

ASSEMBLY BILL NO. 541—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF DEPARTMENT OF BUSINESS AND
INDUSTRY—REAL ESTATE DIVISION)

MARCH 21, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Provides for regulation of certain instructors of courses required for issuance and renewal of license as real estate broker, broker-salesman or real estate salesman. (BDR 54-551)

FISCAL NOTE: Effect on Local Government: Yes.
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; requiring certain instructors of courses required for the issuance and renewal of a license as a real estate broker, real estate broker-salesman or real estate salesman to be certified by the real estate division of the department of business and industry; prescribing the requirements for certification of those instructors; requiring the real estate commission to adopt regulations governing certification of those instructors; 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 thereto
2 the provisions set forth as sections 2, 3 and 4 of this act.
3 **Sec. 2. “Instructor” means a person who teaches:**
4 1. *A course described in subsection 1 of NRS 645.343;*
5 2. *A college level course as defined in subsection 6 of NRS 645.343;*
6 *or*
7 3. *A course for the continuing education of a real estate broker, real*
8 *estate broker-salesman or real estate salesman that has been approved by*
9 *the commission.*
10 **Sec. 3. 1. An applicant for a certificate as an instructor must:**
11 (a) *Submit to the division:*
12 (1) *A complete set of fingerprints and written permission*
13 *authorizing the administrator to forward those fingerprints to the central*
14 *repository for Nevada records of criminal history for submission to the*
15 *Federal Bureau of Investigation for its report;*



- 1 (2) *A fee in an amount that is not more than the amount charged by*
2 *the Federal Bureau of Investigation for processing the fingerprints of the*
3 *applicant;*
4 (3) *An application on a form prescribed by the commission; and*
5 (4) *The statement required pursuant to NRS 645.358; and*
6 (b) *Comply with any other requirements established by the*
7 *commission for the issuance of a certificate.*
8 2. *The commission shall adopt regulations that establish additional*
9 *requirements for the issuance or renewal of a certificate by the division.*
10 *The regulations:*
11 (a) *Must establish the qualifications of an applicant for a certificate,*
12 *including the education and experience required to obtain a certificate;*
13 (b) *Must prescribe the form and contents of the application for a*
14 *certificate;*
15 (c) *May require an applicant to pass an examination to obtain a*
16 *certificate;*
17 (d) *Must establish standards of practice for an instructor;*
18 (e) *May require the holder of a certificate to pay all or part of the cost*
19 *of a disciplinary proceeding, including, without limitation, investigative*
20 *costs and attorney's fees;*
21 (f) *Must prescribe the fees that the division is required or authorized*
22 *to collect pursuant to this section; and*
23 (g) *Must establish the grounds for initiating disciplinary action*
24 *against the holder of a certificate, including, without limitation, the*
25 *grounds for:*
26 (1) *Placing conditions, limitations or restrictions on a certificate;*
27 (2) *The suspension or revocation of a certificate; and*
28 (3) *Requiring the holder of a certificate to pay an administrative*
29 *fine.*
30 3. *The division may:*
31 (a) *Investigate the holder of a certificate to ensure his compliance*
32 *with the standards of practice adopted pursuant to subsection 2; and*
33 (b) *Collect a fee for the issuance or renewal of a certificate in an*
34 *amount that is not more than the administrative costs of issuing or*
35 *renewing the certificate.*
36 Sec. 4. *An application for a certificate as an instructor must include*
37 *the social security number of the applicant.*
38 Sec. 5. NRS 645.230 is hereby amended to read as follows:
39 645.230 1. It is unlawful for any person ~~to, limited liability company,~~
40 ~~partnership, association or corporation~~ to engage in the business of, act in
41 the capacity of, advertise or assume to act as ~~to, a:~~
42 ~~—(a) Real:~~
43 (a) *A real* estate broker, real estate broker-salesman or real estate
44 salesman within the State of Nevada without first obtaining the appropriate
45 license from the real estate division as provided for in this chapter; ~~to:~~
46 ~~—(b) Property:~~
47 (b) *A property* manager within the State of Nevada without first
48 obtaining from the real estate division as provided for in this chapter a



1 license as a real estate broker, real estate broker-salesman or real estate
2 salesman and a permit to engage in property management ~~+~~; or

3 *(c) An instructor within the State of Nevada without first obtaining a*
4 *certificate from the real estate division as provided for in this chapter.*

5 2. The real estate division may prefer a complaint for a violation of
6 this section before any court of competent jurisdiction and ~~may~~ assist in
7 presenting the law or facts upon any trial for a violation of this section.

8 3. The district attorney of each county shall prosecute all violations of
9 this section in their respective counties in which violations occur, unless
10 prosecuted by the attorney general. Upon the request of the administrator,
11 the attorney general shall prosecute any violation of this section in lieu of
12 the district attorney.

13 *4. The provisions of paragraph (c) of subsection 1 do not apply to a*
14 *person who:*

15 *(a) Teaches a course at any university or community college within*
16 *the University and Community College System of Nevada or any other*
17 *university or college that has the same or an equivalent accreditation; or*

18 *(b) Makes not more than two presentations in a calendar year in his*
19 *area of specialization for a course, seminar or conference approved by*
20 *the commission for credit to satisfy an educational requirement for the*
21 *issuance, renewal or reinstatement of a license as a real estate broker,*
22 *real estate broker-salesman or real estate salesman.*

23 **Sec. 6.** NRS 645.358 is hereby amended to read as follows:

24 645.358 1. A natural person who applies for the issuance or renewal
25 of a license as a real estate broker, broker-salesman or salesman ~~shall~~ *or a*
26 *certificate as an instructor must* submit to the division the statement
27 prescribed by the welfare division of the department of human resources
28 pursuant to NRS 425.520. The statement must be completed and signed by
29 the applicant.

30 2. The division shall include the statement required pursuant to
31 subsection 1 in:

32 (a) The application or any other forms that must be submitted for the
33 issuance or renewal of the license ~~+~~ *or certificate*; or

34 (b) A separate form prescribed by the division.

35 3. A license as a real estate broker, broker-salesman or salesman *or a*
36 *certificate as an instructor* may not be issued or renewed by the division if
37 the applicant is a natural person who:

38 (a) Fails to submit the statement required pursuant to subsection 1; or

39 (b) Indicates on the statement submitted pursuant to subsection 1 that he
40 is subject to a court order for the support of a child and is not in
41 compliance with the order or a plan approved by the district attorney or
42 other public agency enforcing the order for the repayment of the amount
43 owed pursuant to the order.

44 4. If an applicant indicates on the statement submitted pursuant to
45 subsection 1 that he is subject to a court order for the support of a child and
46 is not in compliance with the order or a plan approved by the district
47 attorney or other public agency enforcing the order for the repayment of
48 the amount owed pursuant to the order, the division shall advise the
49 applicant to contact the district attorney or other public agency enforcing



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1 the order to determine the actions that the applicant may take to satisfy the
2 arrearage.

3 **Sec. 7.** NRS 645.575 is hereby amended to read as follows:

4 645.575 1. The commission shall prescribe standards for the
5 continuing education of persons licensed pursuant to this chapter by
6 adopting regulations which include:

7 (a) For renewal of a license which is on active status, a requirement ~~for~~
8 ~~the hours of attendance at~~ *that a licensee attend* any approved educational
9 course, seminar or conference ~~of~~ *for*;

10 (1) Thirty hours within the 2-year period immediately after initial
11 licensing; and

12 (2) Fifteen hours within each subsequent 2-year period before
13 ~~renewal~~ *the license is renewed*.

14 For each period, at least 6 of the hours must be devoted to ethics,
15 professional conduct or the legal aspects of real estate.

16 (b) For reinstatement of a license which has been placed on inactive
17 status, a requirement ~~for total attendance at~~ *that a licensee attend* any
18 approved educational course, seminar or conference *for a total of*:

19 (1) Thirty hours if the license was on inactive status for 2 years or
20 less during the initial license period;

21 (2) Fifteen hours if the license was on inactive status for a period of 2
22 years or less, no part of which was during the initial license period;

23 (3) Forty-five hours if the license was on inactive status for a period
24 of more than 2 years, part of which was during the initial license period; or

25 (4) Thirty hours if the license was on inactive status for a period of
26 more than 2 years, no part of which was during the initial license
27 period.

28 For each period, at least 6 of the hours must be devoted to ethics,
29 professional conduct or the legal aspects of real estate.

30 (c) A basis and method of ~~qualifying~~ *approving* educational programs
31 and certifying attendance which ~~will satisfy~~ *satisfies* the requirements of
32 this section.

33 (d) A procedure for the evaluation of petitions *that are* based on a claim
34 of equivalency with the requirements of paragraph (a) or (b).

35 (e) A system of controlling and reporting qualifying attendance.

36 (f) A statement of the conditions for which an extension of time may be
37 granted to comply with the continuing education requirements ~~as well as~~
38 *and* a method of applying and qualifying for *such* an extension.

39 2. The standards prescribed in subsection 1 must ~~permit~~ *allow*
40 alternatives of subject material, taking cognizance of specialized areas of
41 practice and alternatives in sources of programs considering availability in
42 area and time. The standards must include, ~~where qualified, if approved,~~
43 generally accredited educational institutions, private vocational schools,
44 educational programs and seminars of professional societies and
45 organizations, other organized educational programs on technical subjects,
46 or equivalent offerings. The commission ~~shall qualify~~ *:*

47 (a) *Shall approve* only those educational courses that it determines
48 address the appropriate subject matter and *that* are ~~given by an accredited~~
49 ~~university or community college~~ *taught by an instructor to whom a*



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1 *certificate has been issued pursuant to section 3 of this act or who is*
2 *exempt from certification pursuant to subsection 4 of NRS 645.230.*

3 (b) Subject to the provisions of this section, the commission has
4 exclusive authority to determine what is an appropriate subject matter for
5 qualification as a continuing education course.

6 3. Except as otherwise provided in this subsection, the license of a *real*
7 *estate* broker, broker-salesman or salesman must not be renewed or
8 reinstated unless the administrator finds that the applicant for the renewal
9 license or for reinstatement to active status has completed the continuing
10 education required by this chapter. Any amendment or repeal of a
11 regulation does not ~~operate to~~ prevent an applicant from complying with
12 this section for the next licensing period following the amendment or
13 repeal.

14 **Sec. 8.** NRS 645.648 is hereby amended to read as follows:

15 645.648 1. If the division receives a copy of a court order issued
16 pursuant to NRS 425.540 that provides for the suspension of all
17 professional, occupational and recreational licenses, certificates and
18 permits issued to a person who is the holder of a license as a real estate
19 broker, broker-salesman or salesman ~~or~~ *or a certificate as an instructor*,
20 the division shall deem the license *or certificate* issued to that person to be
21 suspended at the end of the 30th day after the date on which the court order
22 was issued unless the division receives a letter issued to the holder of the
23 license *or certificate* by the district attorney or other public agency
24 pursuant to NRS 425.550 stating that the holder of the license *or certificate*
25 has complied with the subpoena or warrant or has satisfied the arrearage
26 pursuant to NRS 425.560.

27 2. The division shall reinstate a license as a real estate broker, broker-
28 salesman or salesman *or a certificate as an instructor* that has been
29 suspended by a district court pursuant to NRS 425.540 if the division
30 receives a letter issued by the district attorney or other public agency
31 pursuant to NRS 425.550 to the person whose license *or certificate* was
32 suspended stating that the person whose license *or certificate* was
33 suspended has complied with the subpoena or warrant or has satisfied the
34 arrearage pursuant to NRS 425.560.

35 **Sec. 9.** NRS 645.990 is hereby amended to read as follows:

36 645.990 1. A person who:

37 (a) Obtains or attempts to obtain a license *or certificate* pursuant to this
38 chapter by means of intentional misrepresentation, deceit or fraud; or

39 (b) Sells or attempts to sell in this state any interest in real property by
40 means of intentional misrepresentation, deceit or fraud,
41 is guilty of a category D felony and shall be punished as provided in NRS
42 193.130. In addition to any other penalty, the court shall order the person to
43 pay restitution.

44 2. Any licensee or owner-developer who commits an act described in
45 NRS 645.630, 645.633 or 645.635 shall be punished by a fine of not more
46 than \$5,000 for each offense.

47 3. *An instructor who commits an act described in paragraph (c) of*
48 *subsection 1 of NRS 645.230 is guilty of a misdemeanor.*



1 4. A person who violates any other provision of this chapter, if a
2 natural person, is guilty of a gross misdemeanor, and if a limited-liability
3 company, partnership, association or corporation, shall be punished by a
4 fine of not more than \$2,500.

5 ~~4-1~~ 5. Any officer or agent of a corporation, or member or agent of a
6 limited-liability company, partnership or association, who personally
7 participates in or is an accessory to any violation of this chapter by the
8 limited-liability company, partnership, association or corporation, is
9 subject to the penalties prescribed in this section for natural persons.

10 ~~5. Nothing in~~
11 6. *The provisions of this section ~~releases~~ do not release* a person
12 from civil liability or criminal prosecution pursuant to the general laws of
13 this state.

14 ~~6-1~~ 7. The administrator may prefer a complaint for violation of NRS
15 645.230 before any court of competent jurisdiction and ~~may~~ take the
16 necessary legal steps through the proper legal officers of this state to
17 enforce the provisions thereof.

18 ~~7-1~~ 8. Any court of competent jurisdiction may try any violation of
19 this chapter, and upon conviction the court may revoke or suspend the
20 license of the person so convicted, in addition to imposing the other
21 penalties provided in this section.

22 ~~8-1~~ 9. If discipline is imposed pursuant to this section, the costs of the
23 proceeding, including investigative costs and attorney's fees, may be
24 recovered by the administrator.

25 Sec. 10. NRS 394.450 is hereby amended to read as follows:
26 394.450 ~~A~~

27 1. *Except as otherwise provided in subsection 2, a* postsecondary
28 educational institution shall ensure that:

29 ~~1-1~~ (a) The quality and content of each vocational or academic course
30 or program of instruction, training or study reasonably and adequately
31 achieve the stated objective for which the course or program is offered.

32 ~~2-1~~ (b) The institution has adequate space, equipment, instructional
33 materials and personnel to provide education of good quality.

34 ~~3-1~~ (c) The education and experience of directors, administrators,
35 supervisors and instructors reasonably provide the students with an
36 education consistent with the objectives of the course or program of study.

37 ~~4-1~~ (d) The institution is maintained and operated in compliance with
38 all pertinent local ordinances and state laws, including regulations adopted
39 pursuant thereto, relative to the safety and health of all persons upon the
40 premises.

41 ~~5-1~~ (e) The housing, if any, owned, maintained or approved by the
42 institution for its students is appropriate, safe and adequate.

43 2. *The provisions of this section do not apply to an instructor of:*
44 (a) *A course described in subsection 1 of NRS 645.343; or*
45 (b) *A college level course as defined in subsection 6 of NRS 645.343.*

46 Sec. 11. NRS 394.465 is hereby amended to read as follows:
47 394.465 1. Except as otherwise provided in subsection 4, before a
48 postsecondary educational institution employs or contracts with a person:
49 (a) To occupy an instructional position;



1 (b) To occupy an administrative or financial position, including a
2 position as school director, personnel officer, counselor, admission
3 representative, solicitor, canvasser, surveyor, financial aid officer or any
4 similar position; or

5 (c) To act as an agent for the institution,
6 the applicant must submit to the administrator completed fingerprint cards
7 and a form authorizing an investigation of the applicant's background and
8 the submission of his fingerprints to the central repository for Nevada
9 records of criminal history and the Federal Bureau of Investigation. The
10 fingerprint cards and authorization form submitted must be those which are
11 provided to the applicant by the administrator. The applicant's fingerprints
12 must be taken by an agency of law enforcement.

13 2. The administrator shall keep the results of the investigation
14 confidential, except that if the investigation discloses that the applicant has
15 been convicted of any felony, the administrator shall notify the applicant
16 and the hiring institution of the conviction and the nature of the offense.

17 3. The applicant shall pay the cost of the investigation.

18 4. An applicant is not required to satisfy the requirements of
19 subsection 1 if he:

20 (a) Is licensed by the superintendent of public instruction;

21 (b) Is an employee of the United States Department of Defense;

22 (c) Is a member of the faculty of an accredited postsecondary
23 educational institution in another state who is domiciled in a state other
24 than Nevada and is present in Nevada for a temporary period to teach at a
25 branch of that accredited institution; ~~for~~

26 (d) Has satisfied the requirements of subsection 1 within the
27 immediately preceding 5 years ~~for~~; or

28 *(e) Has applied for a position as an instructor of:*

29 *(1) A course described in subsection 1 of NRS 645.343; or*

30 *(2) A college level course as defined in subsection 6 of NRS*
31 *645.343.*

32 **Sec. 12.** Section 3 of this act is hereby amended to read as follows:

33 Sec. 3. 1. An applicant for a certificate as an instructor must:

34 (a) Submit to the division:

35 (1) A complete set of fingerprints and written permission
36 authorizing the administrator to forward those fingerprints to the
37 central repository for Nevada records of criminal history for
38 submission to the Federal Bureau of Investigation for its report;

39 (2) A fee in an amount that is not more than the amount charged
40 by the Federal Bureau of Investigation for processing the fingerprints
41 of the applicant; *and*

42 (3) An application on a form prescribed by the commission; and

43 ~~[(4) The statement required pursuant to NRS 645.358; and]~~

44 (b) Comply with any other requirements established by the
45 commission for the issuance of a certificate.

46 2. The commission shall adopt regulations that establish
47 additional requirements for the issuance or renewal of a certificate by
48 the division. The regulations:



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- 1 (a) Must establish the qualifications of an applicant for a
2 certificate, including the education and experience required to obtain a
3 certificate;
- 4 (b) Must prescribe the form and contents of the application for a
5 certificate;
- 6 (c) May require an applicant to pass an examination to obtain a
7 certificate;
- 8 (d) Must establish standards of practice for an instructor;
- 9 (e) May require the holder of a certificate to pay all or part of the
10 cost of a disciplinary proceeding, including, without limitation,
11 investigative costs and attorney's fees;
- 12 (f) Must prescribe the fees that the division is required to collect
13 pursuant to this section; and
- 14 (g) Must establish the grounds for initiating disciplinary action
15 against the holder of a certificate, including, without limitation, the
16 grounds for:
 - 17 (1) Placing conditions, limitations or restrictions on a certificate;
 - 18 (2) The suspension or revocation of a certificate; and
 - 19 (3) Requiring the holder of a certificate to pay an administrative
20 fine.
- 21 3. The division may:
 - 22 (a) Investigate the holder of a certificate to ensure his compliance
23 with the standards of practice adopted pursuant to subsection 2; and
 - 24 (b) Collect a fee for the issuance or renewal of a certificate in an
25 amount that is not more than the administrative costs of issuing or
26 renewing the certificate.
- 27 **Sec. 13.** Notwithstanding the provisions of NRS 645.230, as amended
28 by this act, and sections 2, 3 and 4 of this act, a person who teaches:
 - 29 1. A course described in subsection 1 of NRS 645.343;
 - 30 2. A college level course as defined in subsection 6 of NRS 645.343;
 - 31 or
 - 32 3. A course for the continuing education of a real estate broker, real
33 estate broker-salesman or real estate salesman that has been approved by
34 the commission,
 - 35 is not required to obtain a certificate as an instructor pursuant to the
36 provisions of this act before July 1, 2002.
- 37 **Sec. 14.** The amendatory provisions of this act do not apply to
38 offenses committed before July 1, 2001.
- 39 **Sec. 15.** 1. This section and sections 2, 3 and 4 of this act become
40 effective upon passage and approval for the purpose of the adoption of
41 regulations by the real estate commission that are necessary to carry out the
42 provisions of this act, and on July 1, 2001, for all other purposes.
- 43 2. Sections 5 to 11, inclusive, and 13 and 14 of this act become
44 effective on July 1, 2001.
- 45 3. Section 12 of this act becomes effective on the date on which the
46 provisions of 42 U.S.C. § 666 requiring each state to establish procedures
47 under which the state has authority to withhold or suspend, or to restrict the
48 use of professional, occupational and recreational licenses of persons who:



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1 (a) Have failed to comply with a subpoena or warrant relating to a
2 procedure to determine the paternity of a child or to establish or enforce an
3 obligation for the support of a child; or

4 (b) Are in arrears in the payment for the support of one or more
5 children,
6 are repealed by the Congress of the United States.

7 4. Section 4 of this act expires by limitation on the date on which the
8 provisions of 42 U.S.C. § 666 requiring each state to establish procedures
9 under which the state has authority to withhold or suspend, or to restrict the
10 use of professional, occupational and recreational licenses of persons who:

11 (a) Have failed to comply with a subpoena or warrant relating to a
12 procedure to determine the paternity of a child or to establish or enforce an
13 obligation for the support of a child; or

14 (b) Are in arrears in the payment for the support of one or more
15 children,
16 are repealed by the Congress of the United States.

