

**LCB File No. R111-01**

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

**NOTICE OF INTENT TO ACT UPON A REGULATION**

**NOTICE OF HEARING FOR THE ADOPTION, AMENDMENT AND REPEAL OF  
REGULATIONS OF THE NEVADA REAL ESTATE DIVISION  
RED # R02-08-001**

The Nevada Real Estate Division of the Department of Business & Industry of the State of Nevada (the "Division") will hold a public hearing on OCTOBER 29, 2001 @ 9:00 a.m., at the GRANT SAWYER STATE BUILDING, 555 E. WASHINGTON AVENUE, ROOM 4412, LAS VEGAS, NEVADA 89104. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to chapter 645 of the Nevada Administrative Code.

Las Vegas, Nevada

OCTOBER 29, 2001

9:00 A.M.

GRANT SAWYER STATE BUILDING  
555 E. WASHINGTON AVENUE, ROOM 1100  
LAS VEGAS, NEVADA 89104

The following information is provided pursuant to the requirements of NRS 233B.060:

**Information Regarding Adoption**

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

**Information about Proposed Regulations**

1. Purpose and need of the Proposed Regulations. The Division is the agency, which administers the licensing, education and compliance program under NRS 645. The purpose of the regulations is to define and clarify the rights and responsibilities of persons licensed under this chapter.
2. Terms of the proposed regulations. The regulations to be adopted are stated as follows:

3. Estimated Economic Effect. Possible cost to licensees of implementing new policies within their offices in order to comply with new regulations.
4. Estimated Cost to the Agency. Cost of reproduction of handbooks.
5. Duplication with other Agencies: None known at this time.
6. Federal Law. Section 41 is a duplication of a portion of the Real Estate Settlement Procedures Act.
7. Federal Regulation. None known at this time.
8. New Fee Established. None at this time.

#### Comments and Written Submissions

Persons wishing to comment on the proposed action of the Division may appear at the scheduled public hearings or may address their comments, data, views or arguments, in written form to:

Nevada Real Estate Division  
Bradley Building  
2501 E. Sahara Avenue, Room 100  
Las Vegas, NV 89104-4137  
Attn: Tami DeVries, Legal Administrative Officer

Written submissions must be received by the Division by OCTOBER 1, 2001. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

#### Copies of Proposed Regulation

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation will be available at the following Division offices:

Nevada Real Estate Division  
1665 Hot Spring Road, Suite 155  
Carson City, NV 89710

Nevada Real Estate Division  
Bradley Building  
2501 East Sahara, Suite 100  
Las Vegas, NV 89104-4137

and in all counties in which an office of the Division is not maintained, at the main public library, for inspection and copying by members of the public during business hours. The text of each regulation will include the entire text of any section of the Nevada Administrative Code, which is proposed for amendment or repeal. This notice and the text of the proposed regulation

are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at <http://www.leg.state.nv.us>. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

### Posting

This notice of hearing has been posted at the following locations:

Nevada Real Estate Division  
1665 Hot Spring Road  
Carson City, NV 89710

Nevada Real Estate Division  
Bradley Building  
2501 East Sahara, Suite 202  
Las Vegas, NV 89104-4137

Elko Conference Center  
700 Moren Way (Silver Room)  
Elko, Nevada

State Library  
100 Stewart Street  
Carson City, Nevada

Churchill County Library  
553 South Maine Street  
Fallon, Nevada 89406

Douglas County Library  
1625 Library Lane  
Minden, Nevada 89423

Elko County Library  
720 Court Street  
Elko, Nevada 89801

Goldfield Public Library  
Fourth & Crook Street  
Goldfield, Nevada 89013

Eureka Branch Library  
10190 Monroe Street  
Eureka, Nevada 89316

Humboldt County Library  
85 East 5<sup>th</sup> Street  
Winnemucca, Nevada 89445

Lincoln County Library  
93 Main Street  
Pioche, Nevada 89043

Storey County Library  
95 South R Street  
Virginia City, Nevada 89440

Lyon County Library  
20 Nevin Way  
Yerington, Nevada 89447

Mineral County Library  
First & A Street  
Hawthorne, Nevada 89415

Tonopah Public Library

Pershing County Library

171 Central Street  
Tonopah, Nevada 89049

1125 Central Avenue  
Lovelock, Nevada 89419

Washoe County Library  
301 South Center Street  
Reno, Nevada 89505

White Pine County Library  
950 Campton Street  
Ely, Nevada 89301

Battle Mountain Library  
625 Broad Street  
Battle Mountain, Nevada 89820

**LCB File No. R111-01**

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

**Authority: NRS 645.190(2)**

**Note:** Matter italicized is new; matter in brackets ~~---~~ is material to be omitted.

**Section 1.** Chapter 645 of NAC is hereby amended by adding thereto section(s) 2-7, of these proposed regulations.

**Section 2.** *“as soon as practicable” means before any written document has been signed.*

**Sec. 3.** *“material fact” means a fact which constitutes substantially the consideration of the contract, or without which it would not have been made.*

**Sec. 4.** *Each person applying for a salesman license must:*

- 1. Be at least 18 years of age;*
- 2. Present fingerprint cards pursuant to NRS 645.355;*
- 3. Furnish proof of education pursuant to NRS 645.343;*
- 4. Submit to the division the statement required pursuant to NRS 645.358;*
- 5. Provide evidence of a passing grade on examination with picture pursuant to NAC 645.220;*
- 6. Verification of prospective employment pursuant to NAC 645.165;*
- 7. Proof of honesty, truthfulness and good reputation pursuant to NAC 645.150; and*
- 8. Pay the required fees.*

**Sec. 5.** *Each person applying for a broker-salesman license must:*

- 1. Complete all of the requirements for a salesmans license; and*
- 2. An additional 64 college credits of education pursuant to NRS 645.343.*

**Sec. 6. *Each person applying for a broker license must:***

- 1. Complete all of the requirements for a salesman and broker-salesman;*
- 2. Be actively engaged as a full-time licensee for two of the preceding four years; and*
- 3. Present financial responsibility information pursuant to NAC 645.150.*

**Sec. 7. *Denial of application.***

*1. The division may deny any application for a license, permit, certificate, registration or any other licensing document when one or more of the following conditions exist:*

- (a) The application is not in proper form;*
- (b) The required fees do not accompany the application;*
- (c) The accompanying forms are incomplete or otherwise unsatisfactory;*
- (d) The application contains a false statement;*
- (e) Other deficiencies appear in the application;*
- (f) An investigation fails to show affirmatively that the applicant possesses the necessary qualifications;*
- (g) The applicant does not possess the necessary qualifications of good moral character;*
- (h) The applicant does not possess the necessary financial responsibility required for such license, permit, certificate, registration or licensing document, when applicable;*
- (i) The applicant has willfully acted or attempted to act in violation of chapter 113, 116, 119, 119A, 645 ~~[or]~~ 645A, 645C or 645D of NRS or the regulations promulgated thereunder, or has willfully aided and abetted another to act or attempt to act in violation of those chapters or regulations;*
- (j) The applicant has had a license, permit, certificate, registration or other licensing document suspended, involuntarily cancelled or revoked in another state; ~~[or]~~*

*(k) The check used in paying any ~~[examination or license]~~ required fee is not honored by the financial institution upon which it is drawn~~[-]~~;*

*(l) The applicant fails to verify that he is a licensed contractor in the state when applicable; or*

*(m) The applicant has been convicted of, or entered a plea of guilty of nolo contendere to any crime involving his moral turpitude, lack of integrity, or untrustworthiness.*

*2. The administrator may require proof of the applicant's moral character. In determining that character, the administrator may consider:*

*(a) The results of the division's investigation of matters stated in the application and other matters that have come to the division's attention as a result of the division's investigation;*

*(b) Any history of the applicant's arrest and conviction;*

*(c) The nature and history of the applicant's business; and*

*(d) The applicant's conforming to the any of the requirements set forth in chapters 113, 116, 119, 119A, 119B, 645, 645A, 645C, or 645D of NRS.*

*3. An applicant whose application is denied by the division may appeal the denial to the commission as provided in NRS 645.440. If the commission reverses the original decision and determines that the petitioner qualifies for a license, permit, certificate, registration or other licensing document, the application may be accepted as of the date of its original submission and no additional fee will be charged.*

*4. The Division will not refund any fees.*

**Sec. 8.** Amend 645.012 by deleting it in its entirety as follows: ~~[NAC 645.012—"Associate broker" defined. "Associate broker" means one of two or more individual brokers in an association.]~~

**Sec. 9.** Amend NAC 645.015 by deleting it in its entirety as follows: ~~[NAC 645.015~~

~~“Association” defined. “Association” means two or more brokers who:~~

- ~~1. Are natural persons;~~
- ~~2. Are operating individually but under a common name;~~
- ~~3. Are not partners; and~~
- ~~4. Share office space, whether or not they have any agreement to share office expenses or income.]~~

**Sec. 10.** Amend NAC 645.130 by deleting it in its entirety as follows: ~~[NAC 645.130~~

~~Application for examination.~~

- ~~1. The application provided by the division requires the following information:
  - ~~(a) The applicant’s name;~~
  - ~~(b) The applicant’s social security number;~~
  - ~~(c) One recent photograph of the applicant; and~~
  - ~~(d) Such other pertinent information as the division may require.~~~~
- ~~2. An application form is valid for only 1 year from the date of filing, and the division may require that a supplemental form be completed by an applicant to ensure that all required information is current.~~
- ~~3. An original or subsequent application for examination must be filed by the date established by the division.]~~

**Sec. 11.** Amend NAC 645.135 by deleting it in its entirety as follows: ~~[NAC 645.135~~

~~Requirement of minimum age. An application will not be accepted from a person under the age of 17 years for a license to engage in the business of real estate. A license will not be issued to a person under the age of 18 years.]~~



**Sec. 12.** Amend NAC 645.150 as follows: NAC 645.150 Investigation of financial responsibility; proof of good character.

1. The division may investigate the financial responsibility of each applicant. If the division determines that an applicant is not financially responsible, it may require that the applicant be licensed as a broker-salesman until he meets the requirements of financial responsibility as determined by the commission. An applicant for a broker's license may be required to submit a credit report to the division at his own expense.
2. An applicant for a broker's license shall be deemed financially responsible if he can show *liquid* assets ~~for income~~ sufficient to maintain an office for 120 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 broker-salesman's license.
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 license.

**Sec. 13.** Amend NAC 645.160 by deleting it in its entirety as follows: ~~NAC 645.160 Denial of application.~~

~~1. The division may deny any application for a license when one or more of the following conditions exist:~~

~~(a) The application is not in proper form;~~

~~(b) The proper fees are not enclosed;~~

~~(c) The accompanying forms are incomplete or otherwise unsatisfactory;~~

~~(d) The application contains a false statement;~~

- ~~(e) Other deficiencies appear in the application;~~
- ~~(f) An investigation fails to show affirmatively that the applicant possesses the necessary qualifications;~~
- ~~(g) The applicant has willfully acted or attempted to act in violation of chapter 119, 119A, 645 or 645A of NRS or the regulations promulgated thereunder, or has willfully aided and abetted another to act or attempt to act in violation of those chapters or regulations;~~
- ~~(h) The applicant has had a license suspended or revoked in another state; or~~
- ~~(i) The check used in paying an examination or license fee is not honored by the financial institution upon which it is drawn.~~

~~2. An applicant whose application is denied by the division may appeal the denial to the commission as provided in NRS 645.440. If the commission reverses the original decision and determines that the petitioner qualifies for a license, the application may be accepted as of the date of its original submission and no additional fee will be charged.]~~

**Sec. 14.** Amend NAC 645.170 by deleting it in its entirety as follows: ~~[NAC 645.170 Payment of fees. The examination fee is payable at the time of filing. If an applicant postpones his examination and notifies the division at least 30 days before the date of the examination, the examination fee may be applied to a subsequent examination which the applicant wishes to take. An examination may be postponed only once.]~~

**Sec. 15.** Amend NAC 645.175 as follows: NAC 645.175 Licensing of branch offices.

1. The broker to whom the license is issued is responsible for all branch offices operated by him.
- ~~[2. If the location of the branch office does not permit the broker to exercise direct supervision, a corporate officer, associate broker, or partner shall supervise that branch office.]~~

~~[3.]~~ 2. A license for a branch office may only be issued in the name in which the broker is licensed to conduct business at his main office.

*3. A broker-salesman with at least 2 years of active experience within the immediate preceding 4 years may act as an office manager for his broker's principal or branch office.*

*4. A broker-salesman who is acting as a manger of a principal or branch office must notify the division that he is acting in that capacity.*

*5 While supervising an office for the broker, the broker-salesman has all the duties of and is subject to the penalties applicable to a broker under chapter 645 of NRS and NAC.*

~~[4.]~~ 6 A supervisor of a branch office may not manage more than one branch office.

~~[5.]~~ 7 A branch office is not required to establish a trust account, but if one is established, one of the signatures required on the account must be that of the supervisor of the branch office.

**Sec. 16.** Amend NAC 645.177 by deleting it in it's entirety as follows: ~~[NAC 645.177~~

~~Supervision of branch office.~~

~~1. Every branch office of a real estate broker must be under the supervision of a broker or a broker-salesman who, within the preceding 4 years, has had 2 years of active experience as a broker, broker-salesman, or salesman in the United States.~~

~~2. While supervising a branch office, a broker-salesman has all the duties of and is subject to the penalties applicable to a broker under chapter 645 of NRS and this chapter.]~~

**Sec. 17.** Amend NAC 645.178 as follows: ~~[NAC 645.178 Management of principal and branch offices.~~

~~1. A broker-salesman with at least 2 years of active experience within the immediately preceding 4 years of having a licensed status may act as an office manager for his broker's~~

~~principal office and may be made responsible for completing hiring and termination notices and handling trust account funds.~~

~~2. A broker salesman who is acting as manager of a principal or branch office must notify the division that he is acting in that capacity.]~~

**Sec. 18.** Amend NAC 645.180 as follows: NAC 645.180 Cooperative certificate: Application.

1. A real estate broker who is licensed in another state and desires to work in cooperation with a Nevada 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 to cooperate;
- (d) A history of any disciplinary, criminal, or other legal proceeding involving any 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 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 licensed Nevada brokers and employees of the division may not assist in the preparation of any part of the application.

4. The required fee must be paid ~~[by certified check, cashier's check, or postal money order]~~ at the time of filing. If the administrator does not issue the certificate as applied for, the ~~full~~ amount will *not* be refunded.
5. The applicant must furnish proof satisfactory to the administrator that he has a current active real estate license issued by the state in which his principal place of business is located.
6. A broker or salesman who resides in Nevada is not eligible to hold a cooperative certificate or act on behalf of a holder of a certificate.
7. The administrator may deny any application for a certificate *for any reason stated in Section 7 herein.* ~~{if:~~

~~(a) The application is not in proper form;~~

~~(b) The proper fee is not enclosed;~~

~~(c) The application is incomplete or otherwise unsatisfactory;~~

~~(d) The application contains any false statement;~~

~~(e) The applicant previously has willfully acted or attempted to act in violation of any provision of chapter 119, 119A, 645, or 645A of NRS or this chapter or has willfully aided and abetted another to act or attempt to act in violation of those chapters of NRS or this chapter;~~

~~(f) The applicant has had a license suspended or revoked in another state; or~~

~~(g) The applicant has been convicted of, or entered a plea of guilty or nolo contendere to any crime involving his moral turpitude, lack of integrity, or untrustworthiness.]~~

**Sec. 19.** Amend NAC 645.183 as follows: NAC 645.183 Cooperative certificate: Denial and review.

1. The denial of an application for, or the cancellation, suspension, or revocation of, an out-of-state cooperative certificate by the division is reviewable pursuant to NRS 645.440, except that

the hearing need not be held at a time or place other than that set for the next regular meeting of the commission.

2. The division may deny a cooperative certificate for any reason which is sufficient to deny an application pursuant to NRS 645.330 *and Section 7 herein* or to initiate disciplinary proceedings pursuant to NRS 645.630, 645.633, 645.635 and 645.645.

**Sec. 20.** Amend NAC 645.185 as follows: NAC 645.185 Cooperative certificate: Use of certificate.

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 *only one transaction during* 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 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 canceled, 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 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, 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 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 authorized representative 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 establish the time during which the authorization is valid. Such an authorization is renewable.
10. An out-of-state broker may cooperate with *no* more than one Nevada broker and a Nevada broker may cooperate with more than one out-of-state broker. Each ~~arrangement~~ *transaction* 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. *That person must be a resident of the same state the cooperating broker is licensed in.*

**Sec. 21.** Amend NAC 645.205 by deleting it in its entirety as follows: ~~[NAC 645.205 Schedule for examination; authorization required; availability of handbook on examinations. (NRS 645.190)~~

~~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. 22.** Amend NAC 645.305 as follows: NAC 645.305 Requests for change of status.

1. A licensee ~~[may]~~ *shall* request a change of employer, name or status by completing and submitting the appropriate form supplied by the division and paying the required fees.

2. When a licensee requests a change and pays the required fee, the receipt issued by the division *may* constitute~~[s]~~ a temporary working permit pending receipt of the requested license.

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



4. Licensees working for a corporation, *limited-liability company or partnership* are not considered to have changed employers if the corporation, *limited-liability company or partnership* changes its ~~corporate~~ *designated* broker ~~[-]~~ *on the same date or before the current manager, member or officer designated as the broker resigns.*

**Sec. 23.** Amend NAC 645.310 as follows: NAC 645.310 Notice of termination. The broker, under whom a salesman or broker-salesman is licensed, shall ~~immediately~~ *within 10 days* file a notice of termination, on a form supplied by the division, when a licensee resigns, fails to renew his license, or is discharged. The broker shall ~~immediately~~ *within 10 days* surrender the license of such salesman or broker-salesman to the division. The broker shall explain the circumstances surrounding the discharge of termination of the employee and supply an impression of his character, integrity, and competence as well as any other pertinent information the division requests.

**Sec. 24.** Amend NAC 645.315 as follows: NAC 645.315 Failure to file for renewal of license. If a licensee fails to file an application for the renewal of his license before it expires he may not engage in the business of real estate until his license is reinstated. To have his license reinstated, he must apply on the appropriate form, *and pay a fee.* ~~submit current fingerprint cards, and pay a fee if required.~~ *If required submit current fingerprint cards.*

**Sec. 25.** Amend NAC 645.325 as follows: NAC 645.325 Inactive renewed status: Requirements for reinstatement.

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) Be accompanied by current fingerprint cards ~~[if his license has been on inactive renewed status for 1 year or more;]~~ *if required;*
- (e) If the application is for reinstatement of a broker's license, be accompanied by a *properly prepared* financial statement *on the form prescribed by the division*; and
- (f) Contain evidence that requirements for continuing education have been met.

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, 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 ~~[2 weeks]~~ *10 days* have elapsed. ~~[If he fails the second]~~ *Any subsequent examination may be taken after [he may not take a third examination until 1 month] 30 days* ha[s]ve elapsed. ~~[after the second examination. Subsequent examinations may not be taken more often than once each month. The division shall give the licensee written notice of the results of each examination and, if he was unsuccessful, describe the areas in which he is having problems and recommend texts for him to study. Completed examinations will not be made available for inspection or review by the licensee.]~~

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. 26.** Amend NAC 645.330 as follows: NAC 645.330 Investigation of applicant for reinstatement. 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 of determination by the division that the candidate has passed the questionnaire and the following has been received by the division, if so required:

1. The FBI report;
2. A *properly prepared* financial statement *on a form prescribed by the division*; ~~and~~
3. The required fees and forms~~;~~ *and*
4. *Any other necessary investigation.*

**Sec. 27.** Amend NAC 645.345 as follows: NAC 645.345 Failure of broker to renew license. If a broker fails to renew his license, the licenses of all ~~broker-salesmen and salesmen~~ *licensees* in his employ who have renewed will immediately be placed on inactive renewed status until the employing broker reinstates and renews his license, or the employee applies for a transfer of employer and pays the required fees.

**Sec. 28.** Amend NAC 645.350 as follows: NAC 645.350 Termination of broker's license. If the license of a broker is canceled, suspended or revoked, he shall deliver his license to the division with the licenses of his employees. The ~~broker-salesmen or salesmen~~ *licensees* may, upon proper application and payment of the required fee, transfer to the employ of another broker. No refund is made when a license is canceled, suspended or revoked.

*1. All licenses are canceled upon death of the licensee and may not be transferred, renewed or inherited.*

*2. In the event of the death of a broker, another broker or a broker-salesman may be appointed as temporary broker. Such appointment must be made within three business days following the death of the broker and may continue for a period not to exceed thirty days. All such appointments must be submitted to the division in writing on the day they are made.*

**Sec. 29.** Amend NAC 645.360 as follows: ~~[NAC 645.360 Cancellation of license for failure to report change of address of employees:~~

~~1. If the division determines that a broker has discontinued business at the address at which he is registered, or that a broker-salesman or salesman is no longer employed by a broker under whom he is shown to be licensed, and the facts have not been reported to the division by the licensee, the license involved may be canceled by the division.~~

~~2. Each licensee, whether active or inactive, must inform the division in advance of any change in the address of his business or residence.]~~

*1. The division may cancel a license if:*

*a. A broker has discontinued business at the address at which he is registered.*

*b0 A licensee is no longer employed by a broker under whom he is shown to be licensed.*

*c0 A licensee fails to notify the division of any change to his business or residence address, whether active or inactive, within 10 days.*

*do During any period which the licensee has not paid the proper fees.*

*e0 If the licensee delivers any check to the division which is not honored by the financial institution upon which it is drawn.*

*f0 A licensee fails to file a request of change of status as referred to in NAC 645.305 within 10 days.*

*2. All licenses canceled by the division will need to meet the “requirements for reinstatement” as stated in NAC 645.325 before being re-issued.*

**Sec. 30.** Amend NAC 645.365 as follows: ~~[NAC 645.365 Failure to pay fee for license. A license will be canceled by the division during any period in which the licensee has not paid the proper fees.]~~

**Sec. 31.** Amend NAC 645.370 as follows: ~~[NAC 645.370 Disciplinary action for dishonor of check. A license will be canceled, revoked, or suspended, or the licensee fined, or the license canceled, revoked, or suspended and the licensee fined, if a licensee delivers any check to the division which is not honored by the financial institution upon which it is drawn.]~~

**Sec. 32.** Amend NAC 645.470 as follows: NAC 645.470 Annual financial statement and budget.

1. Within 60 days after the close of the fiscal year, the administrator shall deliver to the commission a ~~[certified]~~ financial statement showing beginning balances, receipts, expenditures, 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 administrator shall disburse this money only as authorized by the budget.]~~

**Sec. 33.** Amend NAC 645.475 as follows: NAC 645.475 Request for showing that judgment debtor has been examined by person who files petition against fund. For purposes of determining whether a person who has filed a petition against the real estate education, research and recovery

fund has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment, the administrator shall request that the court require the petitioner to show that he has conducted an examination of the judgment debtor pursuant to NRS 21.270 to 21.340, inclusive, unless:

1. The judgment debtor cannot, with the exercise of due diligence, be found within the jurisdiction;
2. The judgment debtor has filed a petition in bankruptcy; or
3. There is good cause for not requiring the examination.

**Sec. 34.** Amend NAC 645.485 as follows: NAC 645.485 Compromise of claim.

1. In compromising a claim pursuant to NRS 645.845, the administrator may prepare and enter into a stipulation with the petitioner and file a joint petition with the court.
2. Before the administrator and the petitioner file such a joint petition, the administrator shall advise the petitioner in writing that:
  - (a) The division does not represent the interests of the petitioner; and
  - (b) The petitioner should seek the advice of independent legal counsel regarding the proposed compromise.

***3. The Administrator shall compromise any claim and defend the fund when a settlement has been agreed upon or paid to the petitioner, including any third party settlements.***

**Sec. 35.** Amend NAC 645.490 as follows: NAC 645.490 Establishment; list of persons approved to serve; restrictions in service; allowance and expenses. (NRS 645.190)

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 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. 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. The administrator shall appoint one member of the advisory committee to serve as chairman of the advisory committee.
4. A member of an advisory committee:
  - (a) Serves at the pleasure of the commission and without compensation; and
  - (b) Must abstain from participating in any proceeding in which he would be prohibited from participating if he were a member of the commission.
5. 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.
- 6. The administrator may establish an advisory committee to assist the administrator in the evaluation of any educational courses.***

**Sec. 36.** Amend NAC 645.493 as follows: NAC 645.493 Review of investigation report; submission of recommendation; action of administrator on recommendation. (NRS 645.190)

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 119, 119A, 119B or 645 of NRS or the regulations enacted 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 which is the subject of the investigation; 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 do not accept the advisory committee's recommendation for resolution of the matter, the administrator ~~shall~~

*may*:

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

(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 subject to the approval of the commission at a scheduled hearing, which the licensee that is subject of the matter shall attend.* ~~or~~

(c) Schedule a hearing which must be conducted pursuant to NAC 645.810.

**Sec. 37.** Amend NAC 645.497 as follows: NAC 645.497 Informal conference: Notification; procedure; report to administrator. (NRS 645.190)

1. If an advisory committee is established to assist the administrator with the review of an investigation conducted pursuant to NAC 645.680, 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 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. The 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) Shall be 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. The report is and must remain confidential~~[redacted]~~, *pursuant to the provisions of NRS 645.180(2)(b).*

**Sec. 38.** Amend NAC 645.600 as follows: NAC 645.600 Fundamentals of practice and ethics of profession. Every broker shall teach his salesmen and broker-salesmen the fundamentals of real estate or timeshare practice, or both, and the ethics of the profession. He shall supervise their activities and the operation of his business.

*1. Such supervision includes, as appropriate, the establishment of policies, rules, procedures and systems to review, oversee, inspect and manage:*

*a0 Transactions requiring a real estate license;*

*b0 Documents which may have a material effect upon the rights or obligations of a party to the transaction;*

*c0 Filing, storage and maintenance of such documents;*

*d0 The handling of trust funds;*

*e0 Advertising of any service for which a license is required;*

*f0 Familiarizing licensees with the requirements of federal and state laws, including but not limited to the prohibition of discrimination;*

*g0 Regular and consistent reports of licensed activities of licensees.*

*2. The form and extent of such policies, rules, procedures and systems shall take into consideration the number of licensees employed and the number and location of branch offices.*

*3. A broker shall establish a system for monitoring compliance with such policies, rules, procedures and systems. A broker may use the services of broker-salesmen to assist in administering the provisions of this section so long as the broker does not relinquish overall responsibility for supervision of the acts of all licensees of the broker.*

*4. Every real estate broker shall have a written agreement with each licensee. The agreement shall be dated and signed by the parties and shall cover material aspects of the relationship, including supervision of licensed activities.*

**Sec. 39.** Amend NAC 645.605 as follows: NAC 645.605 Considerations in determining misconduct by licensee. In determining whether a licensee has been guilty of gross negligence or incompetence under subsection 8 or conduct which constitutes deceitful, fraudulent or dishonest dealing under subsection 9 of NRS 645.633, 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 indirect compensation, dividends and profits from any person or company who 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 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 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, his expectation of a referral fee from that person or company; and
  - (e) If he receives compensation from more than one party in a transaction, full disclosure to and consent from each party to the transaction. A licensee shall not accept compensation from more than one party in a 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 transaction.
7. Has ensured that each agreement for the sale, lease or management of property or time-shares is contained in a written agreement and that his broker and each party to the transaction have 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 transaction.

*110 No licensee shall give and no licensee shall accept any fee, rebate, kickback or anything of value pursuant to any real estate transaction or referral, from the following (including but not limited to):*

*(a) lending institutions;*

*(b) insurance companies;*

*(c) appraisers;*

*(d) inspectors;*

*(e) title or escrow companies;*

*(f) contractors;*

*(g) attorneys;*

*(h) any other person involved in the transaction. Other legal commissions or fees that are outlined in the purchase or brokerage agreement or other legal documents of the transaction are exempted.*

*(i) Nominal gifts between licensees and their clients are exempted.*

*12 Has impeded or attempted to impede any investigation of the division by any of the following:*

*(a) Non-compliance or delay in providing requested documents;*

*(b) Supplying false information to any division investigator, auditor or any other officer of the division;*

*(c) Providing false, forged, changed or falsified documents;*

*(d) Attempting to hide or conceal any documents or facts of any real estate transaction; or*

*(e) Committing any of the acts found in NRS 645.633.*

**Sec. 40.** Amend NAC 645.610 as follows: ~~[NAC 645.610-Advertisement. (NRS 645.190)~~

~~1. In any advertisement through which a licensee offers to perform services for which a license is required under chapter 645 of NRS, he shall disclose, if he is a real estate broker, the name under which he does business or, if he is one of the other licensees, the name of the broker with whom he is associated.~~

~~2. A broker-salesman or salesman may not advertise solely under his own name when acting in the capacity of a broker-salesman or salesman. All such advertising must be under the direct supervision of and in the name of the broker. A broker-salesman or salesman who advertises under the name of the broker with whom he is associated must use the name of the broker that is approved by and registered with the division.~~

~~3. A licensee may not use his name, address or telephone number, or the corporate or fictitious name under which a broker does business, in any advertisement which contains the words "for sale by owner," "for lease by owner" or similar words.~~

~~4. If the name of a real estate broker-salesman or salesman appears in such an advertisement (including a sign), the real estate company's name must be clearly identified with prominence in relation to the name of the broker-salesman or salesman. All such advertisements must include the telephone number of the real estate company, if required by the broker.]~~

*All advertising including but not limited to all publications, radio, television, all electronic media, business stationery, business cards, business and legal forms and documents, signs and billboards, must be truthful and not deceitful. The following shall also apply to all advertising:*

*10 If he is a real estate broker, contain the business name under which he is licensed under.*

*20 A licensee may not advertise solely under his own name when acting in the capacity of a broker-salesman or salesman. All such advertising must be under the direct supervision of and in the name of the brokerage. A broker-salesman or salesman who advertises under the name of the broker with whom he is associated must use the name of the brokerage that is approved by and registered with the division.*

*30 The business name of the broker must be predominant in all advertising.*

*(a) In determining predominant, the size, type, color, location of name and any other obvious fact will be considered;*

*(b) As used in this section predominant shall mean having greatest importance, influence, authority or force, most common or conspicuous.*

*4. Shall not use the name or business name of his broker or use any licensee's name in any advertisement which contain the words "For sale by owner", or "For lease by owner", or similar words or words with the same meaning. Including any telephone number to which the licensee may use or have access to.*

*5. Any advertising which contains a home telephone number, cell phone number, beeper or pager number, home fax number, e-mail address or an individual licensee or a team of such licensees, shall also include the telephone number and may include the street address of the*

*licensed brokerage office from which the advertising licensee operate. All such advertising shall also contain language identifying each number included in the advertising.*

*6. Any group of licensees or “team” shall disclose in addition to subsection 2 all names of all licensees or members of such group or team.*

**Sec. 41.** Amend NAC 645.637 as follows: NAC 645.637 Disclosure of relationship as agent or status as principal. (NRS 645.190)In each real estate transaction involving a licensee, as agent or principal, the licensee shall clearly disclose, in writing, to the buyer and seller and the lessor and lessee, his relationship as the agent of the buyer or the seller, or his status as a principal. The disclosure must be made as soon as practicable ~~-, but not later than the date and time on which a written agreement is signed by the buyer or seller, or both, or the lessor or lessee, or both~~. The prior disclosure must then be confirmed in a separate provision incorporated in or attached to that agreement and must be maintained by the broker in his files relating to that transaction.

**Sec. 42.** Amend NAC 645.645 as follows: NAC 645.645 Inspection and audit.

*10* A broker shall, upon demand, provide the division with the documents and the permission necessary to fully complete an inspection and audit, including inspection and audit of any money accounts as provided by NRS 645.310. 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 which might result from disclosure of the information required by the division.

*2. The division may use a form of its design to conduct any inspection and require the broker or office manager in charge of the office being inspected to sign such a form.*

*3. Such an inspection must include, but need not be limited to:*

*(a) The address of the real estate office or time-share office.*

*(b) The sign identifying the office.*



*(c) The procedure used to deposit money.*

*(d) The trust records.*

*(e) The indexing or numbering system used in filing records.*

*(f) Advertising.*

*(g) The availability of current statutes and regulations at the place of business.*

*(h) Any affiliation with a developer as defined in chapter 119 or 119A of NRS.*

*(i) Any documentation required by chapter 119 or 119A of NRS or the federal Land Sales Act.*

**Sec. 43.** Amend NAC 645.655 as follows: NAC 645.655 Records of transactions; trust accounts.

1. A transaction of a licensee must be numbered consecutively or indexed to permit audit by a representative of the division.

2. A complete record of each transaction, together with records required to be maintained pursuant to NRS 645.310, must be kept in Nevada, and must be 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.

*(a0 All information stored electronically must be made available to the division.*

*(b0 All computers or other equipment used in storing information must also be made available.*

3. The licensee shall give written notice to the division of the exact location of his records and may not remove them until he has delivered a notice which informs the division of the new location.

4. A licensee shall not maintain a custodial or trust account from which money may be withdrawn without the signature of a licensee.

5. A salesman may not be the only required signatory on a custodial or trust fund account. A salesman may be a cosigner of an account with his broker.
6. A 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 pursuant to the agreement under which the money was originally deposited.
7. A broker who is engaged in property management for one or more clients shall maintain a separate property management trust account distinct from any trust account that the broker may have for other transactions. A 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 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.
8. Property management and transaction trust accounts must be reconciled monthly by the broker or his designee within 30 days of receipt of the bank statement. If a broker 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 subject to discipline pursuant to subsection 8 of NRS 645.633, or subject to other applicable charges, or both.

*9 If records are produced or stored electronically, the division must have full access to all records, disks, and any other form of documentation including equipment such as a computer.*

**Sec. 44.** Amend NAC 645.670 as follows: ~~NAC 645.670 Inspections.~~

~~1. The division may use a form of its design to conduct any inspection and require the broker or office manager in charge of the office being inspected to sign such a form.~~

~~2. Such an inspection must include, but need not be limited to:~~

~~(a) The address of the real estate office or time share office.~~

~~(b) The sign identifying the office.~~

~~(c) The procedure used to deposit money.~~

~~(d) The trust records.~~

~~(e) The indexing or numbering system used in filing records.~~

~~(f) Advertising.~~

~~(g) The availability of current statutes and regulations at the place of business.~~

~~(h) Any affiliation with a developer as defined in chapter 119 or 119A of NRS.~~

~~(i) Any documentation required by chapter 119 or 119A of NRS or the federal Land Sales Act.]~~

**Sec. 45.** Amend NAC 645.695 as follows: NAC 645.695 Administrative fines; additional sanctions. (NRS 645.190, 645.6052, 645.630)

1. The administrator may require a licensee to pay an administrative fine in the amount set forth in this subsection for a violation of the following provisions:

	First	<del>{Second or}</del>
	Offense	Subsequent Offense
NRS 645.252.....	\$500	\$1,000
Subsection 4, 5 or 6 of NRS	<del>{500}</del> 1000	<del>{1}</del> 2,000
645.310.....		

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
Subsection 1 of NRS 645.580.....	250	500
Subsection 1, 2, 3, 5, 6, <del>8</del> , 9, 10, 11 or 12 of NRS 645.630.....	500	1,000
Subsection 7 <i>and 8</i> of NRS 645.630.....	1,000	2,000
Subsection 3, 5, 7 or 8, <i>9, 10 and 12</i> of NRS 645.633.....	500	1,000
Subsection <i>1, 6 and 11</i> of NRS 645.633.....	250	500
Subsection 1, 2, <i>4,5</i> , 6 or 8 of NRS 645.635.....	500	1,000
NRS 645.660.....	500	1,000
NAC 645.180.....	500	1,000
<del>Subsection 1, 2 or 4 of</del> NAC 645.610.....	<del>250</del> <b>500</b>	<del>500</del> <b>1,000</b>
<del>Subsection 3 of NAC 645.610.....</del>	<del>500</del>	<del>1,000</del>
<del>NAC 645.615.....</del>	<del>250</del>	<del>500</del>
NAC 645.620	<b>500</b>	<b>1000</b>
NAC 645.625.....	250	500
NAC 645.627.....	500	1000
NAC 645.637.....	250	500

NAC 645.640.....	500	1,000
NAC 645.645.....	500	1,000
NAC 645.650.....	500	1,000
NAC 645.655.....	<del>[250]</del> 500	<del>[500]</del> 1000

2. In addition to imposing an administrative fine pursuant to subsection 1, the administrator may:

(a) Recommend to the commission that the license of the licensee, the permit of the licensee if he holds a permit to engage in property management, or both, be suspended or revoked ~~[if the licensee is found guilty of a third or subsequent offense of any of the provisions set forth in subsection 1.]~~

(b) Require a licensee to complete ~~[not more than 9 hours of]~~ continuing education *as appropriate.*

*(c) May require the licensee to pay a fine and either a or b or any combination thereof.*

**Sec. 46.** Amend NAC 645.720 as follows: NAC 645.720 Approval or denial of application.

*The division may deny an application pursuant to Section 7 herein.*

~~[1. Each of the following circumstances is a ground for denial of an application for registration as an owner-developer:~~

~~(a) The application is not in proper form.~~

~~(b) The application contains a false statement.~~

~~(c) The applicant does not possess the necessary qualifications of good moral character and financial responsibility.~~

~~(d) He has willfully acted or attempted to act in violation of any provision of chapter 119, 119A, 645, or 645A of NRS or the regulations adopted thereunder or has aided and abetted another to~~

~~act or attempt to act in violation of any provision of chapter 119, 119A, 645, or 645A of NRS or the regulations adopted thereunder.~~

~~(e) He fails to verify that he is a licensed contractor in this state.~~

~~2. The administrator shall investigate the financial responsibility of each applicant.~~

~~3. The administrator may require proof of the applicant's moral character. In determining that character, the administrator shall consider:~~

~~(a) The information contained in the application;~~

~~(b) The results of the division's investigation of matters stated in the application and other matters that have come to the division's attention as a result of the division's investigation;~~

~~(c) Any history of the applicant's arrest and conviction; and~~

~~(d) The nature and history of the applicant's business.~~

~~4. An applicant whose application for registration is denied by the administrator may appeal to the commission pursuant to the procedures outlined in NRS 645.440.]~~

**Sec. 47.** Amend NAC 645.750 as follows: NAC 645.750 Limitations on salesmen and broker-salesmen.

1. A ~~[salesman or broker-salesman]~~ *licensee* associated with an owner-developer may only sell, lease, rent, or offer and negotiate to sell, lease, or rent the registered development for an owner-developer, and may not engage in any other activity listed in NRS 645.030.

2. A *licensee* ~~[Salesmen or broker-salesmen]~~ employed by a registered owner-developer may not be employed by a real estate broker at the same time.

3. Brokers working for registered owner-developers must change their status to broker-salesmen.

4. An employee of an owner-developer is prohibited from erecting, displaying or maintaining any sign or billboard or advertising under his own name unless the advertisement is located at the office of his employer. The name of the employee may not dominate the owner-developer's sign in any way.

5. Except as otherwise provided in subsection 6, the time during which a ~~salesman or broker~~ *licensee* is employed by an owner-developer does not satisfy the requirement of prior experience set forth in subsection 4 of NRS 645.330.

6. The commission may permit an applicant to satisfy the requirement of prior experience set forth in subsection 4 of NRS 645.330 if he has been employed by an owner-developer. The commission will consider the prior experience of an applicant with an owner-developer at its next regularly scheduled meeting if the applicant:

(a) Files a petition with the commission; and

(a0) At the meeting of the commission, demonstrates that the quality, quantity and variety of experience that the applicant received during his employment with an owner-developer was substantially equivalent to the experience of a person who has been actively engaged as a full-time licensed real estate broker-salesman or salesman in private practice.

**Sec. 48.** Amend NAC 645.782 as follows: NAC 645.782 Rejection of application; refund of fee; reapplication.

1. The division will reject an application which:

(a) Does not conform with the requirements of NRS 645.6065;

(b) Does not include information sufficient for the division to determine the minimum amount of the bond or other deposit to be posted pursuant to NRS 645.608; or

(c) Contains information which is false, misleading, or incomplete.

2. ~~[Except as otherwise provided in subsections 3 and 4,]~~ [t]The division will not refund the fee for the application for registration.

~~[3. The division will refund the portion of the fee that is attributable to the cost of the investigation if the investigation was not conducted by the Federal Bureau of Investigation.~~

~~4. If an applicant reapplies within 90 days after the rejection of his application, the division will give him credit for the fee that he paid with the original application.]~~

**Sec. 49.** Amend NAC 645.801 by deleting it in its entirety: ~~[NAC 645.801 Examination on principles of property management: Fee; time period for test; educational requirements; failure of test. (NRS 645.190, 645.6052)~~

~~1. A person who is licensed in this state as a real estate broker, real estate broker-salesman or real estate salesman on July 1, 1998, and who wishes to take an examination on the principles of property management to fulfill the educational requirements for a permit to engage in property management set forth in NRS 645.6052 and NAC 645.800 must pay to the division a fee of \$50 in addition to the fee for the permit required by NAC 645.800.~~

~~2. The test:~~

~~(a) Will be given only from July 1, 1998, to June 30, 1999;~~

~~(b) May only be taken one time during the period set forth in paragraph (a); and~~

~~(c) Will be based on the educational requirements set forth in NAC 645.800.~~

~~3. A person who fails the test and wishes to obtain a permit to engage in property management must meet the requirements set forth in NAC 645.800.]~~

**Sec. 50.** Amend NAC 645.803 as follows: NAC 645.803 Grounds for denial of permit; appeal. (NRS 645.190, 645.6052)



~~{1. The division may deny an application for a permit to engage in property management if one or more of the following conditions exist:~~

~~(a) The application is not in proper form;~~

~~(b) The proper fees are not enclosed;~~

~~(c) The accompanying forms are incomplete or otherwise unsatisfactory;~~

~~(d) The application contains a false statement;~~

~~(e) Other deficiencies appear in the application;~~

~~(f) An investigation fails to show affirmatively that the applicant possesses the necessary qualifications;~~

~~(g) The applicant has willfully acted or attempted to act in violation of chapter 119, 119A, 645 or 645A of NRS or the regulations adopted pursuant thereto, or has willfully aided and abetted another to act or attempt to act in violation of those chapters or regulations;~~

~~(h) The applicant has had a license suspended or revoked in another state; or~~

~~—(a0) The check used to pay the fee for the application for a permit is not honored by the financial institution upon which it is drawn.]~~

*1. The division may deny an application for a permit to engage in property management pursuant to Section 7 herein.*

2. An applicant whose application is denied by the division may appeal the denial to the commission as set forth in NRS 645.440. If the commission reverses the original decision and determines that the petitioner qualifies for a permit, the division shall accept the application. The permit shall be deemed to be effective on the date the application was originally submitted or the date on which the fee for the permit was paid, whichever is later. The division shall not charge an additional fee.

**Sec. 51.** Amend NAC 645.810 as follows: NAC 645.810 Hearings.

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 ~~[, so help you God]~~?

(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 ~~[, so help you God]~~?

(d) ~~[Ascertain whether either party desires to have a witness excluded from the hearing room until he is called. A witness may be excluded upon the motion of the commission or upon the motion of either party.]~~ *Ascertain whether either party desires to have witnesses excluded from the hearing except during their testimony. Witnesses may be excluded by a motion of the commission or upon the motion of either party. If excluded, witnesses will be instructed not to discuss the case during the pendency of the proceeding. The Respondents will be permitted to remain in the hearing. The Division may designate a person, who may also be a witness, to act as its representative. Such a representative will be permitted to remain in 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.*

~~(f)~~ (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 must first be marked for identification by the secretary for the commission.
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 presiding officer shall indicate for the record that the hearing is terminated, and that the commission will issue a decision after considering all the evidence. After presentation of the case by the division and the respondent and closing arguments by either party, if any, a recess may be ordered for the purpose of coming to a decision.]~~ *The Commission may deliberate the case.*
11. *The commission may receive evidence at any point during the proceedings.*

*12. The commission may waive any provisions of this section if necessary to expedite or ensure the fairness of the hearing.*

~~[11.]~~ **13.** 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.]~~ **14.** 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.]~~ **15.** 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. 52.** Amend NAC 645.830 as follows: NAC 645.830 Hearings: Continuances. The procedures for obtaining and granting continuances of commission hearings follow:

1. The time of the hearing may be continued by the commission upon the written petition of the licensee or upon the written petition of the division for good cause shown, or by stipulation of the parties to the hearing.

2. A continuance will not be granted on the grounds that the licensee's attorney has not had an opportunity to review the case unless he was given the case by the licensee less than 15 days before the hearing.

3. A continuance will not be granted unless it is made in good faith and not merely for delay.

*4. A request for continuance made prior to the hearing must be served upon the secretary of the commission pursuant to NRS 645.050(4). If the secretary of the commission is not available to review and rule upon the request prior to the hearing it shall be reviewed and*

*ruled upon by the President. If neither the secretary nor the president are available it shall be forwarded to the Vice President.*

**Sec. 53.** Amend NAC 645.910 by deleting it in its entirety: ~~[NAC 645.910 Payment of fees.~~

~~1. Payment of a fee for an examination or license must be made by check or money order.~~

~~2. The division will not refund]~~