SENATE BILL NO. 128–SENATOR PARKS (BY REQUEST)

FEBRUARY 18, 2013

JOINT SPONSOR: ASSEMBLYMAN OHRENSCHALL

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Exempts certain persons from the licensing requirements for broker-dealers. (BDR 7-444)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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; exempting certain persons from the licensing requirements for broker-dealers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a person from engaging in the business of effecting certain transactions in securities in this State as a broker-dealer unless he or she is licensed or exempt from the licensing requirements for broker-dealers. (NRS 90.310, 90.320) This bill exempts a person who holds a permit to engage in business as a business broker from the licensing requirements for broker-dealers under certain circumstances.

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

Section 1. Chapter 90 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who holds a permit to engage in business as a business broker pursuant to NRS 645.863 and is involved exclusively in the sale of a business, as defined in NRS 645.007, is exempt from licensing under NRS 90.310 if:

(a) In marketing the business, the business broker only advertises to potential buyers that the business is for sale;

(b) The business broker does not advise the buyer or seller that the transaction be completed through the sale or purchase of a security;

(c) The decision to conclude, the sale of the business through the sale or purchase of a security is made by the buyer, the seller or, if applicable, an advisor to the buyer or the seller and not the business broker;

(d) After the decision is made to conclude the sale of the business through the sale or purchase of a security, the role of the business broker is limited only to facilitating the exchange of information or documents among the buyer, the seller and, if applicable, any advisor to the buyer or the seller;

(e) The business broker does not have the authority to make binding agreements on behalf of any party to the sale or purchase of a security in connection with the transaction;

(f) The business broker only assesses the total value of the business to be sold as a going concern and does not assess the value of any security or equity interest to be sold or purchased;

(g) The business broker does not assist the buyer in obtaining financing, except that the business broker may introduce, without compensation, the buyer to lending sources that the buyer may consider for the transaction, and the business broker may assist the buyer in completing any documents relating to a loan application;

(h) The compensation to be paid to the business broker does not change regardless of the manner in which the sale is concluded, whether the transaction is completed as an asset sale or the sale or purchase of a security;

(i) The business broker advises potential buyers that the business broker does not and will not verify any information concerning the business to be sold which has been provided to the business broker by the seller; and

(j) The business being sold is not a shell company as defined by 17 C.F.R. § 230.405.

2. As used in this section, "business broker" has the meaning ascribed to it in NRS 645.0075.

Sec. 2. NRS 90.220 is hereby amended to read as follows:

90.220 "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for the person's own account. "Broker-dealer" does not include:

1. A sales representative;

2. An issuer, except when effecting transactions other than with respect to its own securities;

3. A depository institution; ~~[or]~~

4. ***A business broker effecting a transaction pursuant to section 1 of this act; or***

5. Any other person the Administrator by regulation or order designates.

Sec. 3. This act becomes effective on July 1, 2013.

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