

CHAPTER.....

AN ACT relating to real estate; providing for the regulation of certain business brokers; providing for the establishment of certain fees relating to such regulation; revising provisions governing disclosures in certain real estate transactions; 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:

**Section 1.** Chapter 645 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this act.

**Sec. 2.** *“Business broker” means a person who, while acting as a real estate broker, real estate broker-salesman or real estate salesman for another and for compensation or with the intention or expectation of receiving compensation:*

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

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

*2. An applicant for a permit must:*

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

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

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

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

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

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

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

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

*(b) Fees for:*

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

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

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

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

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

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

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

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

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

*↳ to submit an application for a permit pursuant to section 3 of this act. The partnership, corporation, limited-liability company or sole proprietor shall not engage in business as a business broker unless the person so designated has been issued such a permit.*

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

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

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

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

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

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

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

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

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

*(c) Has 2 years active experience, within the 4 years immediately preceding the date of the appointment, in conducting the activities of a business broker in the United States as a licensed real estate broker, real estate broker-salesman or real estate salesman.*

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

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

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

**Sec. 6.** 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 2 of this act** have the meanings ascribed to them in those sections.

**Sec. 7.** 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 broker in which the 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 ~~§~~, *or the sale, exchange, option or purchase of a business.* The term does not include a property management agreement.

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

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

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

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

(c) Engages in or offers to engage in the business of property management ~~§~~; *or*

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

2. Any person who, for another and for compensation, aids, assists, solicits or negotiates the procurement, sale, purchase, rental or lease of public lands is a real estate broker within the meaning of this chapter.

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

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

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

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

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

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

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

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

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

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

**Sec. 10.** NRS 645.252 is hereby amended to read as follows:

645.252 A licensee who acts as an agent in a real estate transaction:

1. Shall disclose to each party to the real estate transaction as soon as is practicable:

(a) Any material and relevant facts, data or information which he knows, or which by the exercise of reasonable care and diligence he should have known, relating to the property which is the subject of the transaction.

(b) Each source from which he will receive compensation as a result of the transaction.

(c) That he is a principal to the transaction or has an interest in a principal to the transaction.

(d) Except as otherwise provided in NRS 645.253, that he is acting for more than one party to the transaction. If a licensee makes such a disclosure, he must obtain the written consent of each party to the transaction for whom he is acting before he may continue to act in his capacity as an agent. The written consent must include:

(1) A description of the real estate transaction.

(2) A statement that the licensee is acting for two or more parties to the transaction who have adverse interests and that in acting for these parties, the licensee has a conflict of interest.

(3) A statement that the licensee will not disclose any confidential information for 1 year after the revocation or termination of any brokerage agreement entered into with a party to the transaction, unless he is required to do so by a court of

competent jurisdiction or he is given written permission to do so by that party.

(4) A statement that a party is not required to consent to the licensee acting on his behalf.

(5) A statement that the party is giving his consent without coercion and understands the terms of the consent given.

(e) Any changes in his relationship to a party to the transaction.

2. Shall exercise reasonable skill and care with respect to all parties to the real estate transaction.

3. Shall provide ~~[to each party to the real estate transaction]~~ the appropriate form prepared by the Division pursuant to NRS 645.193 ~~[ ]~~ to:

*(a) Each party for whom the licensee is acting as an agent in the real estate transaction; and*

*(b) Each unrepresented party to the real estate transaction, if any.*

4. Unless otherwise agreed upon in writing, owes no duty to:

(a) Independently verify the accuracy of a statement made by an inspector certified pursuant to chapter 645D of NRS or another appropriate licensed or certified expert.

(b) Conduct an independent inspection of the financial condition of a party to a real estate transaction.

**Sec. 11.** 1. Notwithstanding the provisions of sections 3 and 9 of this act to the contrary, a person licensed as a real estate broker, real estate broker-salesman or real estate salesman on or before October 1, 2005, may lawfully engage in business as a business broker in this State until January 1, 2007, without a permit issued pursuant to section 3 of this act.

2. A licensee who is initially exempt from the requirements of sections 3 and 9 of this act pursuant to subsection 1 may satisfy the educational requirements of paragraph (a) of subsection 2 of section 3 of this act if, on or before January 1, 2007, the licensee obtains a passing score on a test on the principles of business brokerage established or adopted by the Real Estate Commission pursuant to subsection 3 and administered by the Real Estate Division of the Department of Business and Industry.

3. The Real Estate Commission shall, on or before July 1, 2006, establish or adopt a test on the principles of business brokerage to be administered by the Real Estate Division pursuant to subsection 2.



