

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

LCB File No. R195-08

September 4, 2008

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

AUTHORITY: §§1-10, NRS 645D.120.

A REGULATION relating to inspectors of structures; revising provisions governing approved courses of instruction for an original certificate as a certified inspector; revising provisions governing courses of instruction for the continuing education required to renew a certificate as a certified inspector; revising the list of courses that do not meet the standards for continuing education; revising the list of prohibited acts of a certified inspector; and providing other matters properly relating thereto.

Section 1. NAC 645D.245 is hereby amended to read as follows:

645D.245 An approved course, to comply with the requirements of NAC 645D.210 for an applicant for certification as a certified residential inspector, must consist of at least 40 hours of instruction in a classroom, ~~[including instruction relating to the inspection of structures pursuant to the requirements of NAC 645D.480 to 645D.580, inclusive.]~~ *which must include, without limitation, not less than 4 hours of instruction relating to the provisions of this chapter and chapter 645D of NRS.*

Sec. 2. NAC 645D.246 is hereby amended to read as follows:

645D.246 An approved course, to comply with the requirements of NAC 645D.220 for an applicant for certification as a certified general inspector, must consist of at least 50 hours of instruction in a classroom, ~~[including instruction relating to the inspection of structures pursuant to the requirements of NAC 645D.480 to 645D.580, inclusive.]~~ *which must include, without*

limitation, not less than 4 hours of instruction relating to the provisions of this chapter and chapter 645D of NRS.

Sec. 3. NAC 645D.247 is hereby amended to read as follows:

645D.247 An approved course, to comply with the requirements of NAC 645D.230 for an applicant for certification as a certified master inspector, must consist of at least 60 hours of instruction in a classroom, ~~including instruction relating to the inspection of structures pursuant to the requirements of NAC 645D.480 to 645D.580, inclusive.]~~ *which must include, without limitation, not less than 4 hours of instruction relating to the provisions of this chapter and chapter 645D of NRS.*

Sec. 4. NAC 645D.4355 is hereby amended to read as follows:

645D.4355 1. A course of instruction for continuing education must include:

(a) Current information concerning inspection practices that will improve the professional knowledge of the holder of a certificate and enable him to provide better service to the public.

(b) Information that relates to applicable state and federal laws and regulations relating to inspections or inspection practices.

2. ~~The]~~ *Except as otherwise provided in NAC 645D.436, the* Division considers courses in the following areas to be acceptable for continuing education:

(a) Legislative issues that concern holders of certificates or the practice of inspecting structures, including, without limitation, pending and recent legislation;

(b) The administration of laws and regulations governing inspections of structures, including, without limitation, certification, enforcement, office management and employees' contracts;

(c) The relationship of an inspection report to a real estate transaction;

(d) The evaluation of a structure and its components, including, without limitation, the evaluation of the items set forth in NAC 645D.480 to 645D.580, inclusive, and studies of feasibility;

(e) Real estate and inspection mathematics;

(f) The nature of inspections;

(g) The purpose and use of inspections;

(h) Methods of inspection;

(i) Construction; ~~and~~

(j) Computer software relating to inspections or inspection practices ~~and~~; *and*

(k) The personal development of the holder of a certificate, as deemed appropriate by the Division.

3. If the sponsor agrees to comply with all other requirements of approval, the Division will accept without specific approval any course in inspection practices or directly related subjects if the course has been previously approved by the Division.

Sec. 5. NAC 645D.436 is hereby amended to read as follows:

645D.436 The following kinds of courses and activities do not meet the standards for continuing education:

1. A course designed to develop or improve clerical, office or business skills not related to the inspection process, such as typing, shorthand, the operation of business machines, the use of computers, speed reading, improvement of memory and writing letters.

2. A program of office training or other activity that is held as part of the general business of the holder of a certificate.

3. A course for the orientation of holders of certificates.

4. A course for the development of instructors.

5. A course promoting or selling products or services.

6. A course designed to prepare a person to take an examination, including, without limitation, an examination required pursuant to NAC 645D.250.

Sec. 6. NAC 645D.437 is hereby amended to read as follows:

645D.437 1. Except as otherwise provided in NAC 645D.4365 regarding distance education courses, an inspector may apply to the Division for the approval of a course of continuing education that is provided out of State if the inspector has:

(a) Attended or will attend the course outside Nevada;

(b) Taken or will take the course within the period prescribed by subsection ~~3~~ 4 of NAC 645D.441; and

(c) Submitted an application on a form supplied by the Division.

2. Under appropriate circumstances, the Division may give retroactive approval for a course attended out of State.

3. Except as otherwise provided in subsection 5, approval of a course pursuant to this section applies only to the specific:

(a) Course described in the application;

(b) Date on which the course was given; and

(c) Inspector who submitted the application.

4. In determining whether to approve a course attended out of State, the Division will consider:

(a) Whether the course consists of at least 2 hours of instruction.

(b) Whether the course meets the standards set forth in NAC 645D.4355 and is acceptable under the provisions of NAC 645D.436.

(c) Any available information regarding the qualifications of the instructor of the course.

(d) The sufficiency of the proof of attendance of the course by the applicant. To obtain credit for attendance of the course, the applicant must attend the required number of hours of instruction and take and pass ~~any~~ *the* examination administered in the course ~~it~~, *if any*.

(e) Any other criteria that the Division deems appropriate.

5. If the Division approves a specific course based on an initial application by an inspector pursuant to subsections 1 to 4, inclusive, it will approve an application submitted subsequently by another inspector who attended the same course if that inspector submits proof of his attendance of the same course.

6. If the Division approves a course pursuant to this section, the sponsor of the course:

(a) Is not required to comply with NAC 645D.4385 and 645D.440 and subsection 2 of NAC 645D.4405.

(b) Shall not advertise that the course has been approved by the Division.

Sec. 7. NAC 645D.4385 is hereby amended to read as follows:

645D.4385 Except as otherwise provided in subsection 6 of NAC 645D.437:

1. The sponsor of an approved course for continuing education shall:

(a) Not present a course for the main purpose of selling products *or services* and shall limit the announcement of products *or services* during the course to not more than 1 minute for each hour of credit;

(b) Not allow a holder of a certificate to pass the course by taking the examination without having the required attendance;

(c) Admit authorized personnel of the Division to audit and evaluate the presentation of the course; and

(d) Notify the Division within 15 calendar days after making any material change in the course.

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 a review of those evaluations.

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

4. If a course offered by a professional organization has been approved for continuing education, the organization shall not restrict attendance of the course to members of that organization.

Sec. 8. NAC 645D.441 is hereby amended to read as follows:

645D.441 1. A holder of a certificate may receive credit for continuing education if he teaches an approved course. Credit will be given only once for teaching the same course. The holder of a certificate must submit proof that he taught the course during the applicable period of certification. The instructor may receive 1 hour of credit per each hour of instruction.

2. A course may not be taken for credit more than once in the same period of certification.

3. *A holder of a certificate may not receive credit for continuing education for more than 2 hours of instruction in the area of personal development.*

4. Courses taken to satisfy requirements for the renewal or reinstatement of a certificate must be completed within the 2 years immediately before the latest date for renewing or reinstating the certificate.

~~{4.}~~ 5. A holder of a certificate may receive credit for continuing education only upon certification by the sponsor that the holder of a certificate has attended and completed at least 90 percent of the course.

Sec. 9. NAC 645D.470 is hereby amended to read as follows:

645D.470 A certified inspector shall not, while making an inspection:

1. Offer to perform or perform any act or service that is unlawful.
2. Offer warranties or guaranties of any kind.
3. Offer to perform or perform any job function for which he does not have a license, including, ~~{but not limited to,}~~ *without limitation*, the services of an engineer, architect, plumber or electrician.

4. *Offer to perform or perform an inspection of a pool or spa.*

5. Calculate the strength, adequacy or efficiency of any system or component.

~~{5.}~~ 6. Enter any area or perform any procedure that may damage any part of the structure being inspected or endanger any person, including, ~~{but not limited to,}~~ *without limitation*, the certified inspector.

~~{6.}~~ 7. Operate any system or component that is shut down or otherwise inoperable.

~~{7.}~~ 8. Operate any system or component that does not respond to normal operating controls.

~~{8.}~~ 9. Determine the presence or absence of any suspected adverse environmental condition or hazardous substance, including, ~~{but not limited to,}~~ *without limitation*, toxins, molds and other fungi, carcinogens, radon, noise or contaminants, unless he is licensed or certified to make such inspections and determinations.

~~[9.]~~ **10.** Determine the effectiveness of any system installed to control or remove suspected hazardous substances.

~~[10.]~~ **11.** Predict the future condition of any system or component, including, ~~[but not limited to,]~~ *without limitation*, the failure of a component.

~~[11.]~~ **12.** Project the operating costs of any component.

~~[12.]~~ **13.** Repair a defect identified during the inspection.

Sec. 10. NAC 645D.580 is hereby amended to read as follows:

645D.580 1. A certified inspector shall inspect the site of the structure while conducting an inspection of the structure, including, ~~[but not limited to:]~~ *without limitation*:

- (a) The land grade and water drainage;
- (b) The retaining walls affecting the structure;
- (c) The driveways and walkways; and
- (d) The porches and patios.

2. An inspection of the site must include, without limitation:

(a) An identification and evaluation of the materials and conditions of the driveways, walkways, grade steps, patios and other items contiguous with the inspected structure;

(b) An observation of the drainage and grading for conditions that adversely affect the structure; and

(c) An observation of the above-grade vegetation which affects the exterior of the structure.

3. *An inspection of the site must not include an inspection of a pool or spa.*