

The meeting was called to order at 1:30 p.m. in Room 213
Senator Thomas R. C. Wilson was in the chair.

PRESENT: Senator Thomas R.C. Wilson, Chairman
Senator Richard E. Blakemore, Vice Chairman
Senator Don Ashworth
Senator Clifford E. McCorkle
Senator Melvin D. Close
Senator C. Clifton Young (absent for some votes)
Senator William H. Hernstadt (absent for some votes)

ABSENT: None

OTHERS: Gene Milligan, Nevada Association of Realtors
PRESENT: Bill Cozart, Nevada Association of Realtors
Norma Woolverton, Nevada Real Estate Division
Susan Simmons, Nevada Real Estate Division
George T. Bennett, Nevada State Board of Pharmacy
Rosemary Owen, Guest of Senator McCorkle
Virginia Argaitia, Guest of Senator McCorkle
Helen Kecimovich, Guest of Senator McCorkle
Kirsten Ashworth, Guest of Senator Ashworth
Lee Adler, Reno Newspapers, Inc.

SB 95 Permits agent of prescriber to transmit
prescription by oral order.

For previous testimony, discussion and action on SB 95, see
minutes of February 5, 14, and 26, 1979.

George Bennett, Secretary, State Board of Pharmacy, explained
that Schedule I, in NRS 453.231, subsection 6, is prohibitive ex-
cept for experimental use; and Schedule II, in NRS 453.256, limits
to a written prescription, except in extreme conditions. Mr. Ben-
nett suggested that subsection 4 of Senate Bill 95 be deleted.

Senator Close moved that SB 95 be passed
out of Committee with an "Amend and Do Pass"
recommendation.

Seconded by Senator McCorkle.

Motion carried.

Senator Hernstadt absent.

SB 137 Requires substitution of less expensive
drugs under certain circumstances.

For previous testimony, discussion and action on SB 137, see
minutes of February 12, 26, and March 5, 1979.

George Bennett, Secretary, State Board of Pharmacy, suggested that
lines 1 and 2 be deleted from page 2 because they are already

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covered by NRS 454.226 and NRS 453.128 and NRS 639.013. Mr Bennett also suggested that Section 13 be deleted because it would cost too much to enforce.

Senator Close moved that SB 137 be passed out of Committee as amended.

Seconded by Senator McCorkle.

Motion carried.

Senator Hernstadt absent.

SJR 16 Requests Congress and the President of the United States to allow operators of gasoline stations flexibility in any legislation requiring closure of their stations.

Chairman Wilson stated that similar legislation had been adopted.

Senator Close moved that SJR 16 be held in Committee.

Seconded by Senator McCorkle.

Motion carried.

Senator Hernstadt absent.

SB 302 Prohibits certain persons from offering specified inducements to enter into a real estate transaction.

Bill Cozart, representing the Nevada Association of Realtors, explained that certain incentives are being offered in the sale of real estate, and this is lowering the dignity and image of the industry; hence the introduction of Senator Bill 302, which the Association supports. Mr. Cozart presented a proposed amendment which would conform the language with legislation passed in 1977 (see Exhibit A).

In answer to Chairman Wilson's question, Mr. Cozart explained that the reasons for legislation are that presently the usual and applicable sanctions are reprimand, suspension or revocation of license; and the Association feels that does not solve the problem.

Gene Milligan, representing the Nevada Association of Realtors, stated that land sales companies must present their marketing program to the Real Estate Division under Chapter 119 of NRS, for approval.

Senator Hernstadt asked what effect this legislation would have on land sales companies.

Mr. Cozart explained that land sales companies are covered by NRS 645.

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Mr. Milligan stated that purchases should be made on the merit of the property and not on a prize.

Senator McCorkle stated that it is becoming common practice to include personal property in transactions.

Mr. Cozart explained that the practice is incidental to the exchange and not of concern; but that the holding out of something that has nothing to do with the transaction as an inducement is of concern.

Mr. Cozart explained to Senator McCorkle that the intent was to cover the different facets that relate to professional services incidental to a real estate transaction; but the problem would have been to determine what was incidental and what was not.

Chairman Wilson asked if the inclusion of the owner-developer, who can include whatever he likes in his bargaining and market his property the same way, is the real estate broker's or salesman's responsibility. He stated that the developer uses inducement to use his services not to buy a product.

Mr. Cozart stated that the legislation is aimed at the agent who is adding on the additional inducement. He continued that the Real Estate Advisory Commission is the only section in the Department of Commerce that does not have the authority to fine.

Senator Ashworth stated that in Utah, for instance, there are cases in which property is remote and the developer provides transportation for a prospective customer and pays for his dinner. He asked if this legislation would preclude this.

Mr. Cozart explained that the Advisory Commission would promulgate rules and regulations that would explain what is incidental to a transaction. He continued that the intent would not be to prevent taking a client out to lunch or dinner.

Senator Ashworth stated that the language in SB 302 should be more specific as to what is incidental.

Mr. Milligan explained that rules and regulations are scrutinized by the Legislative Commission, and that is a safeguard.

Mr. Cozart stated that it had been proposed to put a limit on the value of the gift or meal, but that didn't seem to be workable.

Senator Young stated that the real estate industry is very competitive, and this type of inducement is part of the competitiveness.

Mr. Cozart explained that the 5,000 members of the Nevada Association of Realtors don't want to be compared with supermarkets or car dealers; and that they are trying to professionalize the real estate industry.

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Susan Simmons, Deputy Administrator, Real Estate Division, concurred with Mr. Cozart and Mr. Milligan with the inclusion of the proposed amendment.

Norma Woolverton, representing the Nevada Real Estate Division, stated that SB 302 would preclude the owner-developer and his licensed sales people and brokers.

Chairman Wilson asked that regardless of whether an owner used a broker or salesman or not, why couldn't he advertise or induce to promote the sale of his merchandise?

Ms. Woolverton stated that under NRS 119, he may use inducement but his method must be approved.

Senator Young stated that the distinction cannot be made between cutting a fee and giving a prize.

Senator Blakemore commented that he thinks the purpose of SB 302 is to rid the industry of gimmicks, and to professionalize it.

Senator Young stated that this could be regulated in the industry without legislation.

Chairman Wilson stated that the owner-developer should not be prohibited from advertising his product, nor should he have to register to do so.

Ms. Simmons agreed with Chairman Wilson, but stated that if an owner-developer deals through a salesman or broker who uses these inducements, that is objectionable.

Mr. Cozart stated that SB 302 is based on a model license act developed by the National Association of Real Estate Officials. He concluded that the industry feels a need to be regulated.

Chairman Wilson closed the public hearing on SB 302.

SB 310 Requires inactive real estate brokers and salesmen to meet certain continuing education requirements as prerequisite to active status.

Bill Cozart, representing the Nevada Association of Realtors, stated that Senate Bill 310 addresses legislation passed last session which was amended in the Assembly Commerce Committee, and the original intent was to include both active and inactive licensees with regard to keep real estate brokers and salesmen up to date as to current laws, changes in the laws and business practices.

Norma Woolverton, representing the Nevada Real Estate Division, explained to Senator Close that as long as a licensee renews he can remain inactive.

Mr. Cozart stated that the intent of SB 310 is to insure that an inactive licensee have the same educational requirements to become active as other active licensees.

Ms. Woolverton explained that the requirement for renewal is every two years and twenty clock hours for one who received an original license within the two-year frame; and ten clock hours for one prior to the renewal of his license in two years. She continued that SB 310 would be enacted January 1, 1981; and would affect those who have accumulated ten clock hours from January 1, 1979.

Ms. Simmons explained that ten clock hours comprise two courses, which are completed, usually, in one day.

Ms. Woolverton stated that reinstatement is from inactive status to active status, and that an inactive licensee would be required to continue education. Mr. Cozart explained that a clock hours is fifty minutes.

Ms. Woolverton explained that presently, if a license is not renewed prior to the expiration date, there is a one-year grace period and the licensee is automatically put on inactive status. She continued that reinstatement occurs when a licensee has been on an inactive renewed status.

Mr. Milligan explained that all licensees are provided with free education to qualify for licensure.

Ms. Woolverton stated that the Division has 8,300 licensees; of those 1,800 are inactive, and about thirty-seven are lost per month who are in the one-year grace period and who do not renew.

Mr. Cozart explained that SB 310 addresses itself to inactive licensees who don't keep up with changes in the industry.

Senator Close stated that it is not fair to make a person who is inactive, and who does not intend to be, have to continue the education. He suggested that the requirement be to satisfy the educational requirement upon application for active status.

Senator Ashworth concurred with Senator Close.

Chairman Wilson asked Mr. Cozart to prepare an amendment to SB 310 and present it to the Committee.

Ms. Simmons suggested that on page 2, "administrator" replace "commissioner".

Chairman Wilson closed the public hearing on Senate Bill 310.

SB 234 Provides requisited for practice of professional engineering by certain organizations.

For previous testimony and discussion on Senate Bill 234 see the minutes of February 26, 1979.

Chairman referred to a proposed amendment presented to the Committee by Dave Hoy (see Exhibit B).

Discussion followed regarding the registration of out-of-state engineers.

It was decided to delete "principal" on line 4, page 1, so that the language reads "if the member or members of the firm, copartnership, corporation or joint-stock association in responsible charge of engineering work performed in Nevada are registered professional engineers under the provisions of this chapter and the other members of the firm, copartnership, corporation or joint-stock association are registered under this chapter or chapter 623 of NRS."

After further discussion, during which time this language was debated, Senator Blakemore asked that action on SB 234 be postponed to a later date.

Chairman Wilson referred to two letters from James I. Barnes, Chief Deputy Attorney General, requesting Committee introduction for legislation (see Exhibits C and D).

Senator McCorkle moved for Committee introduction.

Seconded by Senator Blakemore.

Motion carried.

Senator Hernstadt absent.

SB 90 Provides for registration of trade-marks, trade names and service marks.

For previous testimony and discussion on Senate Bill 90, see minutes of January 29, 31, and March 5, 1979.

Chairman Wilson referred to a letter from Peter J. Smith, Assistant to the Director of the Department of Commerce (see Exhibit E).

Senator Blakemore moved that Section 21 of SB 90 be deleted.

Seconded by Senator Close.

Senator Hernstadt dissented.

Motion carried.

Senator Young absent.

It was decided to amend section 11, line 22, to read "when applied to the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of them."

Senator Blakemore moved that SB 90 be passed out of Committee with an "Amend and Do Pass" recommendation.

Seconded by Senator Ashworth.

Senator Hernstadt dissented.

Motion carried.

Senator Young absent.

SB 172 Revises laws regulating dispensing opticians.

For previous testimony and discussion of SB 172, see minutes of February 12, 14, March 5 and 7, 1979.

Senator McCorkle moved that the old language of SB 172, page 1, lines 12 through 17, be retained.

Seconded by Senator Hernstadt.

Senators Ashworth, Blakemore and Close dissented.

Motion carried.

Chairman Wilson summarized that on page 1, lines 6 and 7, the brackets should be deleted and "ophthalmic dispensers." be deleted and to conform throughout the bill; lines 12 through 17 keep brackets; delete bracket on line 18; delete line 21; page 2, line 2 delete "lens forms best suited to the wearer's needs;" and insert "or" after "frames" on line 2; line 17 insert "individual" after "of"; line 18, delete "and such consultation and instruction as may be needed."

Senator Blakemore moved that "certification" in the old language be retained and the rest of the bill be made to conform.

Seconded by Senator Close.

Motion carried unanimously.

It was decided to delete "direct" on page 3, line 31.

Senator Close moved that "licensure" rather than "certification" be retained and the rest of the bill be made to conform.

Seconded by Senator Young.

(SB 172 - Bill action continued)

Senator Blakemore dissented.

Motion carried.

Line 8, page 4 should read "A licensed dispensing optician may employ any person to perform the services of a dispensing optician if the person is registered with the board and issued a permit to serve as an apprentice dispensing optician."

Because of all of the confusion regarding "certification" and "licensure", both in the bill and in NRS, Chairman Wilson agreed to consult with Frank Daykin for a final decision.

Senator Blakemore moved that lines 27 through 29, page 4 be left as amended.

Seconded by Senator Hernstadt.

Senator McCorkle dissented.

Motion carried.

Senator Close absent.

Senator McCorkle moved that lines 37 through 40 be deleted.

Seconded by Senator Ashworth.

Motion carried.

Senator Close absent.

It was decided to replace "maximum" with "minimum" on line 45, page 4; page 6, line 2, after "revocation" insert "or forfeiture"; page 6, line 45, insert a bracket after "therefore."; page 7, line 3, delete the bracket.

Senator McCorkle moved that Section 18 remain in the bill.

Seconded by Senator Young.

Motion carried unanimously.

Section 19, delete "or is about to engage" and "or will constitute"; delete Section 4.

(SB 172 - Bill action continued)

Senator Young moved that SB 172 be passed out of Committee with an "Amend and Do Pass" recommendation.

Seconded by Senator Blakemore.

Motion carried.

Senator Close absent.

BDR 57-1238 * Requires products liability insurers to make certain reports to the commissioner of insurance.

Senator Young moved for Committee introduction.

Seconded by Senator Blakemore.

Motion carried unanimously.

No further business so meeting was adjourned at 5:00 p.m.

Respectfully submitted,

Betty Kalicki, Secretary

APPROVED:

Thomas R. C. Wilson, Chairman

*SB 327

SENATE BILL NO. 302-PROPOSED AMENDMENT

AN ACT relating to real estate transactions; prohibiting real estate brokers and salesmen and owner-developers [and registered representatives] from offering certain incentives to induce a person to enter into a real estate transaction; providing penalties; and providing other matters properly relating thereto.

SECTION 1. Chapter 645 of NRS is hereby amended by adding thereto a new section which shall read as follows:

1. Except for professional services incidental to a real estate transaction, it shall be unlawful for any licensee or owner-developer under this chapter [owner-developer or registered representative] to give, promise to give or offer to give a prize, gift or object of value, or to conduct a lottery, drawing, contest or game, or to offer a free lot or parcel for the purpose of inducing the the public to purchase, sell, exchange, option or list any real estate.

2. Any licensee under this chapter, or owner-developer [or registered representative] who violates the provisions of subsection 1 shall be punished by a fine of \$1,000 for each offense and for the second offense shall in addition be required to show cause why his license or registration should not be revoked or suspended by the commission.

From Dave Hoy

Proposed amendment to SB 234 Provides requisites for practice of professional engineering by certain organizations.

Section 1, line 6, after "work" insert "performed in Nevada".

Line 9, after "NRS" delete brackets and new language.



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
COMMERCE DIVISION
201 SOUTH FALL STREET
CARSON CITY 89710

RICHARD H. BRYAN
ATTORNEY GENERAL

March 8, 1979

JAMES I. BARNES
CHIEF DEPUTY ATTORNEY GENERAL

MEMORANDUM

TO: Senator Thomas R.C. Wilson
FROM: James I. Barnes, Chief Deputy Attorney General *JIB*
RE: Revisions to Chapter 645B of NRS

We have some proposed revisions to Chapter 645B of NRS (see attached). We would appreciate if you would sponsor these bills through BDRs. If you have any questions on this, please give me a call.

Thank you for your attention to this matter.

JIB:rms
Enclosures



Robert List
Governor

State of Nebraska

Commissioner of Savings Associations

Capitol Complex

406 East Second Street

Carson City, Nebraska 89710

(702) 885-4259

EXHIBIT 4C - J

Lester O. Gaddard
Commissioner

Change in "advance fee" laws
(NRS 645B.165-3 and 205.517)

The present sections were enacted at the last legislative session in order to get something in to help control advance fee "artists" who collect fees, then do nothing. Experience shows that many advance payments should be allowed without an escrow, or subject to penalties, which are to cover agreed-upon costs, as long as in fact they are incurred. These are particularly applicable where commercial projects are involved, which may require preparation of a feasibility study, contact with many potential lenders all over the country, either by mail or trips in person, and costs such as preliminary title report, appraisals, credit verifications, etc. Also, if payments like this had to be put in escrow, which involves costs in itself, an unscrupulous borrower can unreasonably refuse to release the funds, even when the work has been performed, but a loan was not forthcoming, thereby requiring litigation between the parties.

a division of the Department of Commerce
James L. Wadhams, Director

645B.165 Advance payments: Placement in, release from escrow; penalties.

1. The amount of any advance fee, salary, deposit or money paid to any mortgage company or other person for the purpose of obtaining a loan which will be secured by a lien on real property shall be placed in escrow pending completion of the loan or a commitment for the loan. Any mortgage company or other person who receives such an advance payment and does not place it in escrow shall refund the full amount of the payment immediately upon demand of the person who made the payment.

2. The amount held in escrow shall be released:

(a) Upon completion of the loan or commitment for the loan, to the mortgage company or other person to whom the advance fee, salary, deposit or money was paid.

(b) If the loan or commitment for the loan fails, to the person who made the payment.

3. Advance payments to cover reasonably estimated costs are excluded from the requirements of subsections 1 and 2 if the person making the advance payment has signed a written agreement which itemizes the costs and specifies the items to which the advance payment is to be applied and which clearly states that monies advanced for such costs shall not be refunded. To the extent that an itemized service was not actually performed and the advanced payments not returned, the person who received the advanced payment shall be subject to the penalties below.

- [3] 4. Any person who violates the provisions of subsection 1:
- (a) Is guilty of a misdemeanor if the amount is less than \$100;
 - (b) Is guilty of a gross misdemeanor if the amount is \$100 or more but less than \$1,000; or
 - (c) Shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment, if the amount is \$1,000 or more.

Senator Thomas Wilson
March 8, 1979
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EXHIBIT C J

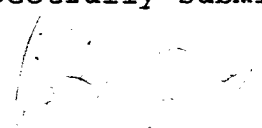
is the word used in the Trademark Act of 1946 (15 U.S.C., Chapter 22) at section 2(d) and seems to have developed an established meaning through years of usage.

References:

Trademark Law and Procedure 2d Ed. by Edward C. Vandenburg
74 Am Jur 2d, Trademarks Section 96 et seq.
State Trademark Manual, U.S. Trademark Association

Please note that this office has today received word from the U.S. Supreme Court that the decision in the Century 21 lawsuit has been affirmed and the State's position on the regulation of trademarks has been upheld. Nonetheless, it is felt that section 21 of S.B. 90 could seriously hamper the regulation of advertising by the regulatory agencies and the professional boards of Nevada without benefiting the legitimate interests of trademark holders in Nevada. For that reason it is felt that section 21 should be deleted from this bill.

Respectfully submitted,


Peter J. Smith
Assistant to the Director

PJS:jc

cc: Senator Blakemore
Senator Ashworth
Senator Close
Senator Hernstadt
Senator McCorkle
Senator Young

205.517 Unlawful receipt of fee, salary, deposit, money to obtain loans for another.

1. It is unlawful for a person to receive an advance fee, salary, deposit or money for the purpose of obtaining a loan for another unless he:

(a) Places the advance fee, salary, deposit or money in escrow pending completion of the loan or a commitment for the loan; or

(b) Refunds the full amount of the payment immediately upon demand of the person who made the payment.

2. Advance payments to cover reasonably estimated costs are excluded from the requirements of subsection 1 if the person making the advance payment has signed a written agreement which itemizes the costs and specifies the items to which the advance payment is to be applied and which clearly states that monies advanced for such costs shall not be refunded. To the extent that an itemized service was not actually performed and the advanced payments not returned, the person who received the advanced payment shall be subject to the penalties below.

[2] 3. Any person who violates the provisions of subsection 1:

(a) Is guilty of a misdemeanor if the amount is less than \$100;

(b) Is guilty of a gross misdemeanor if the amount is \$100 or more but less than \$1,000; or

(c) Shall be punished by imprisonment in the state prison for not less than 1 year nor more than 6 years, or by a fine of not more than \$5,000, or by both fine and imprisonment, if the amount is \$1,000 or more.



Robert List
Governor

State of Nevada

Commissioner of Savings Associations

Capitol Complex
406 East Second Street
Carson City, Nevada 89710
(702) 885-4259

Exhibit D

Nester O. Guddard
Commissioner

NRS Chapter 645B (Mortgage Companies)

Recommended changes as described below and as attached, have been worked out after conferences with representatives of the mortgage company licensees, and are agreeable both to them and the Department of Commerce as being needed to strengthen the Chapter.

645B.020-3. Presently the chapter gives the Commissioner no guidelines or standard to apply as to minimum loan experience required. From his experience with the licensees, the Commissioner believes the suggested change is advisable, to introduce some standard of professionalism.

645B.030-1&2. Too many licensees have never made a mortgage loan since acquiring the license. It is suspected many use the license as a way of trying to obtain credibility for other activities, by being able to say they are "licensed and bonded by the State of Nevada". The \$50,000 original surety bond will help keep out those of marginal financial strength, or who want the license for the reason shown above, and provides better protection for the public. If they do no or little mortgage loan business over a year's time, they would lose the license, then would have to apply anew.

a division of the Department of Commerce
James L. Wadhams, Director

1. A license as a mortgage company may be obtained by filing a written application in the office of the commissioner.

2. The application shall:

(a) Be verified

(b) State the location of the applicant's principal office and branch offices in the state.

(c) State the name under which the applicant will conduct business.

(d) List the names, residence and business addresses of all persons having an interest in the business as principals, partners, officers, trustees and directors, specifying the capacity and title of each.

(e) Indicate the general plan and character of the business.

(f) Require such other information as the commissioner determines necessary.

3. The applicant must show to the satisfaction of the commissioner that he or his principal operating officer has had a minimum of 5 years of active mortgage lending experience in a responsible capacity within the 10 years preceding the date of his application. This section shall be applicable only to those original applications filed after 7/1/79.

[3] 4. If the commissioner determines after investigation that the experience, character, financial condition, business reputation and general fitness of the applicant are such as to command the confidence of the public and to warrant the belief that the handling of moneys deposited for taxes and insurance premiums will protect and safeguard the public, he shall issue a license to the applicant as a mortgage company.

645B.030 Bond to accompany application: Amount; form

1. At the time of filing an application for an original or for a renewal of a mortgage company's license, the applicant shall deposit with the commissioner a corporate surety bond payable to the State of Nevada, in an amount, to be determined by the commissioner, no less than [\$10,000] \$50,000, and executed by a corporate surety satisfactory to the commissioner.

2. The bond shall be in substantially the following form:

Know All Men By These Presents, that _____, as principal, and _____, as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any injured person, in the sum of _____, lawful money of the United States of America, to be paid to the State of Nevada for the use and benefit aforesaid, for which payment well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the above obligation is such that: Whereas, the principal has made application to the commissioner of savings associations of the State of Nevada for a license as a mortgage company and is required to furnish a bond in the sum above named, conditioned as herein set forth:

Now, therefore, if the principal, his agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 645B of NRS and pay all damages suffered by any person by reason of the violation of any of the provisions of chapter 645B of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645B of NRS, then this obligation shall be void; otherwise to remain in full force and effect.

This bond shall become effective on the _____ day of _____, 19____, and shall remain in force until the surety is released from liability by the commissioner or until this bond is canceled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 30 days' written notice to the principal and to the commissioner of savings associations of the State of Nevada.

This bond shall be one continuing obligation, and the liability of the surety for the aggregate of any and all claims which may arise hereunder shall in no event exceed the amount of the penalty hereof.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its duly authorized officers at _____, Nevada, this _____ day of _____, 19_____.

_____(Seal)
Principal
_____(Seal)
Surety
By _____
Attorney in Fact

Licensed resident agent

(Added to NRS by 1973, 1537; A 1975, 961)

(1977)



ROBERT LIST
GOVERNOR
JAMES L. WADHAMS
DIRECTOR

STATE OF NEVADA
DEPARTMENT OF COMMERCE

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201 SOUTH FALL STREET
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(702) 883-4250

DIVISIONS

BANKING
CONSUMER AFFAIRS
CREDIT UNION
FIRE MARSHAL
HOUSING
INSURANCE
MOBILE HOME AGENCY
REAL ESTATE
SAVINGS AND LOAN

March 8, 1979

Senator Thomas Wilson, Chairman
Senate Commerce & Labor Committee
Nevada State Legislature
Capitol Complex
Carson City, NV 89710

Dear Senator Wilson:

Thank you for allowing me to present the views of the Real Estate Division of the Department of Commerce to your committee on March 5, 1979 regarding S.B. 90. At the close of the hearing I was requested to research several questions.

I have been in contact with the U.S. Trademark Association, the proponents of this bill, and have received the materials they have available on the bill. This model trademark act was originally drafted by the U.S. Trademark Association and has been substantially adopted in 42 states.

1. I was asked to find the intent behind section 21. The Association's booklet explaining the provisions of the model bill provides no explanation of the purpose of that section. From Senator Close's comments at the hearing, I believe that he agreed with my position that the language of section 21 should create a greater right to injunctive relief than is now available for trademark infringement.
2. Materials supplied by the Association indicate that 23 of the 42 states which have adopted the model act have not adopted the portion relating to dilution of trademarks which is found in section 21 of S.B. 90.
3. S.B. 90 seeks to add the model act to NRS Chapter 600 but does not propose to delete the language of NRS 600.020 which already provides the right to injunctive relief and describes the specific conditions under which it should be granted. A copy of NRS 600.020 is attached for your reference.
4. I was asked to supply a description of the word "likelihood". I understand that Mr. Quirk, representing the Association, had previously indicated that this was a term of art and should not be replaced with other language. Having quickly reviewed the available materials on trademark law, I find that a "likelihood" is less than a "probability" but more than a mere "possibility". "Likelihood"

SENATE BILL NO. 302—SENATOR BLAKEMORE

MARCH 5, 1979

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits certain persons from offering specified inducements to enter into a real estate transaction. (BDR 54-1219)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.



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

AN ACT relating to real estate transactions; prohibiting real estate brokers and salesmen, owner-developers and registered representatives from offering certain incentives to induce a person to enter into a real estate transaction; providing penalties; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. Chapter 645 of NRS is hereby amended by adding
2 thereto a new section which shall read as follows:
3 1. *Except for professional services incidental to a real estate trans-*
4 *action, it shall be unlawful for any licensee under this chapter, owner-*
5 *developer or registered representative to give, promise to give or offer to*
6 *give a prize, gift or object of value, or to conduct a lottery, drawing,*
7 *contest or game, or to offer a free lot or parcel for the purpose of induc-*
8 *ing the public to purchase, sell, exchange, option or list any real estate.*
9 2. *Any licensee under this chapter, owner-developer or registered*
10 *representative who violates the provisions of subsection 1 shall be pun-*
11 *ished by a fine of \$1,000 for each offense and for the second offense*
12 *shall in addition be required to show cause why his license should not*
13 *be revoked or suspended by the commission.*

SENATE BILL NO. 310—COMMITTEE ON
COMMERCE AND LABOR

MARCH 7, 1979

Referred to Committee on Commerce and Labor

SUMMARY—Requires inactive real estate brokers and salesmen to meet certain continuing education requirements as prerequisite to reinstatement to active status. (BDR 54-1263)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to real estate brokers and salesmen; requiring inactive brokers and salesmen to meet certain continuing education requirements as a prerequisite to reinstatement to active status; and providing other matters properly relating thereto.

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

- 1 SECTION 1. NRS 645.575 is hereby amended to read as follows:
2 645.575 1. The commission shall prescribe standards for the con-
3 tinuing education of persons licensed pursuant to this chapter by adopt-
4 ing regulations which include:
5 (a) A total attendance of 20 clock hours at any approved educational
6 course, seminar, conference or their equivalent within 2 years after initial
7 licensing.
8 (b) A total attendance of 10 clock hours at any approved educational
9 course, seminar, conference or their equivalent within each 2-year period
10 before relicensing.
11 (c) A basis and method of qualifying educational programs and certi-
12 fying attendance which will satisfy the requirements of this section.
13 (d) A procedure for the evaluation of petitions based on a claim of
14 equivalency with the requirements of subsection (a) or (b).
15 (e) A system of controlling and reporting qualifying attendance.
16 (f) A statement of the conditions under which an extension of time
17 may be granted to comply with the continuing education requirements as
18 well as a method of applying and qualifying for an extension.
19 2. The standards prescribed under subsection 1 [shall] *must* permit
20 alternatives of subject material, taking cognizance of specialized areas of
21 practice, and alternatives in sources of programs considering availability