

SENATE BILL NO. 315—SENATOR NOLAN

MARCH 24, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Provides for regulation of business brokers.
(BDR 54-1135)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: Yes.

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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; providing for the regulation of
business brokers; providing for the establishment of
certain fees; providing a penalty; 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 the provisions set forth as sections 2 to 5, inclusive, of this
3 act.

4 **Sec. 2.** *“Business broker” means a person who, for another*
5 *and for compensation or with the intention or expectation of*
6 *receiving compensation:*

- 7 1. *Sells, exchanges, options or purchases a business;*
- 8 2. *Negotiates or offers, attempts or agrees to negotiate the*
9 *sale, exchange, option or purchase of a business; or*
- 10 3. *Lists or solicits prospective purchasers of a business.*

11 **Sec. 3.** 1. *A person who is licensed as a real estate broker,*
12 *real estate broker-salesman or real estate salesman pursuant to*
13 *this chapter may apply to the Real Estate Division for a permit to*
14 *engage in business as a business broker.*

15 2. *An applicant for a permit must:*



1 (a) Provide proof satisfactory to the Real Estate Division that
2 he has successfully completed at least 24 hours of classroom
3 instruction relating to business brokerage; and

4 (b) Comply with any other requirements for the issuance of a
5 permit established by the Commission.

6 3. A permit expires on the same date as the license of the
7 holder of the permit expires. A permit may be renewed at the time
8 that a person licensed pursuant to this chapter applies for renewal
9 of his license.

10 4. An applicant for the renewal of a permit must:

11 (a) Provide proof satisfactory to the Real Estate Division that
12 he has successfully completed at least 3 hours of continuing
13 education required for the renewal of his license pursuant to NRS
14 645.575 in an approved educational course, seminar or conference
15 relating to business brokerage.

16 (b) Comply with any other requirements for renewal of a
17 permit established by the Commission.

18 5. The Commission shall adopt such regulations as are
19 necessary to carry out the provisions of this section. The
20 regulations must include, without limitation, provisions that
21 establish:

22 (a) Requirements for the issuance or renewal of a permit.

23 (b) Fees for:

24 (1) The issuance or renewal of a permit;

25 (2) The cost of any examination required of an applicant
26 for a permit, including, without limitation, any costs which are
27 necessary for the administration of an examination; and

28 (3) The cost of any investigation of an applicant for a
29 permit.

30 (c) Standards of education for the approval of a course of
31 instruction to qualify an applicant for the issuance or renewal of a
32 permit.

33 **Sec. 4. 1. To engage in business as a business broker in
34 this State:**

35 (a) A partnership shall designate one of its members;

36 (b) A corporation shall designate one of its officers or
37 employees;

38 (c) A limited-liability company shall designate its manager;
39 and

40 (d) A real estate broker who conducts business as a sole
41 proprietor shall designate himself or a person who is licensed
42 under the real estate broker,

43 ➔ to submit an application for a permit pursuant to section 3 of
44 this act. The partnership, corporation, limited-liability company or



1 *sole proprietor shall not engage in business as a business broker*
2 *unless the person so designated has been issued such a permit.*

3 *2. If the person designated to apply for a permit meets the*
4 *qualifications for a permit set forth in section 3 of this act, the*
5 *Real Estate Division shall issue to that person a permit to engage*
6 *in business as a business broker on behalf of the partnership,*
7 *corporation, limited-liability company or sole proprietor.*

8 *3. A person to whom such a permit has been issued may act*
9 *as a business broker pursuant to the permit only on behalf of the*
10 *partnership, corporation, limited-liability company or sole*
11 *proprietor, and not on his own behalf. If that person ceases to be*
12 *connected or associated with the partnership, corporation, limited-*
13 *liability company or sole proprietor, the partnership, corporation,*
14 *limited-liability company or sole proprietor shall designate*
15 *another person who meets the qualifications for a permit set forth*
16 *in section 3 of this act to hold the permit on behalf of the*
17 *partnership, corporation, limited-liability company or sole*
18 *proprietor.*

19 *4. Any member, officer or employee of a partnership,*
20 *corporation, limited-liability company or sole proprietor, other*
21 *than the person designated as the business broker pursuant to*
22 *subsection 1, who wishes to engage in business as a business*
23 *broker must apply in his own name for a permit. Pursuant to such*
24 *a permit, the member, officer or employee of a partnership,*
25 *corporation, limited-liability company or sole proprietor may act*
26 *as a business broker only as an officer, agent or employee of the*
27 *partnership, corporation, limited-liability company or sole*
28 *proprietor, and not on his own behalf.*

29 **Sec. 5. 1. If a real estate broker does not hold a permit to**
30 **engage in business as a business broker but intends to have the**
31 **activities of a business broker conducted at an office, the real**
32 **estate broker must:**

33 *(a) Appoint a person, who has the qualifications required by*
34 *this section, as the designated business broker for the office to*
35 *supervise the activities of a business broker conducted at the*
36 *office; and*

37 *(b) Submit notice of the appointment to the Division.*

38 **2. The designated business broker for an office must be a**
39 **natural person who:**

40 *(a) Holds a license as a real estate broker, real estate broker-*
41 *salesman or real estate salesman;*

42 *(b) Holds a permit to engage in business as a business broker;*
43 *and*

44 *(c) Has 2 years active experience, within the 4 years*
45 *immediately preceding the date of the appointment, in conducting*



1 *the activities of a business broker in the United States as a licensed*
2 *real estate broker, real estate broker-salesman or real estate*
3 *salesman.*

4 3. *While acting as the designated business broker for an*
5 *office, the person:*

6 (a) *Must comply with all applicable provisions of this chapter;*
7 *and*

8 (b) *Is subject to all the remedies and penalties provided for in*
9 *this chapter.*

10 **Sec. 6.** NRS 645.0005 is hereby amended to read as follows:

11 645.0005 As used in this chapter, unless the context otherwise
12 requires, the words and terms defined in NRS 645.001 to 645.040,
13 inclusive, *and section 2 of this act* have the meanings ascribed to
14 them in those sections.

15 **Sec. 7.** NRS 645.005 is hereby amended to read as follows:

16 645.005 “Brokerage agreement” means an oral or written
17 contract between a client and a broker in which the broker agrees to
18 accept valuable consideration from the client or another person for
19 assisting, soliciting or negotiating the sale, purchase, option, rental
20 or lease of real property ~~[]~~, *or the sale, exchange, option or*
21 *purchase of a business.* The term does not include a property
22 management agreement.

23 **Sec. 8.** NRS 645.030 is hereby amended to read as follows:

24 645.030 1. “Real estate broker” means a person who, for
25 another and for compensation or with the intention or expectation of
26 receiving compensation:

27 (a) Sells, exchanges, options, purchases, rents ~~[]~~ or leases, or
28 negotiates or offers, attempts or agrees to negotiate the sale,
29 exchange, option, purchase, rental ~~[]~~ or lease of, or lists or solicits
30 prospective purchasers, lessees or renters of, any ~~[business-or]~~ real
31 estate or the improvements thereon or any modular homes or other
32 housing offered or conveyed with any interest in real estate;

33 (b) Engages in or offers to engage in the business of claiming,
34 demanding, charging, receiving, collecting or contracting for the
35 collection of an advance fee in connection with any employment
36 undertaken to promote the sale or lease of business opportunities or
37 real estate by advance fee listing advertising or other offerings to
38 sell, lease, exchange or rent property; ~~[or]~~

39 (c) Engages in or offers to engage in the business of property
40 management ~~[]~~; *or*

41 (d) *Engages in or offers to engage in the business of business*
42 *brokerage.*

43 2. Any person who, for another and for compensation, aids,
44 assists, solicits or negotiates the procurement, sale, purchase, rental



1 or lease of public lands is a real estate broker within the meaning of
2 this chapter.

3 3. The term does not include a person who is employed by a
4 licensed real estate broker to accept reservations on behalf of a
5 person engaged in the business of the rental of lodging for 31 days
6 or less, if the employee does not perform any tasks related to the
7 sale or other transfer of an interest in real estate.

8 **Sec. 9.** NRS 645.230 is hereby amended to read as follows:

9 645.230 1. It is unlawful for any person, limited-liability
10 company, partnership, association or corporation to engage in the
11 business of, act in the capacity of, advertise or assume to act as, a:

12 (a) Real estate broker, real estate broker-salesman or real estate
13 salesman within the State of Nevada without first obtaining the
14 appropriate license from the Real Estate Division as provided for in
15 this chapter;

16 (b) Property manager within the State of Nevada without first
17 obtaining from the Real Estate Division as provided for in this
18 chapter a license as a real estate broker, real estate broker-salesman
19 or real estate salesman and a permit to engage in property
20 management; ~~for~~

21 (c) Designated property manager within the State of Nevada
22 without complying with the provisions of NRS 645.6055 ~~for~~;

23 *(d) Business broker within the State of Nevada without first*
24 *obtaining from the Real Estate Division as provided for in this*
25 *chapter a license as a real estate broker, real estate broker-*
26 *salesman or real estate salesman and a permit to engage in*
27 *business as a business broker issued pursuant to the provisions of*
28 *section 3 of this act; or*

29 *(e) Designated business broker within the State of Nevada*
30 *without complying with the provisions of section 5 of this act.*

31 2. The Real Estate Division may prefer a complaint for a
32 violation of this section before any court of competent jurisdiction
33 and may assist in presenting the law or facts upon any trial for a
34 violation of this section.

35 3. The district attorney of each county shall prosecute all
36 violations of this section in their respective counties in which
37 violations occur, unless prosecuted by the Attorney General. Upon
38 the request of the Administrator, the Attorney General shall
39 prosecute any violation of this section in lieu of the district attorney.

40 **Sec. 10.** 1. Notwithstanding the provisions of sections 3 and
41 9 of this act to the contrary, a person licensed as a real estate broker,
42 real estate broker-salesman or real estate salesman on or before
43 October 1, 2005, may lawfully engage in business as a business
44 broker in this State until January 1, 2007, without a permit issued
45 pursuant to section 3 of this act.



- 1 2. A licensee who is initially exempt from the requirements of
2 sections 3 and 9 of this act pursuant to subsection 1 may satisfy the
3 educational requirements of paragraph (a) of subsection 2 of section
4 3 of this act if, on or before January 1, 2007, the licensee obtains a
5 passing score on a test on the principles of business brokerage
6 established or adopted by the Real Estate Commission pursuant to
7 subsection 3 and administered by the Real Estate Division of the
8 Department of Business and Industry.
- 9 3. The Real Estate Commission shall, on or before July 1,
10 2006, establish or adopt a test on the principles of business
11 brokerage to be administered by the Real Estate Division pursuant
12 to subsection 2.



