

CHAPTER.....

AN ACT relating to real estate; making various changes to provisions governing certain real estate practices; revising provisions governing property management agreements; revising provisions which require real estate broker-salesmen and real estate salesmen to disclose in certain advertisements the name of the brokerage with whom they are associated; revising provisions relating to brokerage agreements which provide for exclusive agency representation; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:

“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 for the client.

Sec. 2. NRS 645.0005 is hereby amended to read as follows:

645.0005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645.001 to 645.040, inclusive, *and section 1 of this act* have the meanings ascribed to them in those sections.

Sec. 3. NRS 645.005 is hereby amended to read as follows:

645.005 “Brokerage agreement” means an oral or written contract between a client and a ~~licensee~~ *broker* in which the ~~licensee~~ *broker* agrees to accept valuable consideration from the client or another person for assisting, soliciting or negotiating the sale, purchase, option, rental or lease of real property. *The term does not include a property management agreement.*

Sec. 4. NRS 645.009 is hereby amended to read as follows:

645.009 “Client” means a person who has entered into a brokerage agreement with a ~~licensee~~ *broker or a property management agreement with a broker.*

Sec. 5. NRS 645.019 is hereby amended to read as follows:

645.019 “Property management” means the physical, administrative or financial maintenance and management of real property, or the supervision of such activities for a fee, commission or other compensation or valuable consideration, pursuant to a ~~brokerage~~ *property management* agreement.

Sec. 6. NRS 645.315 is hereby amended to read as follows:

645.315 1. In any advertisement through which a licensee offers to perform services for which a license is required pursuant to this chapter, the licensee shall:

(a) If ~~he~~ *the licensee* is a real estate broker, disclose the name of any brokerage under which ~~he~~ *the licensee* does business; or

(b) If ~~he~~ *the licensee* is a real estate broker-salesman or real estate salesman, disclose the name of the ~~broker~~ *brokerage* with whom ~~he~~ *the licensee* is associated.

2. ~~A~~ *If a licensee is a* real estate broker-salesman or real estate salesman, *the licensee* shall not advertise solely under ~~his~~ *the licensee's* own name when acting in the capacity as a broker-salesman or salesman. All such advertising must be *done* under the direct supervision of and in the name of the ~~broker~~ *brokerage* with whom the ~~broker-salesman or salesman~~ *licensee* is associated.

Sec. 7. NRS 645.320 is hereby amended to read as follows:

645.320 Every brokerage agreement which includes a provision for an exclusive ~~listing~~ *agency representation* must:

1. Be in writing.

2. Have set forth in its terms a definite, specified and complete termination.

3. Contain no provision which requires the client who signs the brokerage agreement to notify the real estate broker of his intention to cancel the exclusive features of ~~that listing~~ *the brokerage agreement* after the termination of the ~~listing~~ *brokerage agreement*.

4. Be signed by both the client or his authorized representative and the ~~listing agent~~ *broker* or his authorized representative in order to be enforceable.

Sec. 8. NRS 645.6056 is hereby amended to read as follows:

645.6056 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 agreement for~~ property management *agreement* must include, without limitation:

(a) The term of the agreement ~~is~~ *and, if the agreement is subject to renewal, provisions clearly setting forth the circumstances under which the agreement may be renewed and the term of each such renewal;*

(b) A provision for the retention and disposition of deposits of the tenants of the property during the term of the agreement ~~is~~ *and, if the agreement is subject to renewal, during the term of each such renewal;*

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

(d) The extent to which the broker may act as the agent of the client ~~H~~; and

(e) If the agreement is subject to cancellation, provisions clearly setting forth the circumstances under which the agreement may be cancelled. The agreement may authorize the broker or the client, or both, to cancel the agreement with cause or without cause, or both, under the circumstances set forth in the agreement.

Sec. 9. NRS 645.630 is hereby amended to read as follows:

645.630 The Commission may require a licensee, property manager or owner-developer to pay an administrative fine of not more than \$5,000 for each violation he commits or suspend, revoke, deny the renewal of or place conditions upon his license, permit or registration, or impose any combination of those actions, at any time if the licensee, property-manager or owner-developer has, by false or fraudulent representation, obtained a license, permit or registration, or the licensee, property manager or owner-developer, whether or not acting as such, is found guilty of:

1. Making any material misrepresentation.
2. Making any false promises of a character likely to influence, persuade or induce.
3. Accepting a commission or valuable consideration as a real estate broker-salesman or salesman for the performance of any of the acts specified in this chapter or chapter 119 or 119A of NRS from any person except the licensed real estate broker with whom he is associated or the owner-developer by whom he is employed.
4. Representing or attempting to represent a real estate broker other than the broker with whom he is associated, without the express knowledge and consent of the broker with whom he is associated.
5. Failing to maintain, for review and audit by the Division, each brokerage agreement *and property management agreement* governed by the provisions of this chapter and entered into by the licensee.
6. Failing, within a reasonable time, to account for or to remit any money which comes into his possession and which belongs to others.
7. If he is required to maintain a trust account:
 - (a) Failing to balance the trust account at least monthly; and
 - (b) Failing to submit to the Division an annual accounting of the trust account as required in NRS 645.310.
8. Commingling the money or other property of his clients with his own or converting the money of others to his own use.
9. In the case of a broker-salesman or salesman, failing to place in the custody of his licensed broker or owner-developer, as soon as possible, any deposit or other money or consideration entrusted to

him by any person dealing with him as the representative of his licensed broker.

10. Accepting other than cash as earnest money unless that fact is communicated to the owner before his acceptance of the offer to purchase and that fact is shown in the receipt for the earnest money.

11. Upon acceptance of an agreement, in the case of a broker, failing to deposit any check or cash received as earnest money before the end of the next banking day unless otherwise provided in the purchase agreement.

12. Inducing any party to a brokerage agreement, *property management agreement, agreement of* sale or lease to break it in order to substitute a new brokerage agreement, *property management agreement,* agreement of sale or lease with the same or another party if the inducement to make the substitution is offered to secure personal gain to the licensee or owner-developer.

If discipline is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the ~~Board~~ *Division*.

Sec. 10. NRS 645.633 is hereby amended to read as follows:

645.633 1. The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

(a) Willfully using any trade name, service mark or insigne of membership in any real estate organization of which the licensee is not a member, without the legal right to do so.

(b) Violating any order of the Commission, any agreement with the Division, any of the provisions of this chapter, chapter 116, 119, 119A, 119B, 645A or 645C of NRS or any regulation adopted ~~thereunder~~ *pursuant thereto*.

(c) Paying a commission, compensation or a finder's fee to any person for performing the services of a broker, broker-salesman or salesman who has not secured his license pursuant to this chapter. This subsection does not apply to payments to a broker who is licensed in his state of residence.

(d) A felony, or has entered a plea of guilty, guilty but mentally ill or nolo contendere to a charge of felony or any crime involving fraud, deceit, misrepresentation or moral turpitude.

(e) Guaranteeing, or having authorized or permitted any person to guarantee, future profits which may result from the resale of real property.

(f) Failure to include a fixed date of expiration in any written brokerage agreement or *failure* to leave a copy of ~~the~~ *such a* brokerage agreement *or any property management agreement* with the client.

(g) Accepting, giving or charging any undisclosed commission, rebate or direct profit on expenditures made for a client.

(h) Gross negligence or incompetence in performing any act for which he is required to hold a license pursuant to this chapter, chapter 119, 119A or 119B of NRS.

(i) Any other conduct which constitutes deceitful, fraudulent or dishonest dealing.

(j) Any conduct which took place before he became licensed, which was in fact unknown to the Division and which would have been grounds for denial of a license had the Division been aware of the conduct.

(k) Knowingly permitting any person whose license has been revoked or suspended to act as a real estate broker, broker-salesman or salesman, with or on behalf of the licensee.

(l) Recording or causing to be recorded a claim pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, that is determined by a district court to be frivolous and made without reasonable cause pursuant to NRS 645.8791.

2. The Commission may take action pursuant to NRS 645.630 against a person who is subject to that section for the suspension or revocation of a real estate broker's, broker-salesman's or salesman's license issued to him by any other jurisdiction.

3. The Commission may take action pursuant to NRS 645.630 against any person who:

(a) Holds a permit to engage in property management issued pursuant to NRS 645.6052; and

(b) In connection with any property for which the person has obtained a ~~written brokerage agreement to manage the~~ **property management agreement** pursuant to NRS 645.6056:

(1) Is convicted of violating any of the provisions of NRS 202.470;

(2) Has been notified in writing by the appropriate governmental agency of a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to inform the owner of the property of such notification; or

(3) Has been directed in writing by the owner of the property to correct a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to correct the potential violation, if such corrective action is within the scope of the person's duties pursuant to the ~~written brokerage~~ **property management** agreement.

4. The Division shall maintain a log of any complaints that it receives relating to activities for which the Commission may take action against a person holding a permit to engage in property management pursuant to subsection 3.

5. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

- (a) Any complaints included in the log maintained by the Division pursuant to subsection 4; and
- (b) Any disciplinary actions taken by the Commission pursuant to subsection 3.