

SENATE BILL NO. 189—SENATOR LEE

FEBRUARY 22, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises certain provisions governing real estate transactions. (BDR 54-615)

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 transactions; authorizing a party to a real estate transaction to terminate an agreement with a licensee under certain circumstances; requiring the Real Estate Division of the Department of Business and Industry to prepare certain forms and to distribute the forms to persons licensed pursuant to the provisions governing real estate brokers and salespersons; requiring a licensee who acts as an agent in a real estate transaction to provide certain forms to parties to a real estate transaction; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a person who has suffered damages as the proximate result of the failure of a real estate licensee to perform certain duties to bring an action against the licensee to recover those damages. (NRS 645.257) **Section 1** of this bill authorizes a party to a real estate transaction, under certain circumstances, to terminate an agreement with a licensee who has failed to perform certain duties relating to the real estate transaction.

As part of its duty to carry out the provisions of NRS governing the licensing of real estate brokers and salespersons, the Real Estate Division of the Department of Business and Industry is required to prepare and distribute to licensees certain forms which set forth the duties owed by a licensee or real estate broker. (NRS 645.193) **Section 2** of this bill requires the Division to prepare an additional form which sets forth certain rights of a party to a real estate transaction. **Section 3** of this bill requires a licensee who acts as an agent in a real estate transaction to provide the appropriate forms to each party for whom the licensee is acting as an agent and to each unrepresented party to the transaction.



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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:

1. If a party for whom a licensee is acting as an agent in a real estate transaction knows or has reason to believe that the licensee has failed to perform any duty required by NRS 645.252 or the regulations adopted to carry out that section, the party may provide notice to the licensee on a form provided by the Division that the party wishes to terminate any agreement between the party and the licensee. The notice must specify each duty that the licensee has failed to perform.

2. In addition to any remedy provided by NRS 645.257, if a licensee who receives notice pursuant to subsection 1 does not perform to the satisfaction of the party each duty specified in the notice within 7 days after receipt of the notice, the party who provided the notice may terminate the agreement between the party and the licensee by providing written notice of the termination of the agreement to the licensee.

Sec. 2. NRS 645.193 is hereby amended to read as follows:

645.193 The Division shall prepare and distribute to licensees:

1. A form which sets forth the duties owed by a licensee who is acting for only one party to a real estate transaction.

2. A form which sets forth the duties owed by a licensee who is acting for more than one party to a real estate transaction.

3. A form which sets forth the duties owed by a real estate broker who assigns different licensees affiliated with his or her brokerage to separate parties to a real estate transaction.

4. A form which sets forth the rights provided pursuant to this chapter to a party to a real estate transaction.

Sec. 3. 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 which the licensee knows, or which by the exercise of reasonable care and diligence should have known, relating to the property which is the subject of the transaction.

(b) Each source from which the licensee will receive compensation as a result of the transaction.

(c) That the licensee 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 the licensee is acting for more than one party to the transaction. If a licensee makes such a disclosure, he or she must obtain the written consent of each party to the transaction for whom the licensee is acting before he or she may continue to act in his or her 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 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 or she is required to do so by a court of competent jurisdiction or 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 behalf of the party.

(5) A statement that the party is giving consent without coercion and understands the terms of the consent given.

(e) Any changes in the licensee's 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 the appropriate ~~form~~ forms prepared by the Division pursuant to NRS 645.193 to:

(a) Each party for whom the licensee is acting as an agent in the real estate transaction; and

(b) Each unrepresented party to the real estate transaction, if any.

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 the real estate transaction.

(c) Conduct an investigation of the condition of the property which is the subject of the real estate transaction.

