

Amendment No. 4

Senate Amendment to Senate Bill No. 69 (BDR 54-457)

Proposed by: Senate Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

WLK



Date: 4/3/2007

S.B. No. 69—Revises provisions related to real estate brokers, salesmen and qualified intermediaries. (BDR 54-457)



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~~ ***communications*** with the client of another broker under certain permissible circumstances; clarifying that such ~~negotiation~~ ***communication*** does not create ***an*** agency ~~representation~~ ***relationship*** 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 of real estate in such circumstances~~ ***further communications after such negotiations but before closing***. **Section 4** also clarifies that such negotiations do not create ***an*** agency ~~representation~~ ***relationship*** between the person and the client of the other broker.

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

Section 1. Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:

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

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

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

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

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

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

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

3. Shall promote the interests of his client by:

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

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

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

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

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

Sec. 4. 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 ~~for or any secondary issues which may follow from a sale, exchange or lease of real estate, or~~ **communicating after such negotiations but before closing,** directly with a client if he knows that the client has a brokerage agreement in force in connection with the property granting an exclusive agency ~~for representation,~~ **including, without limitation,** an exclusive right to sell to another broker, unless permission in writing has been obtained from the other broker. **Negotiation or communication with such permission does not create an agency ~~representation~~ relationship between the person and the client of 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

H, except as may be otherwise provided by paragraph (b) of subsection 3 of NRS 645.254.

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 in 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 **H**, except as may be otherwise provided by paragraph (b) of subsection 3 of NRS 645.254.

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 **H**, except as may be otherwise provided by paragraph (b) of subsection 3 of NRS 645.254.

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. 5. This act becomes effective on July 1, 2007.