SENATE BILL NO. 319–SENATOR NOLAN

MARCH 24, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing certain disclosures required to be made by real estate brokers, real estate broker-salesmen and real estate salesmen. (BDR 54-95)

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 estate; requiring a real estate broker, real estate broker-salesman or real estate salesman who acts as an agent in a real estate transaction to disclose to each party to the real estate transaction certain information of which the real estate broker, real estate broker-salesman or real estate salesman has actual knowledge; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a real estate broker, real estate broker-salesman or real estate salesman acting as an agent in a real estate transaction to disclose material or relevant facts, data or information to each party to a real estate transaction. The required disclosure includes facts, data or information relating to the property of which the broker, broker-salesman or salesman knows or should have known through the exercise of reasonable care and diligence. (NRS 645.252)

This bill changes the required disclosure so that the real estate broker, real estate broker-salesman or real estate salesman is required to disclose only material or relevant facts, data or information relating to the property of which such person has actual knowledge.

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 ***of*** which he ~~[knows, or which by the exercise of reasonable care and diligence he should have known,]~~ ***has actual knowledge*** 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]~~ ***those*** 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 645.259 is hereby amended to read as follows:

645.259 A licensee may not be held liable for:

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

(a) Knew his client made the misrepresentation; and

(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]~~ ***duty*** imposed by paragraph (a) of subsection 1 of NRS 645.252.