

ASSEMBLY BILL NO. 407—ASSEMBLYMEN GRADY;
AND STEWART

MARCH 21, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to business brokers.
(BDR 54-1041)

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 business brokers; establishing a definition for “designated business sales manager”; revising the definition of “business broker”; revising provisions governing transactions which require a business broker; revising certain requirements for the appointment of a designated business sales manager for the supervision of the office of a real estate broker; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, a permit as a business broker is required before a person or
2 certain entities may engage in the business of listing, soliciting buyers for,
3 negotiating for sale, selling or exchanging a business on behalf of another person.
4 (NRS 645.0075, 645.865) **Section 3** of this bill revises the definition of “business
5 broker” to include any person who engages in transactions relating to not only the
6 sale or exchange of a business but also transactions involving the lease of, options
7 to lease or options to purchase a business. **Sections 4 and 5** of this bill exempt a
8 person and certain entities from the requirement of obtaining a permit as a business
9 broker if the transaction conducted by the person or entity involves only certain
10 types of income-producing property.

11 Existing law allows a real estate broker who is not a business broker to conduct
12 the activities of a business broker at the real estate broker’s office if the real estate
13 broker appoints a business broker as a “designated business broker” to supervise
14 any activities conducted at the office that would require a permit as a business
15 broker. (NRS 645.867) **Section 6** of this bill changes the title of such a person to
16 “designated business sales manager” and revises the requirements for the
17 qualifications of such a person. **Section 1** of this bill defines “designated business
18 sales manager.”



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:

“Designated business sales manager” means a person who has the qualifications required by NRS 645.867 to be a designated business sales manager and who is appointed as the designated business sales manager for an office pursuant to NRS 645.867.

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 645.0075 is hereby amended to read as follows:
645.0075 **1.** “Business broker” means a person who, while acting ~~[as a real estate broker, real estate broker-salesperson or real estate salesperson]~~ for another and for compensation or with the intention or expectation of receiving compensation:

~~[1-]~~ **(a)** Sells, exchanges, options *to lease, options to purchase* or purchases a business;

~~[2-]~~ **(b)** Negotiates or offers, attempts or agrees to negotiate the sale, *lease*, exchange, option or purchase of a business; or

~~[3-]~~ **(c)** Lists or solicits prospective purchasers of a business.

2. *For the purposes of this section, “business” has the meaning ascribed to it in NRS 76.020.*

Sec. 4. NRS 645.230 is hereby amended to read as follows:
645.230 **1.** It is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as, a:

(a) Real estate broker, real estate broker-salesperson or real estate salesperson within the State of Nevada without first obtaining the appropriate license from the Real Estate Division as provided for in this chapter;

(b) Property manager within the State of Nevada without first obtaining from the Real Estate Division as provided for in this chapter a license as a real estate broker, real estate broker-salesperson or real estate salesperson and a permit to engage in property management;

(c) Designated property manager within the State of Nevada without complying with the provisions of NRS 645.6055;

(d) Business broker within the State of Nevada without first obtaining from the Real Estate Division as provided for in this chapter a license as a real estate broker, real estate broker-salesperson or real estate salesperson and *, except as otherwise*



provided in subsection 4, a permit to engage in business as a business broker issued pursuant to the provisions of NRS 645.863; or

(e) Designated business ~~{broker}~~ *sales manager* within the State of Nevada without complying with the provisions of NRS 645.867.

2. The Real Estate Division may prefer a complaint for a violation of this section before any court of competent jurisdiction and may assist in presenting the law or facts upon any trial for a violation of this section.

3. The district attorney of each county shall prosecute all violations of this section in their respective counties in which violations occur, unless prosecuted by the Attorney General. Upon the request of the Administrator, the Attorney General shall prosecute any violation of this section in lieu of the district attorney.

4. Except as otherwise provided in subsection 5, a person, limited-liability company, partnership, association or corporation is not required to obtain a permit as a business broker issued pursuant to the provisions of NRS 645.863 if all transactions in which the person, limited-liability company, partnership, association or corporation is engaged, acts, advertises or assumes to act involve the sale, exchange, option to lease, lease, option to purchase or purchase the following types of income-producing property:

(a) Shopping centers;

(b) Shopping malls;

(c) Retail buildings;

(d) Motels;

(e) Hotels;

(f) Office buildings;

(g) Warehouses;

(h) Industrial buildings;

(i) Farms;

(j) Ranches;

(k) Home-based businesses;

(l) Self-storage facilities;

(m) Apartment buildings; and

(n) Residential properties composed of one or more units.

5. The exemption from the requirement of obtaining a permit as a business broker provided by subsection 4 does not apply to any person, limited-liability company, partnership, association or corporation that transacts business on behalf of a person who is:

(a) A tenant of a property described in subsection 4; and

(b) Required to obtain a state business license pursuant to NRS 76.100.



Sec. 5. NRS 645.865 is hereby amended to read as follows:

645.865 1. To engage in business as a business broker in this State:

(a) A partnership shall designate one of its members;

(b) A corporation shall designate one of its officers or employees;

(c) A limited-liability company shall designate its manager; and

(d) A real estate broker who conducts business as a sole proprietor shall designate himself or herself or a person who is licensed under the real estate broker,

to submit an application for a permit pursuant to NRS 645.863.

~~[The]~~ *Except as otherwise provided in subsection 4 of NRS 645.230, the* partnership, corporation, limited-liability company or sole proprietor shall not engage in business as a business broker unless the person so designated has been issued such a permit.

2. If the person designated to apply for a permit meets the qualifications for a permit set forth in NRS 645.863, the Real Estate Division shall issue to that person a permit to engage in business as a business broker on behalf of the partnership, corporation, limited-liability company or sole proprietor.

3. A person to whom such a permit has been issued may act as a business broker pursuant to the permit only on behalf of the partnership, corporation, limited-liability company or sole proprietor, and not on his or her own behalf. If that person ceases to be connected or associated with the partnership, corporation, limited-liability company or sole proprietor, the partnership, corporation, limited-liability company or sole proprietor shall designate another person who meets the qualifications for a permit set forth in NRS 645.863 to hold the permit on behalf of the partnership, corporation, limited-liability company or sole proprietor.

4. Any member, officer or employee of a partnership, corporation, limited-liability company or sole proprietor, other than the person designated as the business broker pursuant to subsection 1, who wishes to engage in business as a business broker must apply in his or her own name for a permit. Pursuant to such a permit, the member, officer or employee of a partnership, corporation, limited-liability company or sole proprietor may act as a business broker only as an officer, agent or employee of the partnership, corporation, limited-liability company or sole proprietor, and not on his or her own behalf.

Sec. 6. NRS 645.867 is hereby amended to read as follows:

645.867 1. If a real estate broker does not hold a permit to engage in business as a business broker but intends to have the



activities of a business broker conducted at an office, the real estate broker must:

(a) Appoint a person, who has the qualifications required by this section, as the designated business ~~broker~~ sales manager for the office to supervise the activities of a business broker conducted at the office; and

(b) Submit notice of the appointment to the Division.

2. The designated business ~~broker~~ sales manager for an office must be a natural person who:

(a) Holds a license as a real estate broker or real estate broker-salesperson;

(b) Holds a permit to engage in business as a business broker; and

(c) Has 2 years active experience, within the 4 years immediately preceding the date of the appointment, in conducting the activities of a business broker in the United States as a licensed real estate broker, real estate broker-salesperson or real estate salesperson.

3. While acting as the designated business ~~broker~~ sales manager for an office, the person:

(a) Must comply with all applicable provisions of this chapter; and

(b) Is subject to all the remedies and penalties provided for in this chapter.

4. To satisfy the experience requirement set forth in paragraph (c) of subsection 2, a person must have personally listed a minimum of four exclusive or nonexclusive business listings and personally closed the sale, exchange, option to lease, lease, option to purchase or purchase of at least four businesses during 2 of the 4 years immediately preceding the date of the appointment. Such listings and closings must be verified by providing to the Division:

(a) Copies of the listing agreements for not less than four exclusive or nonexclusive business listings that the person has personally listed within the immediately preceding 4 years; and

(b) Copies of the closing documents for not less than four sales, exchanges, options to lease, lease, options to purchase or purchases of a business that the person has personally closed during 2 of the immediately preceding 4 years.

Sec. 7. This act becomes effective on July 1, 2011.

