

**REVISED PROPOSED REGULATION OF THE
REAL ESTATE COMMISSION**

LCB File No. R157-08

October 15, 2009

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

AUTHORITY: §1, NRS 645.190; §§2 and 8-12, NRS 645.190 and 645.575; §§3 and 4, NRS 645.190 and 645.780; §5, NRS 645.190 and 645.400; §6, NRS 645.050, 645.190 and 645.605; §7, NRS 645.190, 645.343 and 645.575; §13, NRS 645.050, 645.190, 645.630, 645.633, 645.635 and 645.660.

A REGULATION relating to real estate; authorizing the Real Estate Division of the Department of Business and Industry to provide on its website certain information concerning courses that satisfy educational requirements for holders of a license, permit, certificate or registration issued by the Division; authorizing certain persons to electronically transfer to the Division’s website certain information concerning credits obtained for continuing education and postlicensing education courses; revising the definition of “school” and providing a definition of “sponsor” for the purposes of provisions governing educational requirements for applicants for and holders of a license, permit, certificate or registration issued by the Division; revising the educational requirements for the renewal of a license of a real estate broker, real estate broker-salesman and real estate salesman whose license has been placed on inactive status; increasing the amounts of administrative fines that the Real Estate Administrator is authorized to require a licensee to pay for a violation of certain statutory and regulatory provisions; 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, 3 and 4 of this regulation.

Sec. 2. *For the purposes of NAC 645.400 to 645.467, inclusive, and sections 2, 3 and 4 of this regulation, “sponsor” includes any person or governmental entity that is approved by the Commission to offer courses that meet the requirements of postlicensing education and continuing education for the first and subsequent renewal of a license pursuant to this chapter and chapter 645 of NRS.*

Sec. 3. *The Division may provide information on the website created and maintained pursuant to NRS 645.780 concerning courses which satisfy the educational requirements, if*

any, for the issuance of an original license, permit, certificate or registration pursuant to this chapter and chapter 645 of NRS and courses for continuing education and postlicensing education offered for licensees and holders of a permit, certificate or registration issued pursuant to this chapter and chapter 645 of NRS. The information may include, without limitation:

- 1. The name of each sponsor of a course;*
- 2. Whether the course is designated as satisfying educational requirements for the issuance of an original license, permit, certificate or registration, as a course for continuing education or as a course for postlicensing education;*
- 3. Whether the Commission has granted approval of the course for educational requirements for the issuance of an original license, permit, certificate or registration, for continuing education or for postlicensing education; and*
- 4. The following details concerning those courses for which the Commission has granted approval for educational requirements for the issuance of an original license, permit, certificate or registration, for continuing education or for postlicensing education:*
 - (a) The number of the course assigned by the Division;*
 - (b) The title of the course and the name of the sponsor of the course;*
 - (c) If the course is designated as a course for continuing education, whether the Commission granted approval for the course in the area of ethics, professional conduct or the legal aspects of real estate;*
 - (d) If the course is designated as a course for postlicensing education, the module for which the Commission granted approval;*

(e) The number of hours of credit for educational requirements for original licensing, continuing education or postlicensing education for which the course is approved; and

(f) The manner in which instruction of the course will be delivered.

Sec. 4. 1. *The Division may allow licensees and holders of permits, certificates and registrations issued pursuant to the provisions of this chapter and chapter 645 of NRS to use the website created and maintained pursuant to NRS 645.780 to verify information concerning credits for continuing education or postlicensing education obtained during the current renewal period and the renewal period immediately preceding the current period. The information provided may include, without limitation:*

(a) The name and license number of the licensee or holder of the permit, certificate or registration;

(b) The title of the course, the name of the sponsor of the course and the number of the course assigned by the Division;

(c) If the course was designated as a course for continuing education, whether the Commission granted approval for the course in the area of ethics, professional conduct or the legal aspects of real estate;

(d) If the course was designated as a course for postlicensing education, the module for which the Commission granted approval;

(e) The number of hours of credit for continuing education or postlicensing education obtained by the licensee or holder of the permit, certificate or registration;

(f) The date of completion of a course of continuing education or postlicensing education taken by the licensee or holder of the permit, certificate or registration; and

(g) The number of hours of credit for continuing education or postlicensing education for which the course was approved.

2. The Division may allow licensees and holders of permits, certificates and registrations issued pursuant to the provisions of this chapter and chapter 645 of NRS to electronically transfer information concerning credits obtained for continuing education or postlicensing education to the website created and maintained pursuant to NRS 645.780. As appropriate, the Division may enter that information in the file of the licensee or holder of a permit, certificate or registration located in the database of the Division.

3. Within 10 days after the completion of an approved course for continuing education or postlicensing education, the sponsor of the course shall electronically submit to the Division, in a format approved by the Division, the information set forth in paragraphs (a) to (f), inclusive, of subsection 1 for each licensee and holder of a permit, certificate or registration who attended the course for credit.

Sec. 5. 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. The Division may require an applicant for a license as a real estate broker to submit a credit report to the Division at his own expense.

2. An applicant for a license as a real estate broker shall be deemed financially responsible if he can show liquid assets sufficient to maintain an office *in this State* for 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 license as a real estate broker-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. 6. 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 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 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. 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 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 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 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 lease* or attempt to sell *or lease* 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 *or lease* to a person other than a resident of Nevada.

Sec. 7. NAC 645.400 is hereby amended to read as follows:

645.400 For the purposes of NAC 645.400 to 645.467, inclusive, "school" includes:

1. Any university, school or community college which is a part of the Nevada System of Higher Education, 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.]~~ *other college or school approved by the Commission.*

Sec. 8. NAC 645.4444 is hereby amended to read as follows:

645.4444 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 *or an electronic submission from the sponsor to the Division pursuant to subsection 3 of section 4 of this regulation* 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. 9. NAC 645.445 is hereby amended to read as follows:

645.445 1. To renew an active license ~~[, the licensee must provide the Division with proof that he has met the requirements set forth in paragraph (a) of subsection 1 of NRS 645.575.]~~
~~—2.—~~ **To** or to reinstate a license which has been placed on inactive status, a person must provide the Division with proof that he has met the requirements set forth in ~~[paragraph (b) of subsection 1 of NRS 645.575.]~~ **NAC 645.448.**

~~[3.]~~ **2.** For the purpose of compliance with this section, 50 or more minutes of actual instruction constitutes a clock hour and “ initial licensing ” refers to the first issuance of a real estate license of any kind in Nevada.

~~[4.]~~ **3.** A licensee may petition the Administrator for an extension of time in which to comply with the requirements for continuing education. The Administrator may grant such an extension if he finds the licensee has a severe hardship resulting from circumstances beyond his control which has prevented him from meeting the requirements.

Sec. 10. NAC 645.448 is hereby amended to read as follows:

645.448 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 ~~[,]~~ **, as**

described in NRS 645.780. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

- (a) Three hours in the area of agency relationships;
- (b) Three hours in the area of Nevada law with an emphasis on recent statutory and

regulatory changes;

- (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 ~~§~~, *as described in NRS 645.780.* Not less than 15 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

- (a) Three hours in the area of agency relationships;
- (b) Three hours in the area of Nevada law with an emphasis on recent statutory and

regulatory changes;

- (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.

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 ~~[1-year]~~ *2 years* or less, ~~[all]~~ *any part* of which was during the period of the initial license, the licensee must complete the 30-hour postlicensing course described in NAC 645.4442.

~~(b) [If the license was on inactive status for more than 1 year but less than 2 years, any part of which was during the period of the initial license, the licensee must complete at approved educational courses, seminars or conferences:~~

~~——(1) The 30-hour postlicensing course described in NAC 645.4442; and~~

~~——(2) At least 18 hours of continuing education. Not less than 12 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:~~

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

~~——(II) Three hours in the area of Nevada law with an emphasis on recent statutory and regulatory changes;~~

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

~~——(IV) Three hours in the area of ethics.~~

~~(c)]~~ If the license was on inactive status for 2 years or less, no part of which was during the period of the initial 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 the legal aspects of real estate, including:

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

(2) Three hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;

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

(4) Three hours in the area of ethics.

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

(1) The 30-hour postlicensing course described in NAC 645.4442; and

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

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

(II) Three hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;

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

(IV) Three hours in the area of ethics.

~~[(e)]~~ (d) If the license was on inactive status for more than 2 years, no part of which was during the period of the initial license, the licensee must complete at least 48 hours of continuing education at approved educational courses, seminars or conferences. Not less than ~~[(2)]~~ 24 of the hours must be devoted to ethics, professional conduct or the legal aspects of real estate, including:

(1) ~~[(Three)]~~ Six hours in the area of agency relationships;

(2) ~~[(Three)]~~ Six hours in the area of current Nevada law with an emphasis on recent statutory and regulatory changes;

(3) ~~[(Three)]~~ Six hours in the area of contracts; and

(4) ~~[(Three)]~~ Six hours in the area of ethics.

5. Not more than 3 hours of any of the required hours set forth in this section for continuing education may be taken in courses for personal development.

6. As used in this section, “initial license” means the license of a person who is a first-year licensee and who:

(a) Did not hold a real estate license issued by another state or territory of the United States, or the District of Columbia, on the date on which the first-year licensee obtained a real estate license issued by the State of Nevada;

(b) Had not held a license as a real estate broker, real estate broker-salesman or real estate salesman issued by the State of Nevada within the 5 years immediately preceding the date on which the first-year licensee obtained a license as a real estate salesman; or

(c) Is licensed as a real estate broker-salesman and obtained the qualifications for licensure as a real estate broker-salesman pursuant to the provisions of subsection 2 of NRS 645.343.

Sec. 11. 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 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 the attendance of licensees who take the course for credit.

(2) 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:

(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) 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 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 *or an electronic submission from the sponsor to the Division pursuant to subsection 3 of section 4 of this regulation* 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 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;
- (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. 12. NAC 645.463 is hereby amended to read as follows:

645.463 1. ~~{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.~~

~~—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.

~~{3.}~~ 2. 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.

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

Sec. 13. 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 *which is not less than the minimum amount or more than the maximum amount* set forth in this subsection for each violation of the following provisions:

<i>Violation</i>	{For each Offense}	<i>Minimum Fine</i>	<i>Maximum Fine</i>
NRS 645.252.....		\$500	<i>\$2,500</i>
Subsection 4, 5 or 6 of NRS 645.310.....		1,000	<i>2,500</i>
NRS 645.530.....		\$100 per license	<i>2,500</i>
NRS 645.550.....		500	<i>2,500</i>
NRS 645.560.....		500	<i>2,500</i>
Subsection 1 of NRS 645.570.....		250	<i>2,500</i>
Subsection 2 of NRS 645.570.....		500	<i>2,500</i>

<i>Violation</i>	{For each Offense}	<i>Minimum Fine</i>	<i>Maximum Fine</i>
Subsection 1 of NRS 645.580.....		250	2,500
Paragraph (a), (b), (c), (e), (f), (i), (j), (k) or (l) of subsection 1 of NRS 645.630.....		500	2,500
Paragraph (g) of subsection 1 of NRS 645.630		1,000	2,500
Paragraph (c), (e), (g), (h), (j), (k) or (l) of subsection 1 of NRS 645.633		500	2,500
Paragraph (a) or (f) of subsection 1 of NRS 645.633		250	2,500
Paragraph (i) of subsection 1 of NRS 645.633		1,000	2,500
Subsection 1, 2, 3, 4, 5 or 6 of NRS 645.635.....		500	2,500
Subsection 7 or 8 of NRS 645.635.....		1,000	2,500
Subsection 3 of NRS 645.660.....		1,000	2,500
NAC 645.610		500	2,500
NAC 645.620		500	2,500
NAC 645.627		500	2,500
NAC 645.632		500	2,500
NAC 645.637		500	2,500
NAC 645.640		500	2,500
NAC 645.645		500	2,500
NAC 645.650		1,000	2,500

<i>Violation</i>	{For each		Offense}
	<i>Minimum Fine</i>		<i>Maximum Fine</i>
NAC 645.655	1,000		2,500
NAC 645.855	2,000		2,500

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 and any permit of the licensee 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).