

ASSEMBLY BILL NO. 114—ASSEMBLYMEN MARVEL, SIBLEY,
ALLEN, CARPENTER, GRADY, HETTRICK AND SEALE (BY REQUEST)

FEBRUARY 22, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing manufactured homes,
mobile homes and Real Estate Education, Research
and Recovery Fund. (BDR 43-1162)

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 property; revising the provisions governing
dealers of manufactured homes, mobile homes and
commercial coaches; authorizing a licensed real estate
broker and his licensed salesman under certain
circumstances to sell used manufactured homes and used
mobile homes without being licensed as a dealer; revising
the provisions governing transactions involving used
manufactured homes or used mobile homes; revising the
provisions governing the Real Estate Education, Research
and Recovery Fund; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from engaging in the business of selling
manufactured homes, mobile homes or commercial coaches without applying for
and obtaining a license from the Manufactured Housing Division of the Department
of Business and Industry. (NRS 489.076, 489.311) Existing law, however, provides
an exception to this requirement that allows a licensed real estate broker to obtain a
limited dealer's license to sell a used manufactured or used mobile home when the
sale is in connection with the sale of real property and the home is located on the
property. The Manufactured Housing Division is required to adopt regulations for
the issuance of such a limited dealer's license. (NRS 489.331)

This bill removes the requirement that the Manufactured Housing Division
adopt regulations for the issuance of limited dealers' licenses and exempts licensed
real estate brokers and their licensed salesmen from regulation as a dealer and from
any additional licensing requirements for such sales of a used manufactured or used



mobile home. This bill requires a real estate licensee to make certain disclosures to a purchaser of a used manufactured or used mobile home.

Existing law creates the Real Estate Education, Research and Recovery Fund as a special revenue fund to be used to satisfy claims against real estate licensees. (NRS 645.842) A balance of not less than \$50,000 must be maintained in the Fund and any balance over \$50,000 remaining in the Fund at the end of a fiscal year must be used by the Real Estate Administrator for real estate education and research. If a person obtains a final judgment against a real estate licensee that is not paid, the person may recover up to \$10,000 from the Fund, but the maximum liability of the Fund with respect to any real estate licensee is \$20,000. (NRS 645.844)

This bill increases the minimum balance that must be maintained in the Fund to \$300,000 and provides that only balances over \$300,000 remaining in the Fund at the end of a fiscal year may be used for real estate education and research. This bill also increases the amount that a person may recover from the Fund to \$25,000 per judgment and increases the maximum liability of the Fund with respect to any real estate licensee to \$100,000.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 489.076 is hereby amended to read as follows:

489.076 1. "Dealer" means any person who:

(a) For compensation, money or any other thing of value, sells, exchanges, buys or offers for sale, negotiates or attempts to negotiate a sale or exchange of an interest in a manufactured home, mobile home or commercial coach subject to the requirements of this chapter, or induces or attempts to induce any person to buy or exchange an interest in a manufactured home, mobile home or commercial coach;

(b) For compensation, money or any other thing of value, leases or rents, offers for lease or rental, negotiates or attempts to negotiate the lease or rental of an interest in a manufactured home, mobile home or commercial coach subject to the requirements of this chapter, or induces or attempts to induce any person to lease or rent an interest in a manufactured home, mobile home or commercial coach;

(c) Receives or expects to receive a commission, money, brokerage fees, profit or any other thing of value from either the seller or purchaser of any manufactured home, mobile home or commercial coach;

(d) Is engaged wholly or in part in the business of:

(1) Selling, renting or leasing manufactured homes, mobile homes or commercial coaches;

(2) Buying or taking manufactured homes, mobile homes or commercial coaches in trade for the purpose of resale, selling, or offering them for sale or consignment to be sold;



(3) Buying or taking manufactured homes, mobile homes or commercial coaches in trade to rent, lease or offer them for rent or lease; or

(4) Otherwise dealing in manufactured homes, mobile homes or commercial coaches; or

(e) Acts as a reposessor or liquidator concerning manufactured homes, mobile homes or commercial coaches,

↳ whether or not they are owned by such persons.

2. The term does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the order of any court;

(b) Public officers while performing their official duties;

(c) Banks, savings and loan associations, credit unions, thrift companies or other financial institutions proceeding as repossessors or liquidators of their own security;

(d) A person who rents or leases his manufactured home, mobile home or commercial coach; ~~for~~

(e) An owner selling his private residence ~~for~~; or

(f) A real estate broker, real estate broker-salesman or real estate salesman who is licensed pursuant to chapter 645 of NRS and who, for another and for compensation or with the intention or expectation of receiving compensation, 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, used manufactured homes or used mobile homes in connection with the sale of a fee simple interest in real property and the used manufactured home or used mobile home is situated on the real property sold.

Sec. 2. NRS 489.331 is hereby amended to read as follows:

~~489.331 1. The Division shall adopt regulations for the issuance of limited dealer's licenses authorizing licensed real estate brokers to sell used manufactured homes and used mobile homes when the sale is in connection with the sale of a fee simple interest in real property and the used manufactured home or used mobile home is situated on the real property sold. The regulations must not be more strict than the regulations in effect which pertain to licenses for other dealers. An applicant for a limited dealer's license is not required to have sufficient space to display used manufactured homes or used mobile homes at his established place of business.~~

~~2. If a~~ A licensed real estate broker ~~holds a limited dealer's license, he~~ and his licensed salesmen may *, without applying for or obtaining any license issued pursuant to the provisions of this chapter,* sell used manufactured homes and used mobile homes



1 when the sale is in connection with the sale of a fee simple interest
2 in real property and the used manufactured home or used mobile
3 home is situated on the real property sold.

4 **Sec. 3.** NRS 489.7152 is hereby amended to read as follows:

5 489.7152 The Administrator shall prescribe, by regulation, the
6 form of the contract that must be used *by a dealer* for the sale of a
7 manufactured home, mobile home or commercial coach.

8 **Sec. 4.** Chapter 645 of NRS is hereby amended by adding
9 thereto the provisions set forth as sections 5 and 6 of this act.

10 **Sec. 5.** *“Used manufactured home” or “used mobile home”*
11 *means a manufactured home or mobile home, respectively, which*
12 *has been:*

13 1. *Sold, rented or leased, and which was occupied before or*
14 *after the sale, rental or lease; or*

15 2. *Registered with or been the subject of a certificate of title*
16 *issued by the appropriate agency of authority of this State, any*
17 *other state, the District of Columbia, any territory or possession of*
18 *the United States, or any foreign state, province or country.*

19 **Sec. 6.** 1. *In any transaction involving a used*
20 *manufactured home or used mobile home that has not been*
21 *converted to real property pursuant to NRS 361.244, a licensee*
22 *shall provide to the purchaser, on a form prepared by the Real*
23 *Estate Division, the following disclosures:*

24 (a) *The year, serial number and manufacturer of the used*
25 *manufactured home or used mobile home;*

26 (b) *A statement that the used manufactured home or used*
27 *mobile home is personal property subject to personal property*
28 *taxes;*

29 (c) *A statement of the requirements of NRS 489.521 and*
30 *489.531; and*

31 (d) *Such other disclosures as may be required by the Real*
32 *Estate Division.*

33 2. *The disclosures required pursuant to subsection 1 do not*
34 *constitute a warranty as to the title or condition of the used*
35 *manufactured home or used mobile home.*

36 3. *A real estate broker who represents a client in such a*
37 *transaction shall take such actions as necessary to ensure that the*
38 *client complies with the requirements of NRS 489.521 and*
39 *489.531.*

40 **Sec. 7.** NRS 645.0005 is hereby amended to read as follows:

41 645.0005 As used in this chapter, unless the context otherwise
42 requires, the words and terms defined in NRS 645.001 to 645.040,
43 inclusive, *and section 5 of this act* have the meanings ascribed to
44 them in those sections.



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 , *used manufactured homes, used mobile 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.

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 645.842 is hereby amended to read as follows:

645.842 1. The Real Estate Education, Research and Recovery Fund is hereby created as a special revenue fund.

2. A balance of not less than ~~[\$50,000]~~ *\$300,000* must be maintained in the Fund, to be used for satisfying claims against persons licensed under this chapter, as provided in NRS 645.841 to 645.8494, inclusive. Any balance over ~~[\$50,000]~~ *\$300,000 remaining in the Fund* at the end of any fiscal year must be set aside and used by the Administrator, after approval of the Commission, for real estate education and research.

3. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.

Sec. 10. NRS 645.844 is hereby amended to read as follows:

645.844 1. Except as otherwise provided in subsection 2, when any person obtains a final judgment in any court of competent jurisdiction against any licensee or licensees pursuant to this



chapter, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required pursuant to this chapter, that person, upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered for an order directing payment out of the Fund in the amount of the unpaid actual damages included in the judgment, but not more than ~~[\$10,000]~~ \$25,000 per judgment. The liability of the Fund does not exceed ~~[\$20,000]~~ \$100,000 for any person licensed pursuant to this chapter, whether he is licensed as a limited-liability company, partnership, association or corporation or as a natural person, or both. The petition must state the grounds which entitle the person to recover from the Fund.

2. A person who is licensed pursuant to this chapter may not recover from the Fund for damages which are related to a transaction in which he acted in his capacity as a licensee.

3. A copy of the:

(a) Petition;

(b) Judgment;

(c) Complaint upon which the judgment was entered; and

(d) Writ of execution which was returned unsatisfied,

→ must be served upon the Administrator and the judgment debtor and affidavits of service must be filed with the court.

4. Upon the hearing on the petition, the petitioner must show that:

(a) He is not the spouse of the debtor, or the personal representative of that spouse.

(b) He has complied with all the requirements of NRS 645.841 to 645.8494, inclusive.

(c) He has obtained a judgment of the kind described in subsection 1, stating the amount thereof, the amount owing thereon at the date of the petition, and that the action in which the judgment was obtained was based on fraud, misrepresentation or deceit of the licensee in a transaction for which a license is required pursuant to this chapter.

(d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of assets was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.

(e) He has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the



1 judgment, and after reasonable efforts that no property or assets
2 could be found or levied upon in satisfaction of the judgment.

3 (f) He has made reasonable efforts to recover damages from
4 each and every judgment debtor.

5 (g) The petition has been filed no more than 1 year after the
6 termination of all proceedings, including reviews and appeals, in
7 connection with the judgment.

8 5. The provisions of this section do not apply to
9 owner-developers.



