

Senate Bill No. 418—Senator Schneider

CHAPTER.....

AN ACT relating to real property; clarifying the duties owed by a real estate salesman, broker-salesman and broker; establishing renewal requirements for the licensure of such real estate licensees; revising the schedule of fees paid to the real estate division of the department of business and industry; 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.** 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.

*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. 2.** NRS 645.257 is hereby amended to read as follows:

645.257 1. A person who has suffered damages as the proximate result of a licensee's failure to perform any duties required by NRS 645.252, 645.253 or 645.254 or the regulations adopted to carry out those sections may bring an action against the licensee for the recovery of his actual damages.

2. In such an action, any knowledge of the client of the licensee of material facts, data or information relating to the real property which is the subject of the real estate transaction may not be imputed to the licensee.

*3. In an action brought by a person against a licensee pursuant to subsection 1, the standard of care owed by a licensee is the degree of care that a reasonably prudent real estate licensee would exercise and is measured by the degree of knowledge required to be obtained by a real estate licensee pursuant to NRS 645.343 and 645.345.*

**Sec. 3.** NRS 645.259 is hereby amended to read as follows:

645.259 A licensee may not be held liable for ~~1a~~:

1. A misrepresentation made by his client unless the licensee:

~~1a~~ (a) Knew his client made the misrepresentation; and

~~1b~~ (b) Failed to inform the person to whom the client made the misrepresentation that the statement was false.

*2. Except as otherwise provided in this subsection, the failure of the seller to make the disclosures required by NRS 113.130 and 113.135 if the information that would have been disclosed pursuant to NRS 113.130 and 113.135 is a public record which is readily available to the client. Notwithstanding the provisions of this subsection, a licensee is not relieved of the duties imposed by paragraph (a) of subsection 1 of NRS 645.252.*

**Sec. 4.** NRS 645.490 is hereby amended to read as follows:

645.490 1. Upon satisfactorily passing the written examination and upon complying with all other provisions of law and conditions of this chapter, a license shall thereupon be granted by the division to the successful applicant therefor as a real estate broker, broker-salesman or salesman, and the applicant upon receiving the license may conduct the business of a real estate broker, broker-salesman or salesman in this state.

2. The division shall issue licenses as real estate broker, broker-salesman or salesman to all applicants who qualify and comply with all provisions of law and all requirements of this chapter.

*3. A real estate broker, broker-salesman or salesman shall renew his license with the division within 1 year immediately after initial licensing and thereafter shall renew his license every 2 years.*

**Sec. 5.** NRS 645.575 is hereby amended to read as follows:

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

(a) For renewal of a license which is on active status, a requirement for the hours of attendance at any approved educational course, seminar or conference of:

(1) Thirty hours within the ~~2-year-period~~ *first year* immediately after initial licensing; and

(2) Fifteen hours within each subsequent 2-year period before renewal.

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

(b) For reinstatement of a license which has been placed on inactive status, a requirement for total attendance at any approved educational course, seminar or conference of:

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

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

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

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

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

(c) A basis and method of qualifying educational programs and certifying attendance which will satisfy the requirements of this section.

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

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

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

2. The standards prescribed in subsection 1 must permit alternatives of subject material, taking cognizance of specialized areas of practice and alternatives in sources of programs considering availability in area and time. The standards must include, where qualified, generally accredited educational institutions, private vocational schools, educational programs and seminars of professional societies and organizations, other organized educational programs on technical subjects, or equivalent offerings. The commission shall qualify only those educational courses that it determines address the appropriate subject matter and are given by an accredited university or community college. Subject to the provisions of this section, the commission has exclusive authority to determine what is an appropriate subject matter for qualification as a continuing education course.

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

**Sec. 6.** NRS 645.635 is hereby amended to read as follows:

645.635 The commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of:

1. Offering real estate for sale or lease without the knowledge and consent of the owner or his authorized agent or on terms other than those authorized by the owner or his authorized agent.

2. Negotiating a sale, exchange or lease of real estate directly with ~~an owner or lessor~~ *a client* if he knows that the ~~owner~~ *client* has a brokerage agreement in force in connection with the property granting an exclusive agency or an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker.

3. Failure to deliver within a reasonable time a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser or to the seller.

4. Failure to deliver to the seller in each real estate transaction, within 10 business days after the transaction is closed, a complete, detailed closing statement showing all of the receipts and disbursements handled by him for the seller, failure to deliver to the buyer a complete statement showing all money received in the transaction from the buyer and how and for what it was disbursed, or failure to retain true copies of those statements in his files. The furnishing of those statements by an escrow holder relieves the broker's, broker-salesman's or salesman's responsibility and must be deemed to be compliance with this provision.

5. Representing to any lender, guaranteeing agency or any other interested party, verbally or through the preparation of false documents, an amount in excess of the actual sale price of the real estate or terms differing from those actually agreed upon.

6. Failure to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the division.

7. Failure to reduce a bona fide offer to writing where a proposed purchaser requests that it be submitted in writing.

8. Failure to submit all written bona fide offers to a seller when the offers are received before the seller accepts an offer in writing and until the broker has knowledge of that acceptance.

9. Refusing because of race, color, national origin, sex or ethnic group to show, sell or rent any real estate for sale or rent to qualified purchasers or renters.

10. Knowingly submitting any false or fraudulent appraisal to any financial institution or other interested person.

**Sec. 7.** NRS 645.830 is hereby amended to read as follows:

645.830 1. The following fees must be charged by and paid to the division:

For each original real estate broker's, broker-salesman's or corporate broker's license .....	<del>170</del> <b>\$85</b>
For each original real estate salesman's license .....	<del>130</del> <b>65</b>
For each original branch office license .....	100
<i>For real estate education, research and recovery to be paid at the time an original application for a license is filed .....</i>	<i><b>20</b></i>

For real estate education, research and recovery to be paid at the time an application for a license <del>is filed or at the time a license</del> is renewed .....	40
For each renewal of a real estate broker's, broker-salesman's or corporate broker's license .....	170
For each renewal of a real estate salesman's license .....	130
For each renewal of a real estate branch office license .....	100
For each penalty for late filing of a renewal for a broker's, broker-salesman's or corporate broker's license .....	85
For each penalty for late filing of a renewal for a salesman's license .....	65
For each change of name or address .....	10
For each transfer of a real estate salesman's or broker-salesman's license and change of association or employment .....	10
For each duplicate license where the original license is lost or destroyed, and an affidavit is made thereof .....	10
For each change of status from broker to broker-salesman, or the reverse .....	10
For each reinstatement to active status of an inactive real estate broker's, broker-salesman's or salesman's license .....	10
For each reinstatement of a real estate broker's license when the licensee fails to give immediate written notice to the division of a change of name or business location .....	20
For each reinstatement of a real estate salesman's or broker-salesman's license when he fails to notify the division of a change of broker within 30 days of termination by previous broker .....	20
For each original registration of an owner-developer .....	100
For each annual renewal of a registration of an owner-developer .....	100
For each enlargement of the area of an owner-developer's registration .....	15
For each cooperative certificate issued to an out-of-state broker licensee for 1 year or fraction thereof .....	40
For each original accreditation of a course of continuing education .....	50
For each renewal of accreditation of a course of continuing education .....	10

2. The fees prescribed for courses of continuing education do not apply to any university or community college of the University and Community College System of Nevada.

**Sec. 8.** NRS 113.140 is hereby amended to read as follows:

113.140 1. NRS 113.130 does not require a seller to disclose a defect in residential property of which he is not aware.

2. A completed disclosure form does not constitute an express or implied warranty regarding any condition of residential property.

*3. Neither this chapter nor chapter 645 of NRS relieves a buyer or prospective buyer of the duty to exercise reasonable care to protect himself.*

**Sec. 9.** 1. This section and sections 1, 2, 3, 6 and 8 of this act become effective on October 1, 2001.

2. Sections 4, 5 and 7 of this act become effective on July 1, 2002.