

Legal Aspects of a Broker and the Brokerage Contract

NRS

NRS 645.030 “Real estate broker” defined.

1. “Real estate broker” means a person who, for another and for compensation or with the intention or expectation of receiving compensation:

(a) Sells, exchanges, options, purchases, rents or leases, or negotiates or offers, attempts or agrees to negotiate the sale, exchange, option, purchase, rental or lease of, or lists or solicits prospective purchasers, lessees or renters of, any real estate or the improvements thereon or any modular homes, used manufactured homes, used mobile homes or other housing offered or conveyed with any interest in real estate;

(b) Engages in or offers to engage in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee in connection with any employment undertaken to promote the sale or lease of business opportunities or real estate by advance fee listing advertising or other offerings to sell, lease, exchange or rent property;

(c) Engages in or offers to engage in the business of property management; or

(d) Engages in or offers to engage in the business of business brokerage.

2. Any person who, for another and for compensation, aids, assists, solicits or negotiates the procurement, sale, purchase, rental or lease of public lands is a real estate broker within the meaning of this chapter.

3. The term does not include a person who is employed by a licensed real estate broker to accept reservations on behalf of a person engaged in the business of the rental of lodging for 31 days or less, if the employee does not perform any tasks related to the sale or other transfer of an interest in real estate.

[Part 2:150:1947; 1943 NCL § 6396.02] + [2.5:150:1947; added 1955, 615]—(NRS A 1957, 337; 1959, 393; 1963, 330; 1973, 1097; 1975, 1383; 1977, 928; 1979, 1535; 1981, 1327; 1985, 312, 1261; 1997, 505, 956; 2005, 648, 665)

NRS 645.035 “Real estate broker-salesperson” defined.

1. Within the meaning of this chapter, a “real estate broker-salesperson” is any person who holds a real estate broker’s license, or who has passed the real estate broker’s examination, but who, as an employee or as an independent contractor, for compensation or otherwise, is associated with:

(a) A licensed real estate broker in the capacity of a salesperson, to do or to deal in any act, acts or transactions included within the definition of a real estate broker in NRS 645.030;

NRS 645.005 “Brokerage agreement” defined. “Brokerage agreement” means an oral or written contract between a client and a broker in which the broker agrees to accept valuable consideration from the client or another person for assisting, soliciting or negotiating the sale, purchase, option, rental or lease of real property, or the sale, exchange, option or purchase of a business. The term does not include a property management agreement.

(Added to NRS by 1995, 2072; A 2003, 932; 2005, 648)

NRS 645.007 “Business” defined. “Business” means the tangible assets and goodwill of an existing enterprise.

(Added to NRS by 1985, 1260)

NRS 645.009 “Client” defined. “Client” means a person who has entered into a brokerage agreement with a broker or a property management agreement with a broker.

(Added to NRS by 1995, 2072; A 2003, 932)

NRS 645.8705 “Brokerage agreement” defined. “Brokerage agreement” means a written contract between an owner and a real estate broker in which the owner agrees to pay a commission to the real estate broker for services provided by the broker relating to the disposition of commercial real estate as specified in the agreement.

(Added to NRS by 1999, 1174)

NRS 645.8711 “Commercial real estate” defined. “Commercial real estate” means any real estate located in this State. The term does not include:

1. Improved real estate that consists of not more than four residential units;
2. Unimproved real estate for which not more than four residential units may be developed or constructed pursuant to any zoning regulations or any development plan applicable to the real estate; or
3. A single-family residential unit, including a condominium, townhouse or home within a subdivision, if the unit is sold, leased or otherwise conveyed unit by unit, regardless of whether the unit is part of a larger building or parcel that consists of more than four units.

(Added to NRS by 1999, 1174)

NRS 645.8715 “Commission” defined. “Commission” means any fee or other compensation agreed upon by a real estate broker and an owner specified in a brokerage agreement.

(Added to NRS by 1999, 1175)

NRS 645.8721 “Disposition” defined. “Disposition” means a voluntary conveyance or other transfer of title or any interest of an owner in any commercial real estate specified in a brokerage agreement.

(Added to NRS by 1999, 1175)

NRS 645.8725 “Escrow” defined. “Escrow” has the meaning ascribed to it in subsection 3 of NRS 645A.010.

(Added to NRS by 1999, 1175)

NRS 645.8731 “Escrow agent” defined. “Escrow agent” has the meaning ascribed to it in subsection 5 of NRS 645A.010.

(Added to NRS by 1999, 1175)

NRS 645.8735 “Owner” defined. “Owner” means a person who holds legal title to or any interest in any commercial real estate that is described in a brokerage agreement, including, without limitation, any assignee in interest and any agent of a person. The term

does not include a mortgagee, trustee under or beneficiary of a deed of trust or an owner or holder of a claim that encumbers any real estate or any improvement on that real estate.

(Added to NRS by 1999, 1175)

NRS 645.8741 “Owner’s net proceeds” defined. “Owner’s net proceeds” means the gross receipts to which an owner is entitled upon the disposition of any commercial real estate specified in a brokerage agreement. The term does not include:

1. Any money that is required to pay an encumbrance, claim or lien that has priority over a claim recorded pursuant to the provisions of NRS 645.8775 other than an encumbrance, claim or lien that the person to whom the commercial real estate is conveyed or otherwise transferred authorizes to remain after the disposition of the real estate; or

2. Any costs incurred by the owner to close escrow for that commercial real estate.

(Added to NRS by 1999, 1175)

Rights, Duties and Liabilities Relating to Commissions

NRS 645.8761 Broker has claim upon owner’s net proceeds for earned commissions; conditions and limitations on enforcement of claim; waiver; inapplicability to third-party claims; obligation to close escrow unaffected by claim.

1. A real estate broker has a claim upon the owner’s net proceeds from the disposition of commercial real estate for any commission earned by the real estate broker pursuant to a brokerage agreement. For the purposes of this subsection, a commission shall be deemed to be earned when the real estate broker has performed his or her duties pursuant to the brokerage agreement.

2. The claim belongs to the real estate broker named in the brokerage agreement and not to an employee or independent contractor of the real estate broker.

3. A claim that is recorded pursuant to the provisions of NRS 645.8775:

- (a) Is a claim upon personal property and does not attach to the title of any real property.

- (b) May be waived if, on or before the date the brokerage agreement is executed, the real estate broker signs a written waiver of the real estate broker’s right to enforce the claim. The waiver must be printed in uppercase letters and must be limited to one transaction. A person other than the real estate broker may not waive the rights of the real estate broker pursuant to this section, regardless of whether that person may execute and bind the real estate broker to a brokerage agreement.

- (c) May not be enforced by a person other than the real estate broker and the owner.

4. A claim of a third party may not be brought or otherwise adjudicated pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive.

5. The recording or enforcement of a claim by a real estate broker pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, does not relieve the owner of his or her obligation to close escrow for any commercial real estate.

(Added to NRS by 1999, 1175)

NRS 645.8765 Requirements for broker to enforce claim: Written notice to owner and escrow agent; effect of failure to provide notice; exceptions.

1. Except as otherwise provided in subsection 3, if a real estate broker wishes to enforce a claim pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, the real estate broker shall, within 7 days after a commission is earned by the real estate broker pursuant to a brokerage agreement, provide a written notice of the claim to:

- (a) The owner of the commercial real estate specified in the brokerage agreement; and
- (b) The escrow agent closing the transaction for the commercial real estate.

2. A real estate broker who fails to provide a notice of a claim within the period specified in subsection 1 may not enforce the claim pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive.

3. A real estate broker is not required to provide a written notice of a claim to an escrow agent pursuant to this section if the identity of the escrow agent is unknown to the real estate agent at the time the notice is provided by the real estate broker to the owner pursuant to paragraph (a) of subsection 1.

(Added to NRS by 1999, 1176)

NRS 645.8771 Requirements for broker to enforce claim: Information required in notice; verification by oath; acknowledgment.

1. A notice of claim specified in NRS 645.8765 must include:

- (a) The name of the owner of the commercial real estate;
- (b) The name of the person who executed the brokerage agreement, if other than the owner;
- (c) The name, business name, if any, and the license number of the real estate broker;
- (d) The amount claimed by the real estate broker;
- (e) A detailed description of the commercial real estate; and
- (f) A copy of the brokerage agreement pursuant to which the real estate broker claims a commission.

2. The notice must:

- (a) Be verified by the oath of the real estate broker who provides the notice; and
- (b) Include an acknowledgment by the real estate broker.

(Added to NRS by 1999, 1176)

NRS 645.8775 Duty of owner to confirm or deny claim; effect of confirming claim; effect of denying claim or failing to respond; recording of claim by broker.

1. If an owner is served with a notice of a claim pursuant to NRS 645.8765, the owner shall, within 5 days after service of the notice but not later than 7 days before the disposition of the commercial real estate:

- (a) Confirm or deny the claim set forth in the notice; and
- (b) Notify, in writing, the real estate broker who provided the notice to the owner.

2. If the owner confirms the claim and notifies the real estate broker of that fact pursuant to subsection 1, the owner may instruct the escrow agent for the commercial real estate to pay to the real estate broker the amount claimed by the real estate broker in the notice of the claim.

3. If the owner fails to notify the real estate broker within the period specified in subsection 1 or notifies the real estate broker that the owner denies the claim, the real estate broker may record the notice of the claim in the office of the county recorder where the commercial real estate or any portion of the commercial real estate is located.

(Added to NRS by 1999, 1176)

NRS 645.8781 Duties of escrow agent upon notice of claim.

1. Except as otherwise provided in this subsection, if:
 - (a) An escrow agent receives a notice of a claim pursuant to NRS 645.8765;
 - (b) A notice of claim is recorded pursuant to NRS 645.8775; or
 - (c) An escrow agent has actual notice of a claim specified in paragraph (b),➔ the escrow agent shall reserve from the owner's net proceeds an amount that is equal to the amount claimed by the real estate broker in his or her recorded claim. If the amount of the owner's net proceeds is insufficient to satisfy the amount of the claim, the escrow agent shall reserve the entire amount of the owner's net proceeds. In determining whether the amount of the owner's net proceeds is insufficient to satisfy the amount of the claim, the escrow agent may consider any encumbrance, claim or lien that has priority over the claim of the real estate broker pursuant to NRS 645.8795.
2. If the escrow agent determines that the amount of the owner's net proceeds is insufficient to satisfy the amount of the claim, the escrow agent:
 - (a) Shall, within 3 days after making that determination but not later than the close of escrow, notify the real estate broker of that fact in writing; and
 - (b) Shall not release to the owner any portion of the owner's net proceeds unless the escrow agent receives a copy of the written agreement executed by the owner and the real estate broker authorizing the escrow agent to release those proceeds to the owner.
3. Except as otherwise provided in paragraph (b) of subsection 2 and NRS 645.8791, if an owner's net proceeds or any portion of an owner's net proceeds are reserved pursuant to this section, the escrow agent who reserves those proceeds shall not release the proceeds to any person until the rights of the owner and the real estate broker are determined pursuant to NRS 645.8791.
4. A reservation of an owner's net proceeds or any portion of an owner's net proceeds pursuant to this section does not relieve the owner of the obligation to close escrow for the commercial real estate.

(Added to NRS by 1999, 1177)

NRS 645.8785 Deposit of proceeds with district court; discharge of escrow agent from further liability concerning proceeds.

1. If:
 - (a) A notice of a claim is recorded pursuant to NRS 645.8775;
 - (b) An escrow agent has reserved an owner's net proceeds or any portion of an owner's net proceeds pursuant to NRS 645.8781; and
 - (c) Escrow for the disposition of the commercial real estate has closed,➔ the escrow agent may, in accordance with the provisions of NRS 645A.177, deposit with the district court of the county where the claim is recorded the amount of the owner's net proceeds reserved by him or her pursuant to NRS 645.8781.
2. If an escrow agent deposits an owner's net proceeds with a district court pursuant to subsection 1, the escrow agent is discharged from any further liability concerning those proceeds.

(Added to NRS by 1999, 1177)

NRS 645.8791 Civil action concerning claim: Issuance of order to broker to appear and show cause; effect of failure to appear; hearings; release of proceeds;

frivolous claims; compensatory damages; award of costs and attorney's fees to prevailing party.

1. If a claim is recorded pursuant to NRS 645.8775, the owner against whom the claim is recorded may:

(a) File a civil action concerning the claim in the district court of the county where the commercial real estate or a portion of the commercial real estate is located; and

(b) At the time the summons is issued or at any time before the complaint is answered by the real estate broker, apply to the district court for an order directing the real estate broker to appear before the court to show cause why the claim should not be dismissed.

2. If the court issues an order directing the real estate broker to appear before the court, the order must:

(a) State that, if the real estate broker fails to appear at the time and place specified in the order, the claim will be dismissed with prejudice pursuant to subsection 3;

(b) Specify a time and date on which the court will conduct a hearing on the matter; and

(c) Establish a period within which the owner must serve a notice of the order on the real estate broker and the escrow agent.

3. If the real estate broker fails to appear at the time and place specified in the order issued pursuant to subsection 2, the court shall issue an order:

(a) Dismissing the claim with prejudice;

(b) Cancelling the notice of the claim recorded pursuant to NRS 645.8775; and

(c) Requiring the real estate broker to record in the office of the county recorder of the county where the notice of the claim is recorded a copy of the order of cancellation issued pursuant to paragraph (b).

➡ An order issued pursuant to this subsection must state that the cancellation of the notice of the claim has the same effect as an expungement of that notice.

4. If a hearing is conducted pursuant to this section, the court shall consider the showing made by the parties at the hearing and shall make a preliminary determination of which party, with reasonable probability, is entitled to the amount of the owner's net proceeds claimed by the broker pending final adjudication of the claims of the parties.

5. If, after the hearing, the district court determines there is a reasonable probability that:

(a) The real estate broker is entitled to the amount of the owner's net proceeds claimed by him or her, the court shall, if those proceeds:

(1) Have been deposited with the court by the escrow agent pursuant to NRS 645.8785, release the proceeds to the real estate broker; or

(2) Have not been deposited with the court by the escrow agent pursuant to that section, order the escrow agent to release the proceeds to the real estate broker; or

(b) The owner is entitled to the amount of the owner's net proceeds claimed by the real estate broker, the court shall, if those proceeds:

(1) Have been deposited with the court by the escrow agent pursuant to NRS 645.8785, release the proceeds to the owner; or

(2) Have not been deposited with the court by the escrow agent, order the escrow agent to release the proceeds to the owner.

6. If the owner believes the claim is frivolous and is made without reasonable cause, the owner may include in the application submitted pursuant to subsection 1 a request for

an order directing the real estate broker to appear and show cause why the claim should not be dismissed on those grounds. If the court issues such an order, any hearing conducted pursuant to that order must be conducted in the manner provided in NRS 108.2275. In addition to any remedy set forth in that section, the court may award compensatory damages to the owner.

7. The prevailing party in any civil action filed or hearing conducted pursuant to this section is entitled to receive:

- (a) Any costs incurred by that party for the civil action or hearing; and
- (b) A reasonable attorney's fee.

8. Proceedings conducted pursuant to this section do not affect any rights or remedies otherwise available to the owner or the real estate broker.

(Added to NRS by 1999, 1178)

NRS 645.8795 Priority of recorded claim.

1. Except as otherwise provided in subsection 2, a claim that is recorded pursuant to the provisions of NRS 645.8775 has priority over any other encumbrance, claim or lien, if the claim of the real estate broker is recorded before the encumbrance, claim or lien.

2. The provisions of subsection 1 do not apply to a lien recorded pursuant to the provisions of NRS 108.221 to 108.246, inclusive.

(Added to NRS by 1999, 1179)

NRS 645.8801 Release of recorded claim. If a real estate broker records a claim pursuant to the provisions of NRS 645.8775 and that claim is paid or otherwise satisfied pursuant to that section, the real estate broker shall, within 3 days after the claim is paid or otherwise satisfied, record a written release of that claim. The release must be recorded in the office of the county recorder where the claim was recorded.

(Added to NRS by 1999, 1179)

NRS 645.8805 Service of notice. Any notice that is required to be served pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, must be served in the manner provided in NRS 108.227.

(Added to NRS by 1999, 1179)

NRS 645.8811 Escrow agents: Immunity; collection of fees for services. An escrow agent:

1. Is not liable in any civil action for any action taken to comply with the provisions of NRS 645.8701 to 645.8811, inclusive.

2. May charge and collect a fee from an owner or real estate broker for any services provided by the escrow agent to the owner or real estate broker pursuant to NRS 645.8701 to 645.8811, inclusive.

(Added to NRS by 1999, 1179)

UNLAWFUL ACTS; PENALTIES

NRS 645.990 Unlawful acts; penalties.

1. A person who:

(a) Obtains or attempts to obtain a license pursuant to this chapter by means of intentional misrepresentation, deceit or fraud; or

(b) Sells or attempts to sell in this State any interest in real property by means of intentional misrepresentation, deceit or fraud,

↪ is guilty of a category D felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. Any licensee, permittee or owner-developer who commits an act described in NRS 645.630, 645.633 or 645.635 shall be punished by a fine of not more than \$5,000 for each offense.

3. A person who violates any other provision of this chapter, if a natural person, is guilty of a gross misdemeanor, and if a limited-liability company, partnership, association or corporation, shall be punished by a fine of not more than \$2,500.

4. Any officer or agent of a corporation, or member or agent of a limited-liability company, partnership or association, who personally participates in or is an accessory to any violation of this chapter by the limited-liability company, partnership, association or corporation, is subject to the penalties prescribed in this section for natural persons.

5. The provisions of this section do not release a person from civil liability or criminal prosecution pursuant to the general laws of this State.

6. The Administrator may prefer a complaint for violation of NRS 645.230 before any court of competent jurisdiction and may take the necessary legal steps through the proper legal officers of this State to enforce the provisions thereof.

7. Any court of competent jurisdiction may try any violation of this chapter, and upon conviction, the court may revoke or suspend the license of the person so convicted, in addition to imposing the other penalties provided in this section.

[29:150:1947; 1943 NCL § 6396.29]—(NRS A 1963, 678; 1967, 644; 1979, 1557; 1981, 1330; 1983, 223; 1985, 1278; 1993, 891; 1995, 1312; 1997, 171; 2001, 524; 2003, 3465)

NRS 645.993 Unlawful to file documents that are false or contain willful, material misstatement of fact; penalty.

1. It is unlawful for any person to file with the Administrator, the Division or the Commission any notice, statement, complaint or other document required under the provisions of this chapter which is false or which contains any willful, material misstatement of fact.

2. A person who violates any provision of this section is guilty of a gross misdemeanor.

(Added to NRS by 2003, 1289)

NRS 645.995 Duty to report conviction to Division.

1. A licensee, property manager or owner-developer shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to:

(a) A felony relating to the practice of the licensee, property manager or owner-developer; or

(b) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

2. A licensee, property manager or owner-developer shall submit the notification required by subsection 1:

(a) Not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere; and

(b) When submitting an application to renew a license, permit or registration issued pursuant to this chapter.

(Added to NRS by 2007, 1539)

NAC

NAC 645.017 “Branch office” defined. (NRS 645.190) “Branch office” means an office operated by a licensed real estate broker or corporation, separate from the principal location of the broker, for the purpose of engaging in a general real estate business. It does not include a sales office within the same or a nearby community which is used only for sales activities pertaining to the development.

[Real Estate Adv. Comm’n, § I subsec. 12 + § VI subsec. 17, eff. 12-20-75]

NAC 645.047 “Principal place of business” defined. (NRS 645.190) “Principal place of business” means the principal office of a licensed real estate broker which he uses to conduct a general real estate business.

[Real Estate Adv. Comm’n, § I subsec. 11, eff. 12-20-75]

NAC 645.115 Application by partnership, limited-liability company or corporation. (NRS 645.190, 645.400) If an applicant for a license is a partnership, limited-liability company or corporation, the applicant must file with the Division a certified or verified copy of the partnership agreement, articles of organization or articles of incorporation, as appropriate.

[Real Estate Adv. Comm’n, § III subsec. 5, eff. 10-31-75]—(NAC A by Real Estate Comm’n, 8-21-81; 6-3-86; R031-04, 11-30-2004)

NAC 645.120 Financial condition of applicant for license as real estate broker. (NRS 645.190, 645.400) The Division shall consider the financial condition of each applicant for a license as a real estate broker and require the following financial information with his application:

1. The applicant’s current employer and the employer’s address;
2. The applicant’s current financial obligations, including charge accounts;
3. The applicant’s cash on hand;
4. The applicant’s checking accounts with amounts;
5. The applicant’s savings accounts with amounts;
6. The names and values of securities and stocks held by the applicant;
7. The value and identification of any other assets; and
8. Such other information concerning the applicant’s finances as the Division deems pertinent.

[Real Estate Adv. Comm’n, § III subsec. 1 par. a, eff. 10-31-75]—(NAC A by Real Estate Comm’n, 8-21-81; R031-04, 11-30-2004)

NAC 645.175 Licensing of branch offices. (NRS 645.050, 645.190, 645.530)

1. The real estate broker to whom the license is issued is responsible for all branch offices operated by him.
2. A license for a branch office may only be issued in the name in which the real estate broker is licensed to conduct business at his main office.
3. A supervisor of a branch office may not manage more than one branch office.

4. A branch office is not required to establish a trust account, but if one is established, one of the signatures required on the account must be that of the supervisor of the branch office.

[Real Estate Adv. Comm'n, § VI subsecs. 9-12 & 14, eff. 12-20-75]—(NAC A by Real Estate Comm'n by R111-01, 12-17-2001)

NAC 645.177 Supervision of branch office. (NRS 645.050, 645.190)

1. Every branch office of a real estate broker must be under the supervision of a broker or a broker-salesman who, within the preceding 4 years, has had 2 years of active experience as a broker, broker-salesman, or salesman in the United States.

2. While supervising a branch office, a broker-salesman has all the duties of and is subject to the penalties applicable to a broker under chapter 645 of NRS and this chapter.

[Real Estate Adv. Comm'n, § VI subsec. 7, eff. 12-20-75]—(NAC A 12-16-82; A by Real Estate Div., 3-1-96)

NAC 645.178 Management of principal and branch offices. (NRS 645.050, 645.190)

1. A real estate broker-salesman with at least 2 years of active experience within the immediately preceding 4 years of having a licensed status may act as an office manager for the principal office or a branch office operated by a real estate broker.

2. A real estate broker-salesman who is acting as manager of a principal or branch office must notify the Division that he is acting in that capacity.

(Added to NAC by Real Estate Comm'n, eff. 8-21-81; A by Real Estate Div., 3-1-96; A by Real Estate Comm'n by R111-01, 12-17-2001)

NAC 645.180 Cooperative certificate: Application. (NRS 645.190, 645.605)

1. A real estate broker who is licensed in another state and wishes to work in cooperation with a Nevada real estate broker must apply to do so on a form provided by the Division. The application must be accompanied by:

- (a) A copy of his current license issued in the other state;
- (b) A history of his employment for the past 10 years;
- (c) Information identifying him and the Nevada broker with whom he wishes to cooperate;
- (d) A history of any disciplinary, criminal or other legal proceeding involving the real estate salesman or broker-salesman who will be working for the applicant under the cooperative certificate;
- (e) A list of other cooperative agreements currently in effect with the Nevada broker;
- (f) A photograph of the applicant;
- (g) A copy of the license of the real estate salesman or broker-salesman who will be working for the applicant; and
- (h) A statement of consent by the Nevada broker to the cooperative agreement.

2. The Nevada broker and out-of-state broker must verify the truth of the contents of the application.

3. The application must be completed personally by the out-of-state broker, and no licensed Nevada broker or employee of the Division may assist in the preparation of any part of the application.

4. The required fee must be paid at the time of filing. If the Administrator does not issue the certificate as applied for, the fee will not be refunded.

5. The applicant must furnish proof satisfactory to the Administrator that the applicant has a current active real estate broker's license issued by the state in which his principal place of business is located.

6. A person who resides in this State and holds a real estate license issued by another state is not eligible to hold a cooperative certificate or act on behalf of a holder of a certificate.

7. The Administrator may require proof of the applicant's moral character. In determining that character, the Administrator may consider:

(a) The results of the Division's investigation of matters stated in the application and other matters that have come to the attention of the Division as a result of the investigation;

(b) Any history of arrest and conviction of the applicant;

(c) The nature and history of the business of the applicant; and

(d) Any past failure of the applicant to comply with:

(1) Any requirement of chapter 113, 116, 119, 119A, 645, 645A, 645C or 645D of NRS or any other specific statute that is applicable to real estate transactions; or

(2) Any similar statutory or regulatory requirement of another jurisdiction that is applicable to real estate transactions.

[Real Estate Adv. Comm'n, § XI, eff. 10-31-75]—(NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 4-27-84; R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.310 Real estate broker-salesman or salesman: Termination of association or employment with real estate broker or owner-developer. (NRS 645.190, 645.580)

1. If a real estate broker-salesman or salesman terminates, for any reason, his association with the real estate broker with whom he is associated, or his employment with the owner-developer by whom he is employed, the real estate broker or owner-developer shall, in addition to complying with the requirements of NRS 645.580, file with the Division:

(a) A notice of termination on a form provided by the Division; and

(b) Any other pertinent information the Division requests.

2. A real estate broker-salesman or salesman whose association or employment with a real estate broker or owner-developer is terminated may personally deliver his broker-salesman or salesman license to the Division on behalf of the real estate broker or owner-developer if the real estate broker-salesman or salesman, at the time he submits the license, also submits to the Division the original notice of termination that has been completed and signed by the real estate broker or owner-developer. The original notice of termination must include the signature of the broker or owner-developer, as appropriate, in any designated area on the notice which is required to be completed for the personal delivery of the license.

3. If a real estate broker or owner-developer does not comply with subsections 1 and 2 and NRS 645.580 in a timely manner, the licensee may apply for an administrative termination on a form provided by the Division.

[Real Estate Adv. Comm'n, § V subsec. 5, eff. 10-31-75]—(NAC A by Real Estate Comm'n, 8-21-81; R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.345 Failure of broker to renew license. (NRS 645.190)

1. If a real estate broker fails to renew his license, the license of a licensee with whom he is associated who has renewed that license will immediately be placed on inactive renewed status. A licensee associated with the real estate broker may:

(a) Within 30 calendar days, apply for a transfer to the association of another real estate broker, and pay any required fees; or

(b) If the real estate broker with whom the licensee was associated reinstates and renews his license within 30 calendar days, reactivate his license with that real estate broker.

2. If the licensee fails to reassociate with a broker within 30 days after the license of the broker with whom the licensee was associated became inactive, the licensee may only reinstate his license pursuant to NAC 645.325.

[Real Estate Adv. Comm'n, § V subsec. 13, eff. 10-31-75]—(NAC A by Real Estate Comm'n by R111-01, 12-17-2001; R031-04, 11-30-2004)

NAC 645.380 Brokers designated by certain business organizations; members or officers of certain business organizations acting as brokers; service of certain business organizations as salesmen or broker-salesmen. (NRS 645.050, 645.190, 645.385, 645.400)

1. A broker designated by a partnership, limited-liability company or corporation pursuant to NRS 645.370 or a broker who has obtained a license pursuant to NRS 645.380 may also obtain an individual license to act on his own behalf. To obtain an individual license, a broker must complete and submit forms as supplied by the Division and must pay an original license fee and any other required fees.

2. The Division will issue an additional license to such a broker and subject him to the same rights and duties as any other licensed Nevada broker. He may maintain an office separate from the offices of the partnership, limited-liability company or corporation and shall maintain separate records and a separate trust account so that the business of the partnership, limited-liability company or corporation remains separate from his independent business.

3. The partnership, limited-liability company or corporation must submit a statement, on a form supplied by the Division, indicating that it is fully aware of the intention of the broker to maintain an independent business.

4. Revocation, suspension, or any other penalty of the Commission or the Division applies to both licenses of a broker who is licensed pursuant to this section.

5. A partnership, limited-liability company or corporation may not serve as a salesman or broker-salesman except as otherwise provided by a specific statute.

6. A broker who is licensed individually and as a partnership, limited-liability company or corporation, even though he has been issued two licenses by the Division, is considered to be only one licensee for the purposes of disciplinary action or claims against the Real Estate Education, Research and Recovery Fund.

[Real Estate Adv. Comm'n, § V subsec. 20, eff. 10-31-75]—(NAC A by Real Estate Comm'n, 8-21-81; 4-27-84; A by Real Estate Div., 3-31-94; R126-04, 10-31-2005)