

LCB File No. R003-10

PROPOSED REGULATION OF
THE REAL ESTATE COMMISSION

Agency Draft November 27, 2009

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

AUTHORITY: §§1 and 38, NRS 645.190; §§3-6, 30-37, NRS 645.190 and 645.575; §§2 and 7-20, NRS 645.190, 645.343 and 645.575; §§21-29, NRS 645.190 and 645.343.

A REGULATION relating to education in real estate; providing that the original approval or renewal of a course for postlicensing education or continuing education for real estate brokers, broker-salesmen and salesmen is effective for 1 year; amending the requirement for guest lecturers of approved courses; clarifying various provisions relating to education in real estate; amending the definition of “approved course” to include a course that meets the requirements for an original licensing and a distance education course; revising the requirements for a school to obtain approval to offer a course to meet the educational requirements for original licensing;; making various other changes relating to real estate education; and providing other matters properly relating thereto.

Section 1. NAC 645.403 is hereby amended to read as follows:

NAC 645.403 ~~[A]~~ 1. *Except as otherwise provided in subsection 2, a* school that wishes to offer ~~courses~~ *a course* to meet the educational requirements for ~~licensure under chapter 645 of NRS~~ *original licensing* must apply to the Commission annually for approval on a form prescribed by the Division and pay the appropriate fees. The application must include, without limitation:

- ~~[1.]~~ (a) The name and address of the school;
- ~~[2.]~~ (b) The type of school and a description of its facilities;
- ~~[3.]~~ (c) Information concerning the ownership of the school, including the business organization and the names and addresses of all directors, principals, officers and others having interests as owners;
- ~~[4.]~~ (d) A list of the instructors ~~;~~
- ~~—5.—~~ *A list of the courses to be offered and a) and any guest lecturers;*

(e) A proposed schedule of the course for 1 year that includes, without limitation, the dates, times and locations of the course;

*(f) The title, objective and topical syllabus for ~~each;~~
—6.] the course;*

(g) An explanation of how the course meets the educational requirements for original licensing;

(h) The allotment of time for each subject;

~~[7.—A proposed schedule of courses for 1 year;
—8.]~~

(i) If the course is a distance education course, the information required pursuant to NAC 645.443 of this regulation;

(j) The titles, authors and publishers of all required textbooks;

~~[9.]~~

(k) Copies of any manual, handout and other related course materials to be used by the instructor or students;

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

~~[10.] (m) A statement of:~~

~~[(a)] (1) The purpose of the school;~~

~~[(b)] (2) The fees to be charged;~~

~~[(c)] (3) The days, times and locations of classes;~~

~~[(d)] (4) The number of quizzes and examinations;~~

~~[(e)] (5) The grading systems, including the methods of testing and standards of grading;~~

~~[(f)] (6) The requirements for attendance; and~~

~~[(g)] (7) The location of the students' records;~~

~~[11.] (n) 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; and~~

~~[12.] (o) A statement that to pass a course, a student must earn at least 75 percent of the points possible for the entire course.~~

~~[2.—Unless the course is a course in broker management, the Commission may accept such course to meet the educational requirements for original licensing from any of the following schools without prior approval of the school:~~

~~—(a) Any university, school or community college of the Nevada System of Higher Education, 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;~~

~~—(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. 2. NAC 645.4434 is hereby amended to read as follows:

NAC 645.4434 Approved courses: Withdrawal of approval. (NRS 645.190, 645.575)

1. If the Administrator determines, whether pursuant to *student evaluations or* an audit or *investigation conducted by the Division, or* an audit or otherwise, that an approved course does not meet the standards for such a course set forth in this chapter, the Administrator shall notify the sponsor of the course of his intent to withdraw approval of the course. The notice must include the specific reasons upon which the Administrator is basing his decision to withdraw approval of the course. Not later than 30 days after the date on which he receives the notice, the sponsor may provide a written response to the Administrator that clearly sets forth the reasons why approval of the course should not be withdrawn and outlining any corrective measures that the sponsor will undertake. After the 30-day period has elapsed, the Administrator shall review the notice and any response submitted by the sponsor and:

- (a) Withdraw approval of the course;
- (b) Allow the course to remain approved if certain specific enumerated conditions are met; or
- (c) Allow the continued approval of the course.

↪ If the Administrator decides to withdraw approval of the course, the withdrawal of approval of the *approved* course becomes effective upon the mailing of the Administrator's decision to

withdraw approval to the sponsor by certified mail, return receipt requested to the sponsor's last known business address.

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

3. The sponsor may appeal the decision of the Administrator to withdraw approval of a course by filing an appeal with the Commission not later than 30 days after the date on which the withdrawal of the approval of the course becomes effective.

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 Administrator 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 Administrator to withdraw approval of the course

1. If the administrator determines, whether pursuant to otherwise, that an approved course does not meet the standards for such a course set forth in this chapter, the Administrator shall notify the sponsor of the course of his intent to withdraw approval of the course.

The notice must include the specific reasons upon which the Administrator is basing his decision to withdraw approval of the *approved* course.

Sec. 3. NAC 645.4438 is hereby amended to read as follows:

NAC 645.4438 Approved courses: Award of certificate of completion. (NRS 645.190, 645.575)

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 deny the award of a certificate of completion to a student who fails to satisfy the conditions set forth in subsection 1.

3. If an instructor denies the award of a certificate of completion to a student, the student may, within 30 days after that denial, file a written request with the Administrator to review the matter. If the written request contains allegations which, if true, would qualify the applicant to receive a certificate of completion, the Administrator shall set the matter for an informal hearing before him to be conducted as soon as practicable.

4. An instructor may not take for credit any course for which they are approved to teach.

Sec. 4. 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~~ *for* 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.~~

~~—(e) *course meets the requirements of NAC 645.4442 and sponsor:*~~

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

~~—(d)~~ *(b)* 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)]~~ (c) 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)]~~ (d) 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 *and address* 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 *course* 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.

5. A course which is designed to prepare students for examination, commonly known as a "cram course," does not meet the standards for continuing education.

Sec. 5. NAC 645.450 is hereby amended to read as follows:

645.450 1. 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]~~, *without limitation*, recent legislation;
- (c) The administration of real estate law and regulations, including licensing and enforcement;

- (d) Real estate financing, including mortgages and other *financing* 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 *residential and commercial* 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) Accounting and taxation as applied to real property;
- (m) The development of land ~~{;}~~, *including, without limitation, issues relating to the development or redevelopment of farms and ranches;*
- (n) Agency and subjects related to agency;
- (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) Personal development courses ~~{;}~~, *including, without limitation, cross-cultural communications and international real estate transactions;*
- (r) *Antitrust laws;*
- (s) *Issues relating to consumer protection;*
- (t) *Disclosures required during the sale of property, including, without limitation, the information statement required by NRS 116.4103 and 116.4109 and the disclosures required pursuant to NRS 116B.760;*
- (u) *Commercial real estate; and*
- (v) *Environmental issues, including, without limitation, energy and water conservation and environmental responsibility.*

3. If the sponsor agrees to comply with the provisions of subsections 3 and 4 of NAC 645.455, NAC 645.457 and 645.463, ~~{and subsection 1 of NAC 645.4432,}~~ the 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 for college credit.

4. The Commission 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 *set forth in this section*.

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

(a) A course *which is* designed to prepare students for examination ~~[]~~, *commonly known as a “cram course.”*

(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 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]~~ *an approved* course for continuing education if a final examination is not given; or

(b) Eight full hours of credit per day of instruction in ~~[a]~~ *an approved* course for continuing education if a final examination is given.

Sec. 6. 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 *of the course* and number of the course ~~[]~~ *assigned by the Division.*
 - (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:]~~ *course, the [school] sponsor:*
 - (1) Requires each student to:
 - (I) Take a closed-book final examination *by a method of secure testing approved by the Commission or* 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 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];~~

(g) *Course 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.