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March 5, 2003

To: Senator Randolph Townsend  
Chair, Senate Commerce & Labor Committee

Re: SB 139

Background

Below is a suggested amendment to SB 139, providing for a definition of "Property Management Agreement", separate from the existing definition of "Brokerage Agreement" in NRS 645.

The purpose of this amendment is to acknowledge the distinct difference between the agent/client relationship in a listing for sale or lease, versus the property management relationship. A brokerage agreement for sale or lease of a property anticipates that a specific task will be performed by the agent (to secure a sale or lease of the property), with the intent that the agreement shall terminate upon completion of the task. Conversely, a property management arrangement anticipates a long-term relationship between the agent and client, where the agent's duties are not tied to one specific task, but require ongoing management of the client's investment property.

Property Management Agreements currently fall under the NRS 645 definition of "Brokerage Agreement". That definition specifically prohibits "rollover" of the agreement from one term to another. This is appropriate for sale and leasing activities, but does not fit the model of property management activity. Due to the fact that the property management relationship anticipates continuing activities, both the public and the property manager will benefit by a separate definition of "Property Management Agreement" allowing for rollover, or automatic renewal from term to term, as the parties may contractually agree.

Suggested Amendment

*NRS 645.006 "Property Management Agreement" defined. "Property Management Agreement" means a written contract between a client and a broker in which the broker agrees to accept valuable consideration from the client or another person for providing property management services as defined in NRS 645.019.*

**NRS 645.6056 Property Management Agreement.**

1. A real estate broker who holds a permit to engage in property management shall not act as a property manager unless the broker has first obtained a written ~~brokerage~~ *property management* agreement signed by the broker and the client for whom the broker will manage the property.

2. A ~~brokerage~~ *property management* agreement for property management must include, without limitation:

(a) The term of the agreement, *including full disclosure of any renewal provisions;*

(b) A provision for the retention and disposition of deposits of the tenants of the property during the term *and renewal* of the agreement;

(c) The fee or compensation to be paid to the broker;

(d) The conditions under which the property management agreement may be canceled by either party during its term to include cancellation for both cause and without cause; and

(e) The extent to which the broker may act as the agent of the client.

Respectfully submitted,

Judy Cook