

SENATE BILL NO. 69—SENATOR SCHNEIDER

FEBRUARY 6, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions related to real estate brokers, salesmen and qualified intermediaries. (BDR 54-457)

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; defining the term “agency representation” in the context of real estate brokers, salesmen and qualified intermediaries; allowing a client to waive certain required duties of a real estate licensee which relate to offers made to or by the client; allowing for the negotiation of certain secondary issues with the client of another broker under certain permissible circumstances; clarifying that such negotiation does not create agency representation with the client of the other broker; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law defines certain terms used in chapter 645 of NRS which relate to real estate brokers, salesmen and qualified intermediaries. (NRS 645.0005-645.044) **Sections 1 and 2** of this bill define the term “agency representation” for that chapter.

Existing law creates certain requirements for a licensee who has entered into a brokerage agreement to provide representation in a real estate transaction. (NRS 645.254) One of those requirements is to present all offers made to and by the client as soon as is practicable. (NRS 645.254) **Section 3** of this bill allows a client to waive that requirement by signing a form provided by the Real Estate Division of the Department of Business and Industry.

Existing law allows a person to negotiate a sale, exchange or lease of real estate with the exclusive client of another broker only if permission has been obtained from that other broker. (NRS 645.635) **Section 4** of this bill allows for the negotiation of secondary issues which may follow from the sale, exchange or lease



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15 of real estate in such circumstances. **Section 4** also clarifies that such negotiations
16 do not create agency representation between the person and the client of the other
17 broker.

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
2 thereto a new section to read as follows:

3 *“Agency representation” means a fiduciary relationship*
4 *between a principal and an agent arising out of a brokerage*
5 *agreement whereby the agent is engaged to do certain acts on*
6 *behalf of the principal in dealings with a third party.*

7 **Sec. 2.** NRS 645.0005 is hereby amended to read as follows:

8 645.0005 As used in this chapter, unless the context otherwise
9 requires, the words and terms defined in NRS 645.001 to 645.042,
10 inclusive, *and section 1 of this act* have the meanings ascribed to
11 them in those sections.

12 **Sec. 3.** NRS 645.254 is hereby amended to read as follows:

13 645.254 A licensee who has entered into a brokerage
14 agreement to represent a client in a real estate transaction:

15 1. Shall exercise reasonable skill and care to carry out the
16 terms of the brokerage agreement and to carry out his duties
17 pursuant to the terms of the brokerage agreement;

18 2. Shall not disclose confidential information relating to a
19 client for 1 year after the revocation or termination of the brokerage
20 agreement, unless he is required to do so pursuant to an order of a
21 court of competent jurisdiction or he is given written permission to
22 do so by the client; and

23 3. Shall promote the interests of his client by:

24 (a) Seeking a sale, lease or property at the price and terms stated
25 in the brokerage agreement or at a price acceptable to the client.

26 (b) Presenting all offers made to or by the client as soon as is
27 practicable **H**, *unless the client signs a form which is provided by*
28 *the Division and which waives the duty of the licensee to present*
29 *such offers.*

30 (c) Disclosing to the client material facts of which the licensee
31 has knowledge concerning the transaction.

32 (d) Advising the client to obtain advice from an expert relating
33 to matters which are beyond the expertise of the licensee.

34 (e) Accounting for all money and property he receives in which
35 the client may have an interest as soon as is practicable.

36 **Sec. 4.** NRS 645.635 is hereby amended to read as follows:

37 645.635 The Commission may take action pursuant to NRS
38 645.630 against any person subject to that section who is guilty of:



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

4 2. Negotiating a sale, exchange or lease of real estate , *or any*
5 *secondary issues which may follow from a sale, exchange or lease*
6 *of real estate*, directly with a client if he knows that the client has a
7 brokerage agreement in force in connection with the property
8 granting an exclusive agency ~~for~~ *representation, including,*
9 *without limitation*, an exclusive right to sell to another broker,
10 unless permission in writing has been obtained from the other
11 broker. *Negotiation with such permission does not create agency*
12 *representation between the person and the client of the other*
13 *broker.*

14 3. Failure to deliver within a reasonable time a completed copy
15 of any purchase agreement or offer to buy or sell real estate to the
16 purchaser or to the seller ~~H~~ , *except as may be otherwise provided*
17 *by NRS 645.254.*

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

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

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

35 7. Failure to reduce a bona fide offer to writing where a
36 proposed purchaser requests that it be submitted in writing ~~H~~ ,
37 *except as may be otherwise provided by NRS 645.254.*

38 8. Failure to submit all written bona fide offers to a seller when
39 the offers are received before the seller accepts an offer in writing
40 and until the broker has knowledge of that acceptance ~~H~~ , *except as*
41 *may be otherwise provided by NRS 645.254.*

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



- 1 10. Knowingly submitting any false or fraudulent appraisal to
- 2 any financial institution or other interested person.
- 3 **Sec. 5.** This act becomes effective on July 1, 2007.

