

SENATE BILL NO. 418—SENATOR SCHNEIDER

MARCH 19, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to provisions governing sale of real property.
(BDR 54-159)

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 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; limiting the time for bringing certain civil actions; 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.** NRS 645.252 is hereby amended to read as follows:
2 645.252 A licensee who acts as an agent in a real estate transaction:
3 1. Shall disclose to each party to the real estate transaction as soon as
4 is practicable:
5 (a) Any material and relevant facts, data or information which he
6 knows, or which by the exercise of reasonable care and diligence he should
7 have known, relating to the property which is the subject of the transaction.
8 (b) Each source from which he will receive compensation as a result of
9 the transaction.
10 (c) That he is a principal to the transaction or has an interest in a
11 principal to the transaction.
12 (d) Except as otherwise provided in NRS 645.253, that he is acting for
13 more than one party to the transaction. If a licensee makes such a
14 disclosure, he must obtain the written consent of each party to the
15 transaction for whom he is acting before he may continue to act in his
16 capacity as an agent. The written consent must include:
17 (1) A description of the real estate transaction.
18 (2) A statement that the licensee is acting for two or more parties to
19 the transaction who have adverse interests and that in acting for these
20 parties, the licensee has a conflict of interest.
21 (3) A statement that the licensee will not disclose any confidential
22 information for 1 year after the revocation or termination of any brokerage



1 agreement entered into with a party to the transaction, unless he is required
2 to do so by a court of competent jurisdiction or he is given written
3 permission to do so by that party.

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

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

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

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

11 3. Shall provide to each party to the real estate transaction the
12 appropriate form prepared by the division pursuant to NRS 645.193.

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

14 (a) *Independently verify the accuracy of a statement made by a source*
15 *reasonably believed by the licensee to be reliable.*

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

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

19 645.257 1. ~~1A~~ *Except as otherwise provided in subsection 4, a*
20 *person who has suffered damages as the proximate result of a licensee's*
21 *failure to perform any duties required by NRS 645.252, 645.253 or*
22 *645.254 or the regulations adopted to carry out those sections may bring an*
23 *action against the licensee for the recovery of his actual damages.*

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

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

32 4. *An action brought to enforce the provisions of this section must be*
33 *commenced not later than 1 year after the date of recordation, the date of*
34 *the close of escrow or the date of occupancy, whichever occurs first.*

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

36 645.259 A licensee may not be held liable for ~~1A~~:

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

38 ~~1A~~ (a) Knew his client made the misrepresentation; and

39 ~~1B~~ (b) Failed to inform the person to whom the client made the
40 misrepresentation that the statement was false.

41 2. *The failure of the seller to make the disclosures required by NRS*
42 *113.130 and 113.135 if:*

43 (a) *The client engaged the services of an inspector certified pursuant*
44 *to chapter 645D of NRS or another appropriate licensed or certified*
45 *expert; or*

46 (b) *The information that would have been disclosed pursuant to NRS*
47 *113.130 and 113.135 is a public record which is readily available to the*
48 *client.*



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

2 645.490 1. Upon satisfactorily passing the written examination and
3 upon complying with all other provisions of law and conditions of this
4 chapter, a license shall thereupon be granted by the division to the
5 successful applicant therefor as a real estate broker, broker-salesman or
6 salesman, and the applicant upon receiving the license may conduct the
7 business of a real estate broker, broker-salesman or salesman in this state.

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

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

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

15 645.575 1. The commission shall prescribe standards for the
16 continuing education of persons licensed pursuant to this chapter by
17 adopting regulations which include:

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

21 (1) Thirty hours within the ~~12-year-period~~ *first year* immediately
22 after initial licensing; and

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

21 645.635 The commission may take action pursuant to NRS 645.630
22 against any person subject to that section who is guilty of:

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

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

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

34 4. Failure to deliver to the seller in each real estate transaction, within
35 10 business days after the transaction is closed, a complete, detailed
36 closing statement showing all of the receipts and disbursements handled by
37 him for the seller, failure to deliver to the buyer a complete statement
38 showing all money received in the transaction from the buyer and how and
39 for what it was disbursed, or failure to retain true copies of those
40 statements in his files. The furnishing of those statements by an escrow
41 holder relieves the broker's, broker-salesman's or salesman's responsibility
42 and must be deemed to be compliance with this provision.

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

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



- 1 7. Failure to reduce a bona fide offer to writing where a proposed
2 purchaser requests that it be submitted in writing.
3 8. Failure to submit all written bona fide offers to a seller when the
4 offers are received before the seller accepts an offer in writing and until the
5 broker has knowledge of that acceptance.
6 9. Refusing because of race, color, national origin, sex or ethnic group
7 to show, sell or rent any real estate for sale or rent to qualified purchasers
8 or renters.
9 10. Knowingly submitting any false or fraudulent appraisal to any
10 financial institution or other interested person.
11 **Sec. 7.** NRS 113.140 is hereby amended to read as follows:
12 113.140 1. NRS 113.130 does not require a seller to disclose a defect
13 in residential property of which he is not aware.
14 2. A completed disclosure form does not constitute an express or
15 implied warranty regarding any condition of residential property.
16 3. *Neither this chapter nor chapter 645 of NRS relieves a buyer or*
17 *prospective buyer of the duty to exercise reasonable care to protect*
18 *himself, including, without limitation, those facts which are known to or*
19 *are within the diligent attention and observation of the buyer or*
20 *prospective buyer.*
21 **Sec. 8.** 1. This section and sections 1, 2, 3, 5, 6 and 7 of this act
22 become effective on October 1, 2001.
23 2. Section 4 of this act becomes effective on July 1, 2002.

