

SENATE BILL NO. 139—SENATOR TOWNSEND

FEBRUARY 18, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing certain real estate practices. (BDR 54-663)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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

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:

- 1     **Section 1.** Chapter 645 of NRS is hereby amended by adding  
2     thereto a new section to read as follows:  
3     *“Property management agreement” means a written contract*  
4     *between a client and a broker in which the broker agrees to accept*  
5     *valuable consideration from the client or another person for*  
6     *providing property management for the client.*  
7     **Sec. 2.** NRS 645.0005 is hereby amended to read as follows:  
8     645.0005 As used in this chapter, unless the context otherwise  
9     requires, the words and terms defined in NRS 645.001 to 645.040,  
10    inclusive, *and section 1 of this act* have the meanings ascribed to  
11    them in those sections.



1     **Sec. 3.** NRS 645.005 is hereby amended to read as follows:  
2     645.005 “Brokerage agreement” means an oral or written  
3 contract between a client and a ~~licensee~~ *broker* in which the  
4 ~~licensee~~ *broker* agrees to accept valuable consideration from  
5 the client or another person for assisting, soliciting or negotiating  
6 the sale, purchase, option, rental or lease of real property. *The term*  
7 *does not include a property management agreement.*

8     **Sec. 4.** NRS 645.009 is hereby amended to read as follows:  
9     645.009 “Client” means a person who has entered into a  
10 brokerage agreement with a ~~licensee~~ *broker or a property*  
11 *management agreement with a broker.*

12     **Sec. 5.** NRS 645.019 is hereby amended to read as follows:  
13     645.019 “Property management” means the physical,  
14 administrative or financial maintenance and management of real  
15 property, or the supervision of such activities for a fee, commission  
16 or other compensation or valuable consideration, pursuant to a  
17 ~~brokerage~~ *property management* agreement.

18     **Sec. 6.** NRS 645.315 is hereby amended to read as follows:  
19     645.315 1. In any advertisement through which a licensee  
20 offers to perform services for which a license is required pursuant to  
21 this chapter, the licensee shall:

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

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

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

33     **Sec. 7.** NRS 645.320 is hereby amended to read as follows:  
34     645.320 Every brokerage agreement which includes a  
35 provision for an exclusive ~~listing~~ *agency representation* must:

36     1. Be in writing.

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

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



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

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

5 645.6056 1. A real estate broker who holds a permit to  
6 engage in property management shall not act as a property manager  
7 unless the broker has first obtained a ~~written brokerage~~ property  
8 management agreement signed by the broker and the client for  
9 whom the broker will manage the property.

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

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

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

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

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

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

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

30 645.630 The Commission may require a licensee, property  
31 manager or owner-developer to pay an administrative fine of not  
32 more than \$5,000 for each violation he commits or suspend, revoke,  
33 deny the renewal of or place conditions upon his license, permit or  
34 registration, or impose any combination of those actions, at any time  
35 if the licensee, property-manager or owner-developer has, by false  
36 or fraudulent representation, obtained a license, permit or  
37 registration, or the licensee, property manager or owner-developer,  
38 whether or not acting as such, is found guilty of:

39 1. Making any material misrepresentation.

40 2. Making any false promises of a character likely to influence,  
41 persuade or induce.

42 3. Accepting a commission or valuable consideration as a real  
43 estate broker-salesman or salesman for the performance of any of  
44 the acts specified in this chapter or chapter 119 or 119A of NRS



- 1 from any person except the licensed real estate broker with whom he  
2 is associated or the owner-developer by whom he is employed.
- 3 4. Representing or attempting to represent a real estate broker  
4 other than the broker with whom he is associated, without the  
5 express knowledge and consent of the broker with whom he is  
6 associated.
- 7 5. Failing to maintain, for review and audit by the Division,  
8 each brokerage agreement *and property management agreement*  
9 governed by the provisions of this chapter and entered into by the  
10 licensee.
- 11 6. Failing, within a reasonable time, to account for or to remit  
12 any money which comes into his possession and which belongs to  
13 others.
- 14 7. If he is required to maintain a trust account:  
15 (a) Failing to balance the trust account at least monthly; and  
16 (b) Failing to submit to the Division an annual accounting of the  
17 trust account as required in NRS 645.310.
- 18 8. Commingling the money or other property of his clients with  
19 his own or converting the money of others to his own use.
- 20 9. In the case of a broker-salesman or salesman, failing to place  
21 in the custody of his licensed broker or owner-developer, as soon as  
22 possible, any deposit or other money or consideration entrusted to  
23 him by any person dealing with him as the representative of his  
24 licensed broker.
- 25 10. Accepting other than cash as earnest money unless that fact  
26 is communicated to the owner before his acceptance of the offer to  
27 purchase and that fact is shown in the receipt for the earnest money.
- 28 11. Upon acceptance of an agreement, in the case of a broker,  
29 failing to deposit any check or cash received as earnest money  
30 before the end of the next banking day unless otherwise provided in  
31 the purchase agreement.
- 32 12. Inducing any party to a brokerage agreement, *property*  
33 *management agreement, agreement of* sale or lease to break it in  
34 order to substitute a new brokerage agreement, *property*  
35 *management agreement*, agreement of sale or lease with the same  
36 or another party if the inducement to make the substitution is offered  
37 to secure personal gain to the licensee or owner-developer.  
38 If discipline is imposed pursuant to this section, the costs of the  
39 proceeding, including investigative costs and attorney's fees, may  
40 be recovered by the ~~Board.~~ *Division.*
- 41 **Sec. 10.** NRS 645.633 is hereby amended to read as follows:  
42 645.633 1. The Commission may take action pursuant to  
43 NRS 645.630 against any person subject to that section who is  
44 guilty of:



- 1 (a) Willfully using any trade name, service mark or insigne of  
2 membership in any real estate organization of which the licensee is  
3 not a member, without the legal right to do so.
- 4 (b) Violating any order of the Commission, any agreement with  
5 the Division, any of the provisions of this chapter, chapter 116, 119,  
6 119A, 119B, 645A or 645C of NRS or any regulation adopted  
7 ~~thereunder.~~ *pursuant thereto.*
- 8 (c) Paying a commission, compensation or a finder's fee to any  
9 person for performing the services of a broker, broker-salesman or  
10 salesman who has not secured his license pursuant to this chapter.  
11 This subsection does not apply to payments to a broker who is  
12 licensed in his state of residence.
- 13 (d) A felony, or has entered a plea of guilty, guilty but mentally  
14 ill or nolo contendere to a charge of felony or any crime involving  
15 fraud, deceit, misrepresentation or moral turpitude.
- 16 (e) Guaranteeing, or having authorized or permitted any person  
17 to guarantee, future profits which may result from the resale of real  
18 property.
- 19 (f) Failure to include a fixed date of expiration in any written  
20 brokerage agreement or *failure* to leave a copy of ~~the~~ *such a*  
21 *brokerage agreement or any property management agreement* with  
22 the client.
- 23 (g) Accepting, giving or charging any undisclosed commission,  
24 rebate or direct profit on expenditures made for a client.
- 25 (h) Gross negligence or incompetence in performing any act for  
26 which he is required to hold a license pursuant to this chapter,  
27 chapter 119, 119A or 119B of NRS.
- 28 (i) Any other conduct which constitutes deceitful, fraudulent or  
29 dishonest dealing.
- 30 (j) Any conduct which took place before he became licensed,  
31 which was in fact unknown to the Division and which would have  
32 been grounds for denial of a license had the Division been aware of  
33 the conduct.
- 34 (k) Knowingly permitting any person whose license has been  
35 revoked or suspended to act as a real estate broker, broker-salesman  
36 or salesman, with or on behalf of the licensee.
- 37 (l) Recording or causing to be recorded a claim pursuant to the  
38 provisions of NRS 645.8701 to 645.8811, inclusive, that is  
39 determined by a district court to be frivolous and made without  
40 reasonable cause pursuant to NRS 645.8791.
- 41 2. The Commission may take action pursuant to NRS 645.630  
42 against a person who is subject to that section for the suspension or  
43 revocation of a real estate broker's, broker-salesman's or salesman's  
44 license issued to him by any other jurisdiction.



- 1 3. The Commission may take action pursuant to NRS 645.630  
2 against any person who:
- 3 (a) Holds a permit to engage in property management issued  
4 pursuant to NRS 645.6052; and
- 5 (b) In connection with any property for which the person has  
6 obtained a ~~written brokerage agreement to manage the~~ property  
7 *management agreement* pursuant to NRS 645.6056:
- 8 (1) Is convicted of violating any of the provisions of NRS  
9 202.470;
- 10 (2) Has been notified in writing by the appropriate  
11 governmental agency of a potential violation of NRS 244.360,  
12 244.3603 or 268.4124, and has failed to inform the owner of the  
13 property of such notification; or
- 14 (3) Has been directed in writing by the owner of the property  
15 to correct a potential violation of NRS 244.360, 244.3603 or  
16 268.4124, and has failed to correct the potential violation, if such  
17 corrective action is within the scope of the person's duties pursuant  
18 to the ~~written brokerage~~ *property management* agreement.
- 19 4. The Division shall maintain a log of any complaints that it  
20 receives relating to activities for which the Commission may take  
21 action against a person holding a permit to engage in property  
22 management pursuant to subsection 3.
- 23 5. On or before February 1 of each odd-numbered year, the  
24 Division shall submit to the Director of the Legislative Counsel  
25 Bureau a written report setting forth, for the previous biennium:
- 26 (a) Any complaints included in the log maintained by the  
27 Division pursuant to subsection 4; and
- 28 (b) Any disciplinary actions taken by the Commission pursuant  
29 to subsection 3.

