-04

Effective October 31, 2005

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

AUTHORITY: §1, NRS 645.385; §2, NRS 645.6065; §3, NRS 645.608.

A REGULATION relating to real estate; revising the provision that authorizes persons designated as brokers for certain entities to obtain licenses to act on their own behalf to include persons designated as brokers for limited-liability companies; revising the interpretation by the Real Estate Division of the Department of Business and Industry of the phrase “act as a qualified intermediary”; increasing the minimum amount of the bond or other deposit that a qualified intermediary must maintain; and providing other matters properly relating thereto.

Section 1. NAC 645.380 is hereby amended to read as follows:

645.380 1. A broker designated by a partnership , *limited-liability company* or ~~[a]~~ corporation pursuant to NRS 645.370 or a broker who has obtained a license pursuant to NRS 645.380 may also obtain ~~[one]~~ *an individual* license to act on his own behalf. To obtain ~~[a]~~ *an individual* license , a broker must complete and submit forms as supplied by the Division and must pay an original license fee and any other required fees.

2. The Division will issue an additional license to *such* a broker and subject him to the same rights and duties as any other licensed Nevada broker. He may maintain an office separate from the offices of the partnership , *limited-liability company* or corporation and shall maintain separate records and a separate trust account so that the business of the partnership , *limited-liability company* or corporation remains separate from his independent business.

3. The partnership, *limited-liability company* or corporation must submit a statement, on a form supplied by the Division, indicating that it is fully aware of the intention of the broker to maintain an independent business.

4. Revocation, suspension, or any other penalty of the Commission or the Division applies to both licenses of a broker who is licensed pursuant to this section.

5. A *partnership, limited-liability company or* corporation may not serve as a salesman ~~[,]~~ *or broker-salesman* except as otherwise provided by a specific statute.

6. ~~[(f-a)]~~ A broker *who* is licensed individually and as a partnership, *limited-liability company* or corporation, even though he has been issued two licenses by the Division, ~~[he]~~ is considered to be only one licensee for the purposes of ~~[NRS 645.841 to 645.8494, inclusive.]~~ *disciplinary action or claims against the Real Estate Education, Research and Recovery Fund.*

Sec. 2. NAC 645.774 is hereby amended to read as follows:

645.774 As used in subsection 1 of NRS 645.6065, the Division will interpret “act as a qualified intermediary” to include:

1. Entering into an agreement with a client who ~~[is known by the qualified intermediary to be a resident of Nevada on the date of the agreement and who desires]~~ *wishes* to:

(a) Relinquish real property located in Nevada in exchange for other real property in a tax-deferred exchange; or

(b) Acquire real property located in Nevada ~~[-, which]~~ *that* the client identifies ~~[at the time when the agreement is entered,]~~

2. Maintaining an office in Nevada to solicit or conduct business as a qualified intermediary, regardless of where the real property which is the subject of the exchange is located or where the client resides.

Sec. 3. NAC 645.788 is hereby amended to read as follows:

645.788 1. Except as otherwise provided in subsection 2, the minimum amount of a bond or other deposit required by NRS 645.608 must be ~~[\$25,000.]~~ **\$50,000.**

2. The Division may, as appropriate, increase the minimum amount of the bond or other deposit to not more than:

(a) The amount of any outstanding judgments or tax assessments against the applicant;

(b) Fifty percent of the amount in controversy reported to the Division in accordance with paragraph (b) of subsection 2 of NAC 645.780; or

(c) The amount specified in paragraph (c) of subsection 2 of NAC 645.780 if the information supplied pursuant to paragraph (d), (e), or (f) of subsection 2 of NAC 645.780 is in the affirmative.

3. If an applicant objects to an increase in the minimum amount of the bond or other deposit required by the Division pursuant to subsection 2, he may appeal the decision by requesting a hearing before the Commission. The request must be in writing and received by the Division within 30 days after the date on which the Division informed the applicant of the increase.

4. If an applicant appeals a decision of the Division pursuant to subsection 3, the hearing will be held in the manner set forth in NRS 645.440. At the hearing, the applicant has the burden of proving that the increase in the minimum amount of the bond or other deposit required by the Division is unreasonable.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R126-04**

The Real Estate Division of the Department of Business and Industry adopted regulations assigned LCB File No. R126-04 which pertain to chapter 645 of the Nevada Administrative Code on December 14, 2004.

Notice date: 7/28/2004

Date of adoption by agency: 12/14/2004

Hearing date: 9/14/2004 & 12/14/2004

Filing date: 10/31/2005

INFORMATIONAL STATEMENT

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

Notice of the proposed regulations were posted on the Real Estate Division website, all of the county public libraries in the State of Nevada and in various other public locations where both the public and other interested persons would have access to that information. The Division conducted a public workshop on August 27, 2004 in Carson City, Nevada and September 7, 2004 in Las Vegas, Nevada. Public comment was also solicited at the public adoption hearings on September 14, 2004 and December 14, 2004 in Las Vegas, NV.

- 2. The number of persons who:**

Attended workshops:	8/27/04 = 12 and 9/7/04 = 25 (both were combined workshops with LCB File No. R031-04)
Attended hearing:	9/14/04 = 3 and 12/14/04 = 2
Submitted written comments:	3

- 3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Affected businesses were able to comment in the public workshop and hearing or in writing, a summary of the oral comments are attached hereto. Written comments were also received and are attached hereto.

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Changes were made to the regulation after hearing the public comments and review of the written comments.

5. **The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

Business which it is to regulate:

- (1) **Both adverse and beneficial effects: and**

Adverse effects: A person seeking to register as a qualified intermediary under chapter 645 will now be required to provide a higher bond amount.

Beneficial effects: None known at this time.

- (2) **Both immediate and long-term effects.**

Immediate effects: The immediate effect will be that anyone seeking to conduct business as a qualified intermediary will have to provide a larger bond.

Long-term effects: The continued requirement to provide the higher bond amount.

Public:

- (1) **Both adverse and beneficial effects: and**

Adverse effects: There are no known adverse effects to the public by the adoption of this regulation.

Beneficial effects: The public should be better protected by these regulations.

- (2) **Both immediate and long-term effects:**

Immediate effects: There are no known immediate effects to the public.

Long-term effects: In the event that a claim has to be made due to unscrupulous acts by a qualified intermediary, the public will be able to recover a dollar amount that is greater than the previous requirement.

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

Cost of handbook production. Cost of educating the public and regulated licensees regarding the new regulation. Cost of regulation review.

7. **A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There is no other state, federal or other governmental agency's regulations, which the proposed regulations duplicate or overlap.

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

N/A

- 9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

There are no new fees or changes to existing fees in this regulation.