

Amendment No. 196

Senate Amendment to Senate Bill No. 227

(BDR 54-982)

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

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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 underlining* is newly added transitory language.

RRY/BJE



Date: 4/25/2011

S.B. No. 227—Revises provisions governing the financial administration of the Real Estate Division of the Department of Business and Industry. (BDR 54-982)



SENATE BILL NO. 227—SENATOR LEE

MARCH 9, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing the financial administration of the Real Estate Division of the Department of Business and Industry. (BDR 54-982)

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 state financial administration; creating the Account for Real Estate Administration in the State General Fund; requiring money that is collected from the imposition of certain fees and charges to be deposited into the Account; requiring money in the Account to be used to defray certain costs and expenses of the Real Estate Division of the Department of Business and Industry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain fees, penalties and charges that are collected by the Real Estate Commission, the Commission of Appraisers of Real Estate, the Real Estate Administrator and the Real Estate Division of the Department of Business and Industry to be deposited into the State General Fund. (NRS 119.118, 645.140, 645C.240, 645D.140) Existing law also provides that certain money received by the Commission for Common-Interest Communities and Condominium Hotels, a hearing panel or the Division pursuant to certain laws concerning the regulation of community managers and certain personnel must be deposited in the Account for Common-Interest Communities and Condominium Hotels. (NRS 116A.220) Section 1 of this bill creates the Account for Real Estate Administration in the State General Fund and requires the Administrator to administer the Account. Sections 1-3, 7 and 9 of this bill require the Real Estate Commission, the Commission of Appraisers of Real Estate, the Administrator, the Commission for Common-Interest Communities and Condominium Hotels, a hearing panel and the Division to deposit money that is collected from the imposition of certain fees and charges into the Account and sections 1-3 require money that is collected from the imposition of a fine or penalty be deposited into the State General Fund. Sections 1-3, 7 and 9 also require the money in the Account to be used to defray certain costs and expenses of the Division ~~and require the interest and income earned on the money and any balance at the end of the fiscal year to be credited to the Account.~~ until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out its duties. After the amount the Division is authorized to expend in a fiscal year has been deposited, all money received by the Division must be deposited into the State General Fund.

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

Section 1. NRS 645.140 is hereby amended to read as follows:

645.140 1. *There is hereby created the Account for Real Estate Administration in the State General Fund. The Administrator shall administer the Account.*

2. ~~*[The interest and income earned on the money in the Account and any amount remaining in the Account at the end of a fiscal year, after deducting any applicable charges, must be credited to the Account.]*~~

~~3.] All claims against the Account must be paid as other claims against the State are paid.~~

~~4.] 3.~~ *The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.*

~~5.] 4.~~ Except as otherwise provided in this section ~~[.]~~ and NRS 645.314, 645.6058 and 645.842, all ~~[fees, penalties and charges]~~ money received by the Division pursuant to ~~[NRS 645.410, 645.660 and 645.830]~~ this chapter must be deposited with the State Treasurer for credit to the ~~[State General Fund.]~~ Account and accounted for separately ~~[.]~~ until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund.

~~6.] 5.~~ *The Commission and the Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.*

~~7.] 6.~~ The fees received by the Division ~~[.]~~
~~—(a) From the sale of publications, must be retained by the Division to pay the costs of printing and distributing publications.~~

~~—(b) For] for~~ examinations ~~[.]~~ must be retained by the Division to pay the costs of the administration of examinations.

~~[.]~~ Any surplus of the fees retained by the Division *for the administration of examinations* must be deposited with the State Treasurer for credit to the ~~[State General Fund.]~~

~~2. Money for the support of the Division must be provided by direct legislative appropriation, and be paid out on claims as other claims against the State are paid.~~

~~3.] Account.~~

~~8.] 7.~~ Each member of the Commission is entitled to receive:

(a) A salary of not more than \$150 per day, as fixed by the Commission, while engaged in the business of the Commission; and

(b) A per diem allowance and travel expenses at a rate fixed by the Commission, while engaged in the business of the Commission. The rate must not exceed the rate provided for state officers and employees generally.

~~4.] 9.] 8.~~ While engaged in the business of the Commission, each employee of the Commission is entitled to receive a per diem allowance and travel expenses

at a rate fixed by the Commission. The rate must not exceed the rate provided for state officers and employees generally.

Sec. 2. NRS 645C.240 is hereby amended to read as follows:

645C.240 1. Except as otherwise provided in ~~{subsections 2 and 3,}~~ *this section*, all ~~{fees, penalties and other charges}~~ *money* received by the Division pursuant to this chapter must be deposited with the State Treasurer for credit to the ~~{State General Fund.~~

~~—2.}~~ *Account for Real Estate Administration created by NRS 645.140 and accounted for separately ~~{}~~ until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund.*

2. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

3. The Commission and the Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

4. Fees received by the Division ~~{}~~

~~—(a) From the sale of publications, must be retained by the Division to pay the costs of printing and distributing publications.~~

~~—(b) For}~~ *for* examinations ~~{}~~ must be retained by the Division to pay the costs of the administration of examinations.

~~{—}~~ Any surplus of the fees retained by the Division *for the administration of examinations* must be deposited with the State Treasurer for credit to the ~~{State General Fund.~~

~~—3.}~~ *Account.*

5. The portion of the fees collected by the Division pursuant to NRS 645C.450 for the issuance or renewal of a certificate or license as a residential appraiser or the issuance or renewal of a certificate as a general appraiser which is used for payment of the registry fee to the *Federal* Financial Institutions Examination Council pursuant to 12 U.S.C. § 3338, must be retained by the Division for payment to the *Federal* Financial Institutions Examination Council.

~~{4. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.}~~

Sec. 3. NRS 645D.140 is hereby amended to read as follows:

645D.140 1. ~~{All fees, penalties and other charges}~~ *Except as otherwise provided in this section, all money* received by the Division pursuant to this chapter must be deposited with the State Treasurer for credit to the ~~{State General Fund.~~

~~—2. Money for the support of the Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.}~~ *Account for Real Estate Administration created by NRS 645.140 and accounted for separately ~~{}~~ until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter. After the amount the Division is authorized to expend in a fiscal year has been*

deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund.

2. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

3. The Administrator and Division shall deposit any money collected from the imposition of any fine or penalty pursuant to this chapter with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Administrator or Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

Sec. 4. NRS 116.620 is hereby amended to read as follows:

116.620 1. Except as otherwise provided in this section ~~and within the limits of legislative appropriations,~~ money available for this purpose, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 5. ~~NRS 116.630 is hereby amended to read as follows:~~

~~116.630 1. There is hereby created the Account for Common-Interest Communities and Condominium Hotels in the State General Fund. The Account must be administered by the Administrator.~~

~~2. Except as otherwise provided in subsection 3, all money received by the Commission, a hearing panel or the Division pursuant to this chapter or chapter 116A or 116B of NRS, including, without limitation, the fees collected pursuant to NRS 116.31155, 116A.220 and 116B.620, must be deposited into the Account.~~

~~3. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.~~

~~4. The interest and income earned on the money in the Account, after deducting any applicable charges, must be credited to the Account.~~

~~5. The money in the Account must be used [solely] to defray:~~

~~(a) The costs and expenses of the Division, the Commission and the Office of the Ombudsman; and~~

~~(b) If authorized by the Commission or any regulations adopted by the Commission, the costs and expenses of subsidizing proceedings for mediation and arbitration conducted pursuant to NRS 38.300 to 38.360, inclusive; and~~

~~(c) If authorized by the Legislature or by the Interim Finance Committee if the Legislature is not in session, the costs and expenses of administering the Division.]~~
(Deleted by amendment.)

Sec. 6. NRS 116A.210 is hereby amended to read as follows:

116A.210 1. Except as otherwise provided in this section ~~and within the limits of legislative appropriations,~~ money available for this purpose, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 7. NRS 116A.220 is hereby amended to read as follows:

116A.220 1. Except as otherwise provided in subsection ~~2.1~~ 3., all money received by the Commission, a hearing panel or the Division pursuant to this chapter must be deposited ~~[into the Account for Common Interest Communities and Condominium Hotels created pursuant to NRS 116.630.]~~ with the State Treasurer for credit to the Account for Real Estate Administration created by NRS 645.140 and accounted for separately until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter. After the amount the Division is authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund.

2. The money deposited into the Account or credited to the Account pursuant to this section must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

3. If the Commission imposes a fine or penalty, the Commission shall deposit the money collected from the imposition of the fine or penalty with the State Treasurer for credit to the State General Fund. If the money is so deposited, the Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is required to pay attorney's fees or the costs of an investigation, or both.

~~[3.— Money for the support of the Commission and Division in carrying out the provisions of this chapter must be provided by direct legislative appropriation and be paid out on claims as other claims against the State are paid.]~~

Sec. 8. NRS 116B.810 is hereby amended to read as follows:

116B.810 1. Except as otherwise provided in this section ~~and within the limits of legislative appropriations,~~ money available for this purpose, the Division may employ experts, attorneys, investigators, consultants and other personnel as are necessary to carry out the provisions of this chapter.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to the provisions of this chapter.

3. The Attorney General shall render to the Commission and the Division opinions upon all questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, that may be submitted to the Attorney General by the Commission or the Division.

Sec. 9. NRS 119.118 is hereby amended to read as follows:

119.118 ~~[AHH]~~

1. Except as otherwise provided in NRS 119.150, all fees and charges received by the Division [shall] must be deposited in the [General Fund in the State Treasury. Funds for the support of the Division shall be provided by direct legislative appropriation, and shall be paid out on claims as other claims against the State are paid.] Account for Real Estate Administration created by NRS 645.140 and accounted for separately ~~and~~ until the amount deposited into the Account in a fiscal year reaches the amount authorized for expenditure by the Division to carry out the provisions of this chapter. After the amount the Division is

authorized to expend in a fiscal year has been deposited into the Account, all money received by the Division must be deposited with the State Treasurer for credit to the State General Fund.

2. The money deposited into the Account must be used to defray the costs and expenses incurred by the Division in carrying out the provisions of this chapter.

Sec. 10. NRS 645C.610 is hereby repealed.

Sec. 11. This act becomes effective upon passage and approval for the purpose of adopting any regulations that are necessary to carry out the provisions of this act and on October 1, 2011, for all other purposes.

TEXT OF REPEALED SECTION

645C.610 Disposition of money collected. If the Commission imposes a fine or a penalty or the Division collects an amount for the registration of an appraisal management company, the Commission or Division, as applicable, shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.