



Nevada Property Management

Designed to complement the
24-hour Property Management Permit Course

INSTRUCTOR HANDOUTS



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Property Management Handouts

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PROPERTY MANAGEMENT PERMIT CONTENT OUTLINE

1. Contracts (Management and Rental Agreements) (9 items)

a. Essential Elements of Property Management Agreements {NRS 645.6056}

*term (w/renewal option, if any), brokers compensation, what is to be done with the income from the property, cancellation provision if any, brokers authority,/{Property Management} identity of the property, signed by the client (principle) or his designated representative and the broker

b. Residential Rental Applications/Tenant Screening/FCRA

*The rental applications

* Residential: should be clear, concise, comprehensive with permission to check the applicant's credit, criminal and rental history. Identity of residential applicants should be verified by a government issued picture ID. Applications of tenants should be kept in the tenant's lease file. There should be a separate file for rejected applications (there should be a uniform policy used to reject applicants).

*Commercial: Financial stability (Dun & Bradstreet) Yearly financial report, type of business, space needed, when needed, why moving, rental history, product(s) {retail} or type of business {office}

*Industrial: Financial stability, area and configuration needed {office & open}, use (products)made and/or stored, required floor strength, available parking/truck-employee, truck doors/well and dock level, HVAC/office-warehouse, restrooms/number and location, power needs/natural gas-electricity, rail spur availability, access to transportation corridors, zoning requirements, permits

needed

*Tenant Screening (aka Qualifying a Tenant): It is important to verify the identity of the prospective tenant. "The prospect must provide some form of identification (individually or as a company or organization), a rental history, financial status and several references. Residential prospects can supply a government issued picture I.D.". Information on the application should be verified. Financial records will disclose slow and erratic payers who tend to retain this pattern when making mortgage or rental payments. Permission to obtain an applicants credit report should be part of the application process (If you ask one applicant for permission to obtain a credit report, be sure to ask all - in residential leasing, all prospective tenants must be judged exactly the same) Many managers charge a non refundable application fee to off-set the cost of obtaining the credit report. A number of companies specialize in searching public records providing valuable information not readily available to owners and property managers. When screening a commercial or industrial tenants: emphasize the profit and loss record the company over the past several years , the company's current economic stability, the economic growth pattern of the tenant, the corporate structure of the of the prospective tenant (If the company is a subsidiary, what is it's relationship with the parent company, will the parent company guarantee the lease/if it's a partnership, will the partners guarantee the lease). Comprehensive information about businesses can be obtained (through membership) from Dun & Bradstreet, an international business information company subscribed to by many large management firms. If Dun &

Bradstreet is not available or inadequate, information obtained through the local Chamber of Commerce, the Better Business Bureau, and/or the tenants major suppliers may assist in making an informed decision.

*The Fair Credit Reporting Act (FCRA) became law in 1971 and was amended in 1997. The original intent of the law was to ensure that credit reports were correct. If an applicant is rejected because of his/her credit history, the applicant may obtain a free copy of the credit report within 60 days of the denial, upon request. FCRA entitles consumers to challenge information in their credit reports. The information challenged must be verified, corrected, or deleted within 30 days. Bankruptcies may be kept on file for ten years, other adverse credit information may be kept on file for seven years.

c. Residential Leases of Real Property

I. Types of Residential Leases

A typical residential lease is an 'estate for years' with a term of one year, and has a rental rate that remains constant for the term of the lease (a Gross Lease aka Straight lease) or an increase in rent on a specific date specified in the lease (a Step-up Lease aka Graduated Lease)

II. Mandatory Residential Rental Agreement Provisions {NRS 118A.200}

(Residential leases must include, but are not restricted to, the following provisions)

*Signature of the lessee and the Lessor (or their representatives)

*Identification of the property (ref. Property Management text)

- *Must provide free copy of the executed rental agreement to the customer and provide additional copies if requested, but may charge reasonable fee
 - *Term of the lease
 - *Amount of rent, manner and schedule of payment
 - *Must address children or pets
 - *Fees required and the use of those fees
 - *Deposits required and the condition of refund (refers to security deposit{s})
 - *Charges for late payments or dishonored checks (penalties must be stated)
 - *Inspection rights of the landlord
 - *Who is going to pay utilities (landlord is responsible if not stated otherwise)
 - *Signed inventory and condition of the premises, kept in tenant's file (does not say who does the inspection or who signs)
 - *Summary of NRS 202.470 (nuisance law, does not say what a nuisance is, just that you cannot have one)
 - *How and where to report a nuisance and/or building safety violations
 - *Information regarding the tenant's right to fly or display a flag of the United States
 - *Statement that excepting normal wear, the premises are to be returned in the same condition as when tenancy began
- If not addressed in the lease, these provisions will be adjudicated in favor of the tenant

III. Lease clauses

Various clauses often included in residential and/or commercial leases include:

*Condemnation: This clause should be written to include two condemnation scenarios -

1) If the property is condemned by a governmental entity making the premises uninhabitable, the tenant's lease is automatically cancelled. 2) If a portion of the premises is condemned by a governmental entity that does not effect the tenant's occupancy of the premises, any financial benefit realized by the landlord belongs to the landlord, and the tenant may sue for any damages the tenant may have suffered from the condemnation and keep any resulting compensation

*Compliance: Identifies which party to the lease is responsible for complying with any new local, state, or federal regulations.including the Americans With Disabilities Act (ADA)

*Substitution: allows the lessor to substitute a 'like premises' if the premises leased by the lessee becomes uninhabitable (usually the result of a fire, earthquake or other designated disaster)

*Tenant Improvement: 1) details what modifications will be made to the premises to accommodate the needs of the prospective tenant, and who will pay for those modifications./
2) restricts the tenant from making any modification to the premises without the written consent of the lessor.

*Quiet Enjoyment: The lessor grants the lessee a covenant of quiet enjoyment. This implies the exclusive right of possession and use of the space. The clause should include the right of the lessor to show the property to prospective buyers or lessees, and the inspection rights of the

lessor

*Recapture: allows the lessor to take back leased space not used by the lessor. This clause is particularly important in retail space. Retail tenants will often vacate a location and place a large sign in the window stating their new address. After loyal customers follow the retailer to the new address, the retailer will relinquish the space to the landlord. This often results in the space being vacant from six months to a year, having a detrimental financial effect of the other merchants in the retail center.

*Relocation: Allows the lessor to relocate the tenant to a less desirable location in the retail center if sales plateaus stated in the lease are not achieved (a common provision in shopping center/mall leases)

*Restrictive: restricts what the leased premises may be used for

*Non-compete: 1) restricts the lessee from opening another store within an agreed distance from the location being leased
2) Protects the tenant from having a competing (same product) store move into/onto the property

d. Breaches and Remedies; Eviction

A lease is a contract between a landlord (lessor) and a tenant (lessee) where a landlord relinquishes possession of a property to a tenant, subject to an agreed valuable consideration from the tenant to the landlord, and subject to the terms of a contract. Non-compliance with that contract is called a

'breach'. Regardless of the infraction, the offended party, be it landlord or tenant, cannot take any action until the other party to the contract has been notified of the breach in writing. The offended party must then wait the time allowed in law for the offending party to cure/remedy the breach, or make a good faith effort to do so. Even if the breach has not been remedied/cured, as long as the offending party is attempting in good faith to remedy/cure the breach, the offended party is restricted from taking further action. There are six laws addressing breaches of the lease

NRS 118A.350 addresses the Lessor not complying with the terms of the rental agreement. It provides the lessor with 14 days, from the date of being notified of the breach in writing by the lessee, to remedy/cure the breach or make his/her best efforts to do so. The 'best efforts' to cure the breach and may be ongoing until the breach is remedied/cured. If the lessor fails to cure the breach and is not making an effort to do so, the tenant may terminate the lease and/or recover damages. The tenant has no recourse if the breach was caused by the tenant, or any person on the premises with the tenant's permission.

NRS 118A.355 addresses the lessor's failure to maintain the leased premises in a habitable condition.

(I) Following notification by the lessee specifying each failure by the lessor to maintain the dwelling in a habitable condition, The lessor has 14 days to remedy the material failure to maintain the dwelling in a habitable condition or make a reasonable effort to do so. If the breach is not remedied and a reasonable effort to do so is not being made, the lessee may (a) terminate the rental agreement, (b) recover actual damages, (c) apply to the court for relief withhold rent without any penalties. (II) The tenant may not proceed if: (1) the condition was caused by the tenant, (2) a

member of his family or household , (3) anyone on the premises with his/her consent, (4) the lessor was unable to remedy the uninhabitable condition resulted from lessee's refusal to allow the lessor lawful access to the premises. (III) If the rental agreement is terminated, the lessor must return all prepaid rent and security held. (IV) Tenant may not proceed if proper notice was not given to the lessor, except (1) if the lessor admits in court that he/she had knowledge of the uninhabitable condition, (2) had received notice of the uninhabitable condition from a governmental agency. If such notice was given and lessor took no corrective action, lessee may withhold rent. Withheld rent must be placed into an escrow account maintained or approved by the 'justice court' or the tenant. If the tenant fails to deposit the withheld rent, he/she relinquished any defense to an eviction.

NRS 118A.360: If the lessor fails to maintain the dwelling in a habitable condition and the cost of compliance is less than \$100 or one months rent (which ever is greater), the tenant may collect damages for the condition and notify the lessor of the tenant's intention to correct the condition at landlord's expense. If the landlord has not corrected the condition or fails to user his/her best effort to comply within 14 days of being notified of the breach, the tenant may cause the work to be performed and deduct the cost or reasonable value of the work, up to one months rent, from the rent next owing. Tenant may take this action no more than once within any 12 month period. Landlord may specify in the lease, or otherwise, the name of a person or class of persons or firms to do the work

NRS 118A.380: If the landlord is required by the lease or law to supply heat, air conditioning, running

water, hot water, electricity, gas, a functioning door lock (this is the only place functioning door lock is mentioned in law), or other essential item or service and fails to do so, the tenant shall give the landlord written notice specifying the breach. If the breach is not remedied or the landlord is not using his best efforts to remedy the breach within 48 hours, except Saturday, Sunday, or legal holiday, the tenant may: (1) procure reasonable amounts of essential service and deduct their cost from the rent, (2) Deduct actual damages suffered, including lack of use of the dwelling and diminution of the rental value of the dwelling, (3) procure comparable housing, rent on the uninhabitable dwelling abates, and rent on the substitute residence in excess of rent paid on the uninhabitable dwelling can be billed back to the lessor. If the tenant proceeds under this section, he/she may not proceed under NRS 118A.350 or 360. Notice of the breach described is not necessary if the landlord admits in court that he had knowledge of the uninhabitable condition, had received notice of the condition from a governmental agency, and failed to remedy or attempt in good faith to remedy the condition. The tenant has no rights under this section if the condition was caused by a deliberate or negligent act or omission of the tenant, a member of his family or anyone on the premises with his consent.

NRS 118A.430: If the tenant fails to comply with the rental agreement or perform his/her basic obligations, the landlord may serve the tenant with a notice specifying the breach. If the tenant does not remedy the breach or make his/her best efforts to remedy the breach within 5 days after receipt, The landlord may the terminate the rental agreement. The tenant may avoid eviction by

authorizing the landlord to enter and remedy the breach, and paying reasonable expenses or damages resulting from the breach.

NRS 118A.440: If tenant's failure to perform basic obligations under the lease or the law can be remedied by repair, replacement of a damaged item or cleaning, and the tenant fails to remedy the breach or make his/her best efforts to remedy the breach within 14 days of receiving notice from the landlord, the landlord may enter the dwelling unit and cause the work to be done, and submit an itemized bill for the actual and reasonable cost. The bill is payable as rent on the next date rent is due. If the lease is terminated, the bill may be submitted to the tenant for immediate payment or deducted from the security.

2. Recordkeeping, Accounting and Trust Account Management (6 items)

a. Requirements for Trust Accounts:

*Broker shall have two trust accounts for property management activities, in addition to any other trust accounts the broker may have.

*one trust account shall be used exclusively for real estate management transactions

*one trust account shall be used exclusively for holding security deposits

(It is the Real Estate Division's position that all money held by the broker, that does not belong to the broker, is to be held in a trust account. Money that is to be used within 30 days is to be held in the 'transaction' trust account, all other funds are to be held in the 'security deposit' trust account and moved (by wire transfer) to the transaction trust account when needed).

*Three laws address who may sign on the Property Management trust accounts:

-The broker's signature is required to withdraw money

-A salesperson may be a co-signer with the broker

-A broker or broker salesperson may be the sole signee on the trust account(s) with written permission from his/her broker (this enables the broker or broker-salesperson to be the sole signee on the trust account(s) when acting as the broker's designated property manager).

*Signatures applied by a rubber stamp do not constitute a legal signature

*Reconciliations of Property Management trust accounts must be submitted to the Real Estate Division: (1) Annually, corresponding to the expiration date on the brokers license, for the preceding 30 days. (2) When a Designate Property Manager severs association with the Broker, the broker must request a statement from the bank (covering the trust accounts), send a reconciliation of the trust accounts to the Real Estate Division within 15 days (or the end of the month, whichever is longer), the reconciliation covers the thirty days preceding the departure the Designated Manager. The Broker has 30 days following the designated managers departure to acquire a new Designated Manager. If the broker cannot acquire a new Designated Manager within 30 days he must petition the Division for an extension or advise the Division that he/she will no longer be conducting real estate management.

*All reports submitted to the Real Estate Division are to be on Division's form or a

form approved by the Real Estate Division.

*Money received by the broker must be accounted for at the consummation or termination of the transaction

*Money received by the broker, belonging to others, must be deposited into the trust account promptly

*Trust accounts must be kept in a bank or financial institution in this state

*The Division shall be advised prior to moving any records or changing the names on the trust accounts

*if financial records are kept on a computer, a computer must be available to the Division and records must be kept on a separate disc

*Trust Account records must be kept for five years after the last financial activity regarding the property.

*The broker shall indemnify the Division from any liability that might result from Divisions audit off financial records

* The Trust Account statement shall be reconciled within 30 days after being received

*A trust account may not be in deficit more than 45 continuous days in any one year

(Division's Policy: Broker will keep \$100 of brokers money in each trust account to be used for bank fees, checks and other costs involving the accounts)

*The Division may inspect brokerage records if there is reasonable cause to believe:

- there is substantial risk of insolvency
- the broker has used trust funds to carry on the broker's business
- The Division may charge and collect the costs and fees incurred to conduct an audit
- *Broker must deposit money belonging to others promptly unless all parties who have an interest in the money agree otherwise in writing into the trust account
- *Trust accounts shall detail disposition of money and ownership
- *Broker will keep a financial ledger account on each unit managed
- *Deposits are to be given to the broker, escrow company or company designate in the contract within one business day after the contract is fully executed
- *Money collected as rent or for any other reason shall be credited to that unit's ledger Account
- *Money to repair a unit shall be taken out of that unit's ledger account
- *If a broker files bankruptcy, money held for any reason by that broker in trust accounts must be put into an escrow account with instructions to disburse the funds as agreed when originally given to the broker

b. Separate Account Required for Security Deposits (addressed above)

c. Record-keeping Requirements:

- *All property management records must be kept in this state
- *All paperwork must be given to the Broker within 5 days after being signed by all parties to the transaction
- *Records of all management activity, whether consummated or not, must be kept by the Broker for five years following the last management activity involving the property
- *Transaction files must be numbered consecutively or indexed to permit audit by the Division
- *The broker shall be deemed available for audit during normal business hours or when business is being conducted in the office
- *A computer shall be made available to allow for auditing brokerage records kept on a computer
- *The broker or other person in charge of the broker's office shall sign a form provided by the Division acknowledging the audit

d. Reporting Requirements (addressed above)

e. Handling of Trust Funds: (addressed in 'a')

f. Commingling: (deals primarily with money but may involve anything of value)

- *Borrowing one clients money to pay another clients debt
- *Broker mixing the clients money with his own
- *Broker receives a \$100 bill deposit, returns five \$20 bills (if deposits are not put into the trust)

account, the broker is required to return the same currency received

Conversion: A real estate term for embezzlement

g. Basic Accounting

*Cash (Basis) Accounting: money is recorded when paid or received

*Accrual (Basis) Accounting: money is recorded when owed or earned

*Balance Sheet (aka Statement of Financial Position): The financial statement reporting assets and Equities (claims against the firms total assets), as of a specific date,

*Total Equities: "The sum of all liabilities and owners equity (aka money invested) on the balance sheet"

*Asset: 1) Not a liability

2) Things belonging to the (company) with a monetary value

*Liability: 1) Claims against the assets of the (company)

2) Monetary (money value) things held but not owned

*Current: Asset or liability is payable or collectable within one year or operating cycle

*Fixed: Asset or Liability is NOT payable or collectable for more than one year or operating cycle

*Intangible asset: is an asset with no physical characteristics (ex. Patents, trademarks)

*Unearned Revenue: 1) Money received for future services or products (ex. Rent)

2) Unearned revenue is a liability to the recipient (it belongs to others until it is

earned, once earned it becomes an asset of the recipient)

*Debt Service: a real estate term for the Mortgage Payment (Part is interest, part offsets liability/
aka what is owed)

*Profit-Loss Statement: "Periodic report to the owner listing gross receipts rather than itemized sources of income, and total operating expenses instead of individual expenditures." It does not include debt service, but after the mortgage payment has been deducted from the gross receipts, the loan principal must be added back to obtain the net profit on the Profit Loss Statement

*Net Operating Income (NOI): Gross collectable income minus fixed and variable operating expenses (What's left of the income after bills are paid)

*Fixed Expense: Budgeted expenses that does not fluctuate with rental income / occupancy of the property.

*Variable Expense: Budgeted expense that increases or decreases with the rental income / occupancy of the property (ex. Utility bills, property management fee)

*Nonrecurring Variable Expense: A variable expense that occurs only once or rarely (ex. New roof, paving the parking lot)

*Return on Investment (ROI): A measure of profitability of a property, composed after taxes, to money invested in the property

*Cash Flow Report: "Tells the owner the sources of income, expenses, net operating income and net cash flow, and is the single most important financial report". It's usually accompanied by an

explanation of abnormal (non budgeted) items.

* Budget Comparison Statement: Compares the property's actual finances (Cash Flow Report) to the original budget and functions as a operational check list

* Capitalization Rate: A method of projecting the properties value, it's net operating income, and the rate of return on the owners investment / it converts future income into present value

* Breakeven Analysis: Primary method of calculating the profitability of a property / it's the percent of occupancy necessary for gross income to equal fixed expenses. When the gross income exceeds the break-even point, the property will become profitable

* Reserve Fund: In the expense category of the operating budget. It is money set aside for repair and/or replacement expenditures not covered by insurance (ex. unbudgeted repairs). The manager should keep track of and explain each expenditure from the Reserve Fund in the Budget Comparison Statement and ask the landlord to replenish the fund when the balance gets low.

3. Nevada Laws Relating to Property Management (4 items)

a. Property Manager Permit

I. Requirements: To obtain a Property Management Permit

*A real estate licensee must file an application on division's form/ pay a fee of \$40.00/ submit a certificate of completion in a form satisfactory to Division that the licensee successfully completed the required 24 hours of education in property management and passed an examination given by an organization approved by the Division/ the permit is effective on the date of Issuance or the date the fee is paid/ the permit expires on the same date the licensee's real estate license expires

II. Renewal and Required Continuing Education

*The Property Management Permit expires with the Real Estate License of the Licensee. Renewal of the permit requires proof satisfactory to the Division that the Licensee completed 24 hours of continuing education prior to renewing the license and permit at the end of the first year of being licensed, and at each subsequent two year interval. Each 24 hour continuing education segment must include 3 hours of study in a property management related subject and 12 hours of classes requiring class room attendance.

III. Who Must Have Permit

*Salesperson, Broker-Salesperson

(NRS 645.6056 & NRS 645.6056) you can better explain this

*Broker

Each Corporation, Limited Liability Company, Partnership engaged in real estate activities must employ a Real Estate Broker. The license issued to that broker designates that the broker may act only as an officer or agent of the limited liability company, corporation, partnership and not on his/her own behalf. If the employer is a corporation the broker must be a corporate officer, if an LLC the broker must be a manager and if a partnership the broker must be a partner. The broker for corporation, LLC, or Partnership may have a second license in his/her own name providing that the Corporation, LLC or partnership has submitted written approval for the second license to the Division, on a form provided by the Division, with written acknowledgement that the broker may be doing real estate activities in his/her own name. Any disciplinary action taken by the division against one license, shall be taken against both licenses. If broker for corporation, LLC or partnership has his/her license suspended or revoked, the corporation, LLC, or partnership shall not conduct business activities until the broker is severed. The broker may be reinstated with the corporation, LLC or partnership once his/her license is reinstated. Any involuntarily inactivated, suspended or revoked broker's license shall be returned to the division with the licenses of all licensees associated with the broker. If a broker dies, another broker may submit an affidavit to Division, within 7 days of the broker dying, to manage the brokerage for not more than 60 days following the death

*Designate Manager

If the broker does not have a Property Management Permit, but desires to conduct property management operation out of his/her brokerage, the broker must appoint a natural person who holds a Nevada Broker or Broker-Salesperson license with a Property Management permit, has engaged in property management activities for two of the last four years within the United States, to be the broker's Designated Property Manager. The broker must advise the Division of such appointment on a form provided by or approved by the division (Note: this law does not say what experience the broker is required to have if he/she has a property management permit and desires to conduct Property Management activities without a designated manager)

b. Authority/Responsibilities of Property Managers

*NRS 645.019 describes Property Management as the physical, administrative or financial maintenance and management of real property, or the supervision of such activities for a fee. The Property Management contract is a dated agreement signed by the Broker and the client (or The Client's authorized representative) that defines the relationship between the parties. It is a guide for operating the property and a basis for the settlement of future disputes. The Property Management Contract establishes and agency relationship between the parties

*A General Agency conveys authorization under a general power of attorney to perform all duties for the principle that the principle could perform regarding the property, including but not limited

to: leasing, collecting rent, disposition of revenue from the property, terminating leases, returning security deposits, evicting tenants, and any other activity unique to the property.

*If the brokers authority is limited, the agency may be 'Special Agency' where the broker is given authority to act for the client within certain restrictions and for specific transactions.

*Though not specifically stated in all contracts, the licensee owes the client fiduciary (care, obedience, confidentiality, accounting, loyalty, agency):

Care: The manager is required to exercise a reasonable degree of skill while managing the property

Obedience: The manager must carry out, in good faith, the owner's (legal) instructions

Confidentiality: A relationship that is marked by trust and confidence that requires the highest degree of loyalty on the part of the agent

Loyalty: The property manager must always place the property owners interest first

Accounting: Requires accurately reporting on the status of all funds received from or on behalf of the property owner

Disclosure: Imposes upon the manager the duty to keep the property owner fully advised of material facts involving the property

c. Non-broker Licensee's Compensation:

All commissions and other money earned by a brokerage belongs to the broker. Commissions paid by the broker to non-broker licensees is subject to the compensation agreement between the broker and the non-licensee. It is suggested that non-broker licensee's sign a contract, or at the very least a letter of understanding with the broker detailing what the non-licensee's compensation will be based upon and how it will be paid.

4. Mandatory Disclosures (5 items)

a. Disclosure of Agency Relationship: A licensee must disclose his/her agency relationship to a customer without licensed representation as soon as practicable, but in any event not later than any documents being signed

b. Disclosure of Material Facts

Material Facts may be any fact that is of importance to the individual. A material fact may also be anything that would be important to an individual if it was known, such as a condition of/to the dwelling or property that might be injurious or harmful to a tenant. A licensee is required to disclose such facts to a client.

c. Disclosure of Environmental Factors

If a property manager observes environmental concerns, the manager should suggest hiring a

professional to conduct an Environmental sit assessment (ESA). If a release or threatened release of a hazardous substance on the property is confirmed, the manager should recommend that an environmental engineer conduct an environmental assessment consisting of sampling, testing and evaluation of substances found on the property. If concerns relating to the property are found to be of a hazardous or injurious nature to the client, the licensee is required to disclose this to the client. If the property involved is being managed by the licensee, the health and well being of the tenants should a priority to the licensee.

d. Disclosure and Stigmatized Properties

The following subjects are 'not material to the transaction' and may be discussed with the buyer, lessee, or tenant and that person's agent only if the licensee has entered into an agreement to discuss them with the buyer, lessee, or tenant: a homicide, suicide, HIV, AIDs, or a death occurring on the property but not resulting from a condition of or on the property, or the manufacture of methamphetamine on the property if the property has been remediated by a licensed or certified entity or the health department, or the proximity of registered sex offenders or transitional housing.

e. Licensees Must Disclose

*interest in the property

- *any expected dividend or kick-back, with the name of the person or company
- *the expectation of a fee from referrals
- *any material facts to the parties to the transaction
- *expectation of compensation from more than one party to the transaction
- *lack of expertise in services offered
- *that he/she is a broker, broker-salesperson or salesperson, active or inactive
- *his/her ownership interest in or a relationship with any business, friend or relative, person or entity, when representing him or herself or any party to or in a real estate transaction
- *if acting for more than one person involved in the transaction

f. Other disclosures

- *landlord must disclose to a prospective tenant if the property to be leased is subject to any foreclosure proceedings
- *before becoming a tenant, tenant must be advised of the name and address of the owner of the property and the manager, where to serve civil process and notices (within Nevada) and phone number of a responsible person to report emergencies (within county or 60 miles from rental)

5. Fair Housing (5 items)

a. Protected classes; Distinctions between NV and Federal Fair Housing Laws

Protected Classes:

* Both Federal and Nevada Fair Housing laws protect Race, Color, Religion, National Origin, Familial Status and Handicapped. Additionally, Nevada Fair Housing laws include Ancestry, Gender Identification and Sexual Orientation (which includes Heterosexual, Bisexual and Homosexual Orientation). The Equal Credit Opportunity Act also provides protection from discrimination when applying for a loan (HUD views a rental application to the same as a loan application) because of race, color, religion, national origin, sex, familial status and age (between 40 and 70 years of age), public assistance and marital status.

*An exception to Fair Housing Laws, both Nevada and Federal, is "Familial Status". Individuals protected under the Familial Status fair housing provision may be excluded from "Housing for Older Persons". (55+ = 80% of the units must have a resident at least older than 55 years of age, and 62+ = intended for, and occupied solely by persons 62 years of age or older). Age restricted housing is a designation given by HUD and must comply with policies and procedures that are relevant to the demonstration of compliance with HUD requirements, and are checked periodically by HUD.

*Federal and Nevada Fair Housing Laws (NRS 118.060) provide another exemption: These laws do not apply to: 1) any person who owns not more than 3 units and has not been involved in more than 3 residential transactions at any one time or, 2) if the person owns a 4 plex (or less), occupies one of the units, and in the preceding 12 months has not participated in more than 3 real estate transactions.with one exception, Race is never exempt in fair housing laws

* Distinctions between Federal and Nevada Fair Housing Laws:

The most obvious distinction between Nevada and Federal Fair Housing laws is that Nevada laws also protect individuals because of their ancestry, gender identification and sexual Orientation. Alleged violations of Nevada Fair Housing laws must be reported to the Nevada Fair Housing Commission or filed with the District Court within one year of the occurrence or termination of the alleged violation. An alleged violation of Federal Fair Housing laws must be filed with HUD (Department of Housing and Urban Development) within one year or may be filed as a civil action no later than two years after the alleged violation in an appropriate United States District Court or State Court .

*If the case is filed directly with HUD, attempts will be made to bring the parties together, this is called a conciliation period. If this fails, the case will be heard by an Administrative Law Judge or as a civil action in the appropriate U. S. District court or state court. When Federal Cases end up in court, fines may range from \$16,000 for the first offense to \$65,000 for the third offense within seven years. In cases involving a "pattern or practice" of discrimination, the U. S. Department of Justice can seek civil penalties of \$50,000 for the first offense and \$100,000 for subsequent offenses.

*Under Nevada law, civil rights violations are filed with the Nevada Equal Rights Commission.

Resolution of the alleged violation may be achieved through conciliation, similar to the process

employed by HUD. If conciliation fails, the Commission will hold a hearing to verify the accusation of discrimination and impose a civil penalty of up to \$25,000 plus actual damages sustained.

*The order of the commission is a final decision for the purpose of judicial review. If the person fails to comply with the order, the Commission may apply to District Court for an order compelling compliance. The court shall issue the order unless it finds that the commission's findings were not supported by substantial evidence or are arbitrary or capricious. If the court upholds the commission's order, the court shall award the aggrieved party actual damages for any economic loss and no more. {NRS 233.160(4)}it really does say this.....

*In the State of Nevada, Discriminatory practices in real estate may be punishable by a fine of \$500.00 for the first offense and for the second offense shall show cause why his/her license should not be revoked {NRS 645.321}

b. Americans with Disabilities Act:

*Accommodation: The landlord shall make reasonable accommodations in the rules, policies or services if those accommodations are necessary to ensure that a person with the disability may use and enjoy the dwelling

*Modification: A landlord may not refuse to allow a person with a disability to modify a residential premises to accommodate his/her disability. Approval may be conditioned on the tenant paying for

the modification, returning the premises back to its original condition at the expiration of the lease, and placing with the landlord a deposit not to exceed the cost of restoring the premises to its condition at the commencement lease. The landlord is required to place that deposit into an interest-bearing account. The proceeds from that account, including any interest earned, not used in the restoration of the premises is to be returned to the tenant following the expiration of the lease. (NOTE: this deposit is in addition to the security deposit and is the only deposit required to be placed into an interest-bearing account)

C. Americans with Disabilities Act; Design and Construction Requirements:

A disability is defined as any physical or mental impairment that substantially limits one or more of an individual's major life activities.

*Residential: (3/13/1991)

The first floor of any residential development consisting of four or more units, must be constructed in compliance with the Americans with Disabilities Act: kitchens, bathrooms and halls must be wide enough to accommodate a wheel-chair; light switches, outlets, drawers and handles must be accessible to a person in a wheelchair; bathroom walls must be reinforced to accommodate the installation of grab bars. If there is elevator access to the second floor, the second floor is also required to be ADA compliant. The exception to ADA compliance is when it is impractical to so design or construct the dwelling because of the terrain or unusual characteristics of the site upon which it is constructed.

*Commercial: (1/26/1992)

Any business or other facility open to the public must be accessible by the handicapped. Multi-story buildings are required to provide a person that is handicapped with access to floors above ground level, restrooms must be large enough to accommodate a wheel chair, a ramp or wheel-chair lift may need to be installed to allow entry into the building as well automated doors. All facilities open to the public must be accessible to a person in a wheel chair (elevator buttons, Drinking fountains, pay phones). Also, to accommodate the sight impaired, raised letters and Braille markings must be added to elevator buttons. Parties to a lease may decide among themselves who is responsible for the compliance with the ADA, and the lease should stipulate who is responsible (Property Management 8th edition states that the landlord is responsible for life safety requirements and ADA compliance in multi tenant building, the tenant is responsible in single tenant building). Managers should carefully follow through on any agreements to ensure that tenants actually made the proper modifications.

d. Advertising Rules Relating to Fair Housing: a Licensee may not:

- * make, print or publish or cause to be made printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination, or an intention to make any preference, limitation or discrimination.
- * may not instill fear of a protected status individual moving into the neighborhood lowering the property values.

*retaliate against a person for assisting an individual exercising his-her rights/ may not claim a unit is not available when it is.

6. (Residential) Landlord-Tenant Law (NRS 118A) (8 items)

Tenant's Obligations (Residential)s:

- *Comply with the terms of the lease
- *Keep the premises as clean as possible
- *Dispose of waste in a clean and safe manner
- *Keep plumbing fixtures as clean a possible
- *Use the facilities and appliances in a reasonable manner
- *Do not permit or allow any part of the premises to be damaged, destroyed or removed
- *Do not allow conduct on the premises that disturbs the neighbors

Tenant's Rights (Residential)

- *May display the flag of the United States on the leased premises (lessor may establish rule governing the placement of the flag)
- *May cancel the lease if he/she is 60 years of age or older, or has a physical or mental disability, and relocation is necessary for treatment, by giving 30 days notice within 60 days of relocating.
- *May cancel his/her lease by giving 30 notice within 60 days of his/her co-tenant relocating for treatment.
- *May cancel his/her lease by giving a 60 day notice within three months of the co-tenant dying.

*May remain a tenant after the expiration of an estate for years if the landlord accepts the monthly rent, tenancy becomes month to month but all other terms of the lease remain in effect.

*After receiving a 30 notice to quit in a period to lease, a tenant who is 60 years of age or older may petition the Lessor for a 30 day extension of the lease. If the Lessor denies the petition, the Tenant may then petition the court for a 30 extension of the lease. If the court denies the petition, the lessor cannot evict the tenant until 5 days after the denial of the tenant's petition is filed with the court.

*If the premises are damaged or destroyed, making it uninhabitable, the tenant may immediately vacate and within seven days give the landlord notice terminating the lease (notice need not be In writing)

*May not be required to give up any legal rights, pay landlord's legal fees (may allow the prevailing party to collect attorney's fees), limit landlord's liability, give a different notice to terminate a lease

*May have and 'assist animal' if the animal assists, supports or provides a service to the person with a disability. Proof of the need for the animal may be satisfied by a statement from a provider of health care that the animal performs a function that ameliorates the effects of the person's disability

*Landlord may not remove any part of the leased premises except for repair or replacement, which must be promptly performed

*Landlord may not interrupt or cause the interruption of utility service paid directly to the utility company by the tenant unless the interruption results from construction, bona fide repairs, or an emergency

Landlord's Obligations (residential)

*Comply with the terms of the lease

*The landlord shall at all times during the tenancy maintain the dwelling unit in a habitable condition

*The landlord and the tenant may agree that the tenant is to perform specified repairs, maintenance tasks and minor remodeling if the agreement of the parties is entered into in good Faith

Landlord's rights (residential)

*Landlord may adopt rules and regulations to promote the convenience, safety and welfare of the tenants and landlord, to preserve the property from abuse, and make fair distribution of services. Rule changes shall apply to all tenants equally and must inform tenants what must or must not be done to comply. Rule changes are enforceable after the tenant consents to the change in writing or has 30 days advance written notice

*The landlord has the right to peaceably enter the dwelling unit to: (1)inspect the premises, (2)supply necessary or agreed repairs, (3)exhibit the dwelling to prospective or actual purchasers, mortgagees, tenants, workers, contractors or other persons with a bona fide interest in inspecting

the premises. Except in case of emergency, landlord shall give the tenant 24 hours notice of intent to enter. Entry must be at reasonable times during normal business hours . If tenant refuses to allow landlord entry the leased premises, Landlord may sue the tenant for damages suffered.

*Landlord may dispose of personal property left on the premises by the past tenant after storing the personal property in a safe place for 30 days and mailing a 14 day notice of the landlord's intention to dispose of the personal property. The 14 day notification must be mailed to the tenant's last known address (is not required to be certified mail return receipt requested). The 14 day notification of intention to dispose of the personal property may be mailed during the 30 day safe storage of the tenant's property. Before releasing the goods to the tenant, landlord may collect the reasonable and actual cost of inventory, moving and storage, or deduct such cost from the sale of the items, The remaining money is to be sent to the tenant at tenant's last known address.

Landlord's Rights (Commercial)

*A tenant , not a natural person, who has received three notices for nonpayment of rent within a 12 month period is guilty of an unlawful detainer and may be evicted immediately (NRS 40.251)

*The landlord may change the door locks of a (commercial) tenant who is delinquent in paying at least part of the rent. The landlord must, for not less than 5 days, place written notice on the front door of the commercial premises giving the name and the phone number or address of where a key may be obtained during tenants normal business hours. The new key is required to be given to the tenant only when the tenant has paid the delinquent rent. (NRS 118C.200)

*After a commercial lease had been terminated for any reason, the landlord may dispose of abandoned personal property of the tenant after giving the tenant 14 days notification of the landlords intention to dispose of the personal property. The Notice must be mailed, certified mail - return receipt requested, to the tenant at the tenant's last known address. The landlord may charge and collect the reasonable and actual cost for the inventory, moving and safe storage of the property. If there is a written agreement between the landlord and the actual owner of the personal property left by the tenant, the terms of the written agreement determine the rights and obligations of the parties to the agreement. (NRS 118C.230)

c. Definition of "Habitable"/"Essential Services"(Residential)

For a dwelling to be habitable, it must have: (NRS 118A.290)

- (a) effective waterproofing and weather protection
- (b) plumbing facilities in good working order
- (c) a water supply
 - (1) under the control of the tenant or landlord, producing hot and cold running water
 - (2) furnished to appropriate fixtures
 - (3) Connected to sewage disposal system (Note: a garbage disposal is only one component of a sewage disposal system)
- (d) adequate heating system
- (e) electric lighting, outlets, wiring, and electrical equipment in good working order

- (f) adequate number of receptacles for garbage and rubbish, in clean condition and good repair at the commencement of tenancy. Landlord shall arrange for removal unless the parties agree otherwise in writing
- (g) leased premises must be clean and free from litter, filth, rubbish, garbage, rodents, insects, and vermin at the commencement of tenancy
- (h) floors, walls, ceilings, stairwells, and railings maintained in good repair
- (i) ventilating, air conditioning and other facilities and appliances , including elevators, maintained in good repair if supplied or required to be supplied by the landlord
 - *all items installed must comply with applicable law and be in good working order
 - *the landlord and tenant may agree that the tenant is to perform specified repairs, maintenance tasks and remodeling
 - *not providing a locking door, by law, does not make the dwelling uninhabitable unless it is required by the rental agreement. If a locking door is provided, the landlord is required to maintain it in working order (NRS 118A.380)

d. Security Deposits; Cleaning Fees:

- *the Lessor may not demand or receive security, including the last month's rent, exceeding three months periodic rent
- *payment of all or part of the security by a surety bond may be rejected by either the lessor or the lessee

- * deposit may be used upon termination of tenancy for delinquent rent, cleaning and damages beyond normal wear
- *With the exception of a non-refundable cleaning fee, no agreement shall state that the security is non refundable except for the portion of the security deposit used for repairs, cleaning and/or delinquent rent
- *the remaining security must be returned to the tenant at his/her last known address, within 30 days following the end of tenancy
- *The tenant has 30 days to dispute any amount withheld
- *Failure to return the unused portion of the security is punishable by a fine equal to the amount of security plus an amount to be fixed by the court equal to the security.

7. Broker 's Fiduciary duties and Agency Relationships (4 items

Fiduciary Duties:

- *Loyalty - The property manager must always put the client's interest first, above his/her own interests
- *Care - requires the property manager to exercise a reasonable degree of skill while managing the property
- *Obedience - The property manager must carry out, in good faith, the client's (legal) instructions
- *Accounting - requires the manager to accurately report on the status of all funds received on behalf of or from the client

Agency Relationships:

Agency is a word used to describe the special relationship between the principal (the one who hires) and the agent (the one who does the work). The written agreement creating this relationship is called

the management contract: empowers the property manager, as agent, to act on behalf of the owner, the principal, in certain situations. The Agent is regarded as an expert on whom the principal can rely for professional advice. The agent is governed by the terms of the contract, which may be written or oral, and certain legal and ethical considerations based on the law of agency.

*Universal Agency gives the power of attorney to do all things for the client, (it is not recognized in Nevada law)

*A General Agent may act on behalf of the client on a range of matters and may obligate the client to any contracts signed by the agent that are within the scope of the agent's duties.

*A Special Agent is authorized to represent the client on a specific matter or transaction, the authority is limited in the scope and time. Once the transaction is concluded, the agency is terminated.

Client's best interest:

'Fidelity', a term often used in reference to management relationships, is placing the clients interests above your own.

8. Risk Management (5 items)

Defined: "Risk Management is concerned with both the financial and humanitarian consequences of

unforeseen events, and taking steps to reduce those consequences”

Risk Management Principles:

1. Identify - measure the frequency and the financial severity of the event
- 2, Avoid - stop the activity / discontinue the loss causing activity
3. Control - with a safety program / loss reduction plans / emergency preparedness
4. Retain - absorb the consequences of the risk (ex. Self insured)
5. Transfer - buy insurance / contract services with third parties
6. Monitor results - make decisions regarding effectiveness of the actions taken, are additional actions needed

a. Maintenance

There are four classifications of maintenance;

- * Routine: Is basically housekeeping, cleaning the offices and common areas..etc
- * Corrective: actual repairs(ex. fixing a leaky faucet) frequent and repeated repairs are still corrective
- * New Construction: anything new (new wall paper, a new wall)
- * Deferred: obviously needed repairs that are postponed

B. Tenant Health and Safety-could not be found

B. Life, Safety and Security

"Adequate security, as defined by the courts, is that security necessary to protect life and property under the circumstances existing in the building and the neighborhood of the property in question".

The Four Goals of Any Program are:

- *Preventing emergencies or security breaches
 - *Detecting a breach as early as possible and sounding an alarm
 - *Containing or confining
 - *Counteracting the damage by prompt and proper action, such as extinguishing a fire or arresting an intruder
- *A disaster plan should be developed for all building(s) regardless of their size. Procedures must meet the Occupational Safety and Health Act and other applicable laws. The plan should be designed for the handling of severe damage and for setting up an off site command post. If space and budget permit, a minimum of emergency supplies should be stored as part of this plan.
- *Following a disaster, the property manager must concentrate on preventing further damage, minimizing the loss, and resuming normal operations as quickly as possible.
- *OSHA Emergency Standards '29 CFR 11910.30' requires an emergency evacuation plan to be in place. The standard does not differentiate between particular building structures but requires the employer, if single occupancy, or the owner in a multi-tenant building to develop an emergency plan that is site specific. Nevada OSHA has an inventory of life safety plans and invites building owners and managers to plagiarize them.

c. Insurance

The owner should make insurance decisions based on recommendations from the owners own

insurance broker, considerations should include:

- *loss of rent (loss of income), may also be know as occupancy insurance
- *employee liability - umbrella policy on employee accidents
- *commercial general liability, with the manager as additional insured - legal responsibility and cost of defense for damage to property of others
- *fire/multi-peril - replacement, not depreciated value

Property Manager's insurance should include:

- * property insurance, including fire, lightning, windstorm, vandalism and malicious mischief
 - replacement is preferred to depreciated value
- *flood insurance (consult: www.fema.gov/national-flood-insurance-program)
- *loss of income following premises that are required following a loss
- *rental value of leased premises that must be replaced by more expensive leases
- *workers compensation and employers liability for injury to workers
- *commercial automobile liability, including hired and nonowner automobiles, to cover injury and damage by vehicles
- *commercial general liability, including liability for contractors, completed operations, product and contractually assumed liabilities

*loss of income / loss of occupancy insurance should be considered for properties with small profit margins and/or heavy debt loads

Property Manager Should:

- *Be named co-insured on all liability insurance policies that the owner holds on the premises
- *have an indemnity clause in the management agreement indemnifying the manager from any liability exposure caused by the client.
- *have an indemnity clause in leases indemnifying the lessor and manager against liability from injuries to employees, visitors and guests of tenant injured within the leased premises.
- *have a clause in the management agreement that the manager is not responsible for work performed by vendors contracted by the client, that is beyond ordinary supervision, or products supplied by vendors
- *Place a 'dollar cap' on the amount for which the manager would be responsible
- *insure office contents and equipment: purchase "employee honesty insurance", carry errors and omissions insurance
- *make sure the property managed is covered by Commercial General Liability insurance with the manager as an additional insured this covers the legal responsibility and the cost of defense for damage to the property of others

Other Risk Management Considerations:

- *if the unit is a condominium, client should carry HO-6 insurance (insures the unit)
- *customer/tenant should be required (in the lease) to carry HO-4 insurance (insures the tenant's personal property)
- *In the event there is an injury to others or damage to the property of others (a liability causing event), take a report (and pictures if possible) of the injury and/or damage, and notify the client's insurance agent as soon as possible. Do not give the client's insurance information to anyone without the client's approval

d. Fair Debt Collection Practices

The Federal Fair Debt Collections Act contains the following provisions:

- *A debt collector is anyone, other than the creditor, who collects debts for others
- *A debt collector may contact you in person, telephone or telegram. However, it can't be at inconvenient times or places, such as before 8AM or after 9PM
- *A debt collector may not contact you at work if your employer disapproves.
- *A debt collector may not contact you or a third party if the collector knows that you have retained an attorney.
- *You can stop a debt collector from calling you by saying so in writing within 30 days after his first contact. Once you tell the debt collector not to call you, the debt collector can no longer do so except to tell you there will be no further calls.

The debt collector MAY NOT:

*Tell anyone that you owe money

*Send or put anything on an envelope that identifies the writer as debt collector

*Use threats of violence to harm anyone or anyone's property or reputation

*Falsely imply that the debt collector represents the United States Government or any state government

*Use any false name

*Falsely imply that the debt collector is an attorney or represent that papers are legal forms when they are not

*Falsely represent that the debt collector operates or works for a credit bureau

*Falsely give credit information about you to anyone

A debt collector must be fair in attempting to collect any debt. For example

A debt collector cannot:

*collect any amount greater than your debt unless allowed by law

*deposit a postdated check before the date written

*make you accept collect calls or pay for telegrams

If a debt collector breaks the law you have the right to sue the debt collector in the state or federal court within one year of the date the of the violation.

8.Principles of a Commercial Property Management (4 items

a. Types of Commercial Leases; Trade Fixture

TYPES OF LEASES:

*Gross lease(aka Straight Lease) - Most residential leases / same rent payment each month

*Modified Gross Lease - most office leases, may have step-up, graduated or specific rental increase clauses, economic index clause (CPI), non-economic index rental increases (tied to - union wages, utilities, property taxes)

Full Service Lease (aka Turn-Key Lease) -Gross or Modified Gross lease with utilities and cleaning included

*Step-Up Lease (aka Graduated Lease) - Rental rate increases by a stated amount on specific dates

Reappraisal Lease - A method of determining the amount of rent to be paid on the renewal of a (long term) land lease, Three independent appraisals are conducted and reconciled to determine the value of the land (without the any improvements). Calculations are then made to determine the renewal rental rate, taking into consideration the landlord's desired rate of return.

*Index Lease - increases or decreases in the rent are tied to a certain index of economic condition

NET LEASES - Tenant pays some or all of the expenses of the leased property (excepting debt service)

In addition to the stated rent. Expenses paid by the tenant are evidenced by N, NN or NNN

*N Lease = stated rent plus real estate taxes, utilities and special assessments

*NN Lease = N plus insurance

*NNN Lease = NN plus repair & maintenance

(to make a NN lease into a NNN lease, what must be added?)

PERCENTAGE LEASES (AKA) OVERAGE LEASE

*Straight % = rent is a % of gross sales

*Minimum Guaranteed (aka Overage Lease) = Tenant pays either a fixed minimum rental rate or a % of gross sales, whichever is greater

*Combination % Lease = Tenant pays stated base rent plus a % of gross sales

*Variable Scale % Lease = % decreases when negotiated sales plateaus are achieved

(ex. Rent is 6% of sales up to \$10,000, 4% of sales from \$10,000 to \$20,000, and @5 of sales over \$20,000 - during a specified time frame

*Minimum % Lease = % of sales with a preset ceiling (maximum) on the amount of rent to be paid

Fixtures: belong to the Lessor. Fixtures are anything that is permanently attached to the premises , including tenant improvements

Trade Fixtures (aka Chattel Fixtures) are items relative to the tenant's business and belong to the tenant. Address them in the lease if they are to be attached to or penetrate the premises (ex. exhaust fan above a stove in a restaurant)

b. Abstracting Leases and Enforcement of Lease Terms

*Rent Roll

For convenience and brevity, important or frequently used information within lease is condensed and (usually) cross indexed by tenant name and suite number. This process is referred to as 'abstracting' a lease. This allows the manager quick and easy reference,

*Enforcement of lease terms

At the outset of each tenancy, the manager should establish a basic understanding with the tenant on all matters relating to the lease terms. The tenant should also be told of the penalties for failure to comply with the building regulations. Enforcing the terms of the lease and building regulations should be fair and consistent. The manager should demonstrate goodwill and availability by communicating regularly with the tenants. A new manager should make an effort to meet each tenant personally as soon as possible. Soliciting tenant comments on the amenities, services maintenance and general management of the building - Generating a feeling of belonging, having input, and not being taken for granted by management cultivates a sense of community. Living or working in a building can be made as pleasant as possible by offering tangible and intangible benefits. A manager's personal efforts can generate friendliness and loyalty among the tenant population, even more than the amenities themselves. Building personnel should be polite and courteous to tenants and visitors to the property, and helpful when possible. Tenant service requests should be addressed immediately letting the tenant know when the service will be presumed. If there is a delay or the request is denied, the manager should be honest with the tenant and explain the why. Never promise something unless you can deliver. Never lie to tenant, once your honesty comes into question you lose your credibility. If you don't know, say you don't know - but you will try to find out. Problems encountered in the collection of rent can often be avoided by not accepting tenants whose credit reports indicate a pattern of not paying

bills as agreed. Another method of assuring the payment of rent as agreed is by inserting a clause in the lease that imposes monetary penalties for late payment. Regular inspections of the property is also an obligation of the manager. Inspections should be random, with the frequency dependant on the upkeep and care of the property. Managers, particularly managers of commercial properties, should make "drive by" inspections of their properties whenever they are in the area. Activities occurring on commercial properties during non-business hours have a direct effect on the customer flow during business hours. When a provision in the lease is 'breached', the manager should serve the tenant with a notice of the breach and follow-up to ensure that the breach was remedied, or take further action as necessary.

c. Budgeting/Operating Budgets/Forecasting/Reserves

What is a Function of the Budget

- *A future projection
- *A basis for planning
- *A guide for directing and coordinating company operations
- *A standard against which results can be measured
- *A financial way to ensure things are being done on the property

A Budget is:

- *Anticipated revenue, adjusted to reflect anticipated market trends

*Estimated yearly operating costs

*Estimated reserve funds

*Cash flow in light of the client's objectives

Operating Budget:

The budget gives the owner an idea of the cash yield to expect from the property during a fixed period, traditionally a year. The budget serves the manager as a guide for future operation of the property and as a measure of past performance. If the projected budget for a period does not agree with the actual monthly income and expense reports and the profit and loss statement for the same period, appropriate adjustments should be made in the subsequent operating budgets or in the operating procedures. Many managers divide their annual budget into three month segments so they can compare the budget with actual income and expenses on a quarterly basis. This helps pinpoint expense items that are out of line before the year has passed.

When preparing an operating budget, estimates of future income should be made conservatively, using current rental rates rather than hoped for future increases that might not materialize. The manager should have knowledge of: competing properties that will be entering the market offering additional available space during the budgeted period, leases on the property in question that will be expiring during the budgeted period and the property's historical success of renewing leases, and as much information as possible about what competing properties are offering. Shopping competitive properties, having friends and/or acquaintances pose as prospective tenants, is a convenient way to gather information about the competition. Consideration must be given to the age of the managed property. As properties age, adjustments are often needed in the cost of maintaining the property in a competitive condition. A prudent manager also keeps abreast of current events, such as the probability of increases to the minimum wage, increases in the charges for utility services.

An accumulation of budgets and comparative summaries over an extended period provides a valuable synopsis of recent trends and alerts the manager to areas of unfavorable progress.

Reserves:

Reserve Funds are in the expense category of an operating budget. The function of a 'Reserve's to set

money aside for the repair or replacement of items not budgeted and not covered by insurance. The manager should keep track of all money used from the 'Reserve' and explain the expenditures in the 'Budget Comparison statement'. If the balance of the 'Reserve' gets to a predetermined low, the landlord should be requested to replenish the fund.

A Management Fee: is an administrative expense in the Management Budget

Capital Expenditure Budget Projects several years into the future. Capital improvements can be broken into two major categories - 'preservation' and 'income producing' capital expenditures. . Capital improvements can not be 'passed through' to the tenants and can often be amortized over a number of years as tax deductions. A Capital Expenditure Budget is not part of a Management Budget

d. Elements of Net Operating Income (NOI) See accounting terms

e. Tenant Improvements; Notice of Non-Responsibility

*Tenant Improvements

Construction, remodeling and alterations needed to make the premises usable by the tenant.

The cost of the alterations may be paid by the tenant or the landlord or both, and are a major point of negotiation, When paid by the landlord, this expenditure is usually referred to as a 'tenant improvement allowance'. Regardless of who pays for these improvements, once they are installed they become 'fixtures' and belong to the landlord

*Notice of Non Responsibility

Where work is being performed on the property that was not contracted by the client, post a Notice' Of Non Responsibility in a prominent place on the construction site. This puts the contractors on notice that the client is not responsible for payment of the work being performed. After posting the notice, file a copy with the county recorder, this puts the public on notice that the lessor is not

financially responsible for work not contracted by the lessor. A manager that manages multiple properties will be prudent to carry blank copies of this notice in his/her portfolio (NRS 108.234)

f. Passthroughs /g. Escalation Clauses

Expense Stop:

The amount a lessor will pay over a specified period to operate the building / property. Increased expenses in the operation of the building may be billed back to the tenant(s). This is commonly called a 'Pass-through'. What the pass-through is based on is addressed in the lease.

Escalation Clause / Pass-Through:

Increases in the cost of running the building / property tied to outside factors other than economic indexes, over a base time frame, and billed back to tenants proportionate to the tenant's percentage of the premises leased, (usually) as a monthly charge in addition to base rent.
Escalation Clause and Pass-Through are synonymous

OTHER

*Aging Report - a report on money owed to the landlord by tenants (usually delinquent rent) by who, how much, and for how long

*Sherman Anti Trust Act (aka Price Fixing) - two or more individuals conspire to set a price. The Property Management text states that "uniform trade rates are not legal" ...that restriction was overturned by the U. S. Supreme Court in 2012.

*What is the advantage of employing outside (3rd party) security guards? 1)Absenteeism - if the guard does not show up for work, call the vendor and they will send another guard/ 2)Deferred liability - actions of the guard are insured by the employing guard company.

NEVADA BROKERAGE CONTRACTS

Nevada Brokerage Contracts

Listings

- Nevada brokerage contracts in regards to listing contracts:
 - May be oral or written
 - If written, must have an end date
 - If any type of an exclusive listing:
 - Must have a Nevada Duties Owed
 - Must be written
 - Must have an end date
 - Must leave a copy immediately, or as soon as practical
 - Cannot have an automatic extension
 - Is enforceable when signed by seller/brokerage or their representative
 - Seller has option with Brokers permission to:
 - Not look at certain offers
 - Negotiate directly with buyer
 - A licensee must provide any paperwork to the broker within 5 calendar days after the document is executed by all parties
- Confidential information must be kept and protected for 1 year after termination of a brokerage agreement

Offers

- Nevada brokerage contracts in regards to offers
 - All offers must contain:
 - Nevada Duties Owed form
 - Nevada Confirmation on which brokerage represents who
 - Consent to Act if Nevada broker is acting as a dual agent
 - All offers must be presented, regardless of price, promptly or as soon as practical
 - This includes oral or written offers
 - Offeree has three decisions when receiving an offer:
 - They must be signed and dated by offeree whether:
 - Accept
 - Refused
 - Rejected

Deposits/Earnest Money

- Nevada requirements in regards to deposits/earnest money
 - NV salesperson/broker-salesperson must turn over all monies to the NVB:
 - The next business day:
 - Business day means:
 - 8:00 a.m. to 5:00 p.m. PST (including daylight savings)
 - Excludes holidays and weekends
 - NV brokerage must do one of the following after the acceptance of an offer:

- Put monies into a Nevada trust account
- Put monies into a Nevada escrow company
- Give monies to the seller, however, NVB will remain personally liable
- Give monies to whomever, so long as all parties agree
- A Nevada brokerage or Nevada agent can never:
 - Commingle - mix money with his or her money
 - Conversion - use the money of another

Nevada Broker Must Monitor Agent's Advertisements

- All Nevada advertisements must contain Nevada brokerage name
- Nevada advertisements include:
 - Internet ads
 - Newspapers ads
 - Television ads
 - Radio ads
 - Flyer ads
 - Business cards ads
 - Or any other publicity
 - Nevada brokerage name must be prominent, not necessarily dominant
- Nevada advertisements do not need Nevada brokerage phone number
 - Unless Nevada brokerage requires it
- No more than one Nevada brokerage advertisement sign in a client's yard:
 - Without seller's written permission
- If Nevada licensee is selling their own Nevada real property:
 - Must disclose Nevada owner/licensee on signage
 - Cannot say owner/REALTOR®
 - Cannot have for-sale-by-owner and Nevada brokerage on same sign
- Nevada brokerage may have different sizes of signs at main and branch office
 - Signage may not be confusing in color or logo to public

Nevada Brokerage Trust Accounts

- Nevada general brokers do not have to have a Nevada trust account
- Nevada Brokers with a NVPMP must have Nevada trust accounts for money received
 - For Operations
 - Security Deposits
- If you do NV general real estate with a Nevada trust account and have a NVPMP
 - Must have three separate Nevada trust accounts
- Nevada trust account means:
 - All monies in a NV trust account when NV brokerage goes bankrupt:
 - Monies returned to the client
 - Without Nevada trust account:
 - Monies go to the US Government
- All Nevada brokerage Nevada trust accounts must:
 - Name Nevada brokerage as the trustee
 - Give the name of the bank of where the NV trust account is to NVRED
 - Must give the account number at the bank to NVRED
 - Must allow NVRED to check the NV trust accounts
 - With or without NVB present

Nevada Brokerage Property Management Rights

- NV brokerage must have NV broker or experienced NV broker-salesperson
 - Nevada broker-salesperson can be named as overseer of the account
 - Nevada Broker still remains liable
 - Must have a Nevada property management Nevada trust account (two separate accounts)
 - Must have a Nevada property management permit
 - Must reconcile NV property management NV trust account every 30 days
 - Must not allow NV property management Nevada trust account
 - To be in arrears for more than 45 days
 - Must give annual accounting of the NVPM NV trust account to NVRED
 - Based on NV broker's license renewal date
 - A Nevada custodial Nevada trust account means:
 - Nevada brokerage and client may write checks off the NV account
 - Separate custodial Nevada trust account for each client
 - NVB not liable for overdrawn Nevada custodial trust accounts
 - If client overdraws the Nevada custodial trust account

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION
TRUST ACCOUNT RECONCILIATION

Check one: Custodial Trust Account Date _____

Company Name _____

Address _____

Trust Account Title _____

Trust Account Number _____ For Month of _____

Bank _____

Prepared by _____ Email _____

Office Phone _____ Office Fax _____

PART I:

Bank Statement Ending Balance		\$ _____
Plus: Deposits not yet recorded on bank statement but posted to check register & ledgers (Total of Schedule A)		\$ _____
Deposits recorded on bank statement but not posted to check register & ledgers		\$ _____
	SUBTOTAL	\$ _____
Less: Outstanding checks (Total of Schedule B)		\$ _____
Plus or Minus: Other adjusting entries (Total of Schedule C)		\$ _____
Reconciled bank balance as of _____	TOTAL	\$ _____

PART II: (Submit)

Checkbook, Check Register or Journal of Receipts and Disbursements: Balance as of _____ **TOTAL** \$ _____

PART III: (Submit)

Ledger Cards: As of _____ **TOTAL** \$ _____
(Total of Schedule D)

Totals of Parts I, II and III must be reconciled to the same date and must be identical
*Amount of difference between these totals, if any: \$ _____

**Complete Schedule C (page 2) to explain the difference and corrective action taken to bring Parts I, II and III into balance.*
***If corrective action will be taken after submission of this reconciliation explain the difference and corrective action that will be taken on page 3 of this form.*

Broker funds, if any: \$ _____
Print Broker Name: _____ Broker License # _____

A Form 513 Authorization To Inspect Records is on file with the Division reflecting the **current** bank name, bank address and bank account number for each of the brokerage's trust accounts Yes No
If not, I will promptly submit updated Form(s) 513 to the Real Estate Division.

I declare under penalty of perjury that the foregoing is true and correct. I also understand that I need to submit either form 546 or form 546A every year according to the requirements set forth in NAC 645.806

Broker Signature: _____ Date: _____

Recommended format or headings for schedules

SCHEDULE "A" (Deposits not yet posted by bank)

Date	Amount	Date	Amount	Date	Amount
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

SCHEDULE "B" (Outstanding checks)

Date	Check No.	Amount	Date	Check No.	Amount
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

SCHEDULE "C" (Adjusting entries)

Date	Amount	Explanation	Corrective Action Taken
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

SCHEDULE "D" (Ledgers)

Client name or Property address	Ledger Balance	Client name or Property address	Ledger Balance
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTE: Form 546 is to be submitted annually by the end of the month in which the broker's license expires. One form may be sufficient for low volume accounts. For higher volume accounts, complete additional schedules. Trust accounts must be reconciled with bank statements at least monthly. For direction regarding trust accounts and how to open a bank trust account go to: Informational Bulletin #26.

MAIL COMPLETED FORMS, BANK STATEMENTS AND SCHEDULES TO:
 Nevada Real Estate Division, ATTN: Compliance, 3300 W. Sahara Ave., Suite 350, Las Vegas, Nevada 89102

email: realest@red.nv.gov

<http://red.nv.gov/>

702-486-4033

****EXPLAIN FULLY:** *If corrective action will be taken after submission of this reconciliation explain the difference and corrective action that will be taken.*

Broker Signature	Date

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

3300 W. Sahara Ave., Suite 350, Las Vegas, Nevada 89102 * (702) 486-4033
e-mail: realest@red.nv.gov * <http://red.nv.gov/>

AFFIDAVIT IN LIEU OF FORM 546

Pursuant to NAC 645.806 3, I, _____ declare, under penalty of
(Print Broker Name)
perjury, that I am not required to file Form 546 Trust Account Reconciliation as I have not within the past year
of the anniversary of the expiration date of my broker's license received monies belonging to others as
described in NRS 645.310 4:

If a real estate broker receives money, as a broker, which belongs to others, the real estate broker shall promptly deposit the money in a separate checking account located in a bank or credit union in this State which must be designated a trust account. All down payments, earnest money deposits, rents, or other money which the real estate broker receives, on behalf of a client or any other person, must be deposited in the account unless all persons who have any interest in the money have agreed otherwise in writing. A real estate broker may pay to any seller or the seller's authorized agent the whole or any portion of such special deposit. The real estate broker is personally responsible and liable for such deposit at all times. A real estate broker shall not permit any advance payment of money belonging to others to be deposited in the real estate broker's business or personal account or to be commingled with any money he or she may have on deposit.

Should my current situation change and I begin handling monies belonging to others as described above, I will notify the Division immediately by submitting form 513 Authorization to Inspect Records to inform the Division of the bank information for the brokerage's trust account(s).

I declare under penalty of perjury that the foregoing is true and correct. I also understand that I need to submit either form 546 or form 546A every year according to the requirements set forth in NAC 645.806

Signature of Broker

Date

Broker License Number

MAIL COMPLETED FORM TO:

Nevada Real Estate Division, ATTN: Compliance, 3300 W. Sahara Ave., Suite 350, Las Vegas, Nevada 89102
email: realest@red.nv.gov <http://red.nv.gov/> 702-486-4033

VIII. DRUG AND ALCOHOL ABUSE

8.1 Introduction

The ADA specifically permits employers to ensure that the workplace is free from the illegal use of drugs and the use of alcohol, and to comply with other Federal laws and regulations regarding alcohol and drug use. At the same time, the ADA provides limited protection from discrimination for recovering drug addicts and for alcoholics.

8.2 Overview of Legal Obligations

- An individual who is currently engaging in the illegal use of drugs is not an "individual with a disability" when the employer acts on the basis of such use.
- An employer may prohibit the illegal use of drugs and the use of alcohol at the workplace.
- It is not a violation of the ADA for an employer to give tests for the illegal use of drugs.
- An employer may discharge or deny employment to persons who currently engage in the illegal use of drugs.
- An employer may not discriminate against a drug addict who is not currently using drugs and who has been rehabilitated, because of a history of drug addiction.
- A person who is an alcoholic is an "individual with a disability" under the ADA.
- An employer may discipline, discharge or deny employment to an alcoholic whose use of alcohol impairs job performance or conduct to the extent that s/he is not a "qualified individual with a disability."
- Employees who use drugs or alcohol may be required to meet the same standards of performance and conduct that are set for other employees.
- Employees may be required to follow the Drug-Free Workplace Act of 1988 and rules set by Federal agencies pertaining to drug and alcohol use in the workplace.

8.3 Illegal Use of Drugs

An employer may discharge or deny employment to current illegal users of drugs, on the basis of such drug use, without fear of being held liable for disability discrimination. Current illegal users of drugs are not "individuals with disabilities" under the ADA.

The illegal use of drugs includes the use, possession, or distribution of drugs which are unlawful under the Controlled Substances Act. It includes the use of illegal drugs and the illegal use of prescription drugs that are "controlled substances".

For example: Amphetamines can be legally prescribed drugs. However, amphetamines, by law, are "controlled substances" because of their abuse and potential for abuse. If a person takes amphetamines without a prescription, that person is using drugs illegally, even though they could be prescribed by a physician.

The illegal use of drugs does not include drugs taken under supervision of a licensed health care professional, including experimental drugs for people with AIDS, epilepsy, or mental illness.

For example: A person who takes morphine for the control of pain caused by cancer is not using a drug illegally if it is taken under the supervision of a licensed physician. Similarly, a participant in a methadone maintenance treatment program cannot be discriminated against by an employer based upon the individual's lawful use of methadone.

An individual who illegally uses drugs but also has a disability, such as epilepsy, is only protected by the ADA from discrimination on the basis of the disability (epilepsy). An employer can discharge or deny employment to such an individual on the basis of his/her illegal use of drugs.

What does "current" drug use mean?

If an individual tests positive on a test for the illegal use of drugs, the individual will be considered a current drug user under the ADA where the test correctly indicates that the individual is engaging in the illegal use of a controlled substance.

"Current" drug use means that the illegal use of drugs occurred recently enough to justify an employer's reasonable belief that involvement with drugs is an on-going problem. It is not limited to the day of use, or recent weeks or days, in terms of an employment action. It is determined on a case-by-case basis.

For example: An applicant or employee who tests positive for an illegal drug cannot immediately enter a drug rehabilitation program and seek to avoid the possibility of discipline or termination by claiming that s/he now is in rehabilitation and is no longer using drugs illegally. A person who tests positive for illegal use of drugs is not entitled to the protection that may be available to former users who have been or are in rehabilitation (see below).

8.4 Alcoholism

While a current illegal user of drugs has no protection under the ADA if the employer acts on the basis of such use, a person who currently uses alcohol is not automatically denied protection simply because of the alcohol use. An alcoholic is a person with a disability under the ADA and may be entitled to consideration of accommodation, if s/he is qualified to perform the essential functions of a job. However, an employer may discipline, discharge or deny employment to an alcoholic whose use of alcohol adversely affects job performance or conduct to the extent that s/he is not "qualified."

For example: If an individual who has alcoholism often is late to work or is unable to perform the responsibilities of his/her job, an employer can take disciplinary action on the basis of the poor job performance and conduct. However, an employer may not discipline an alcoholic employee more severely than it does other employees for the same performance or conduct.

8.5 Recovering Drug Addicts

Persons addicted to drugs, but who are no longer using drugs illegally and are receiving treatment for drug addiction or who have been rehabilitated successfully, are protected by the ADA from discrimination on the basis of past drug addiction.

For example: An addict who is currently in a drug rehabilitation program and has not used drugs illegally for some time is not excluded from the protection of the ADA. This person will be protected by the ADA because s/he has a history of addiction, or if s/he is "regarded as" being addicted. Similarly, an addict who is rehabilitated or who has successfully completed a supervised rehabilitation program and is no longer illegally using drugs is not excluded from the ADA.

However, a person who casually used drugs illegally in the past, but did not become addicted is not an individual with a disability based on the past drug use. In order for a person to be "substantially limited" because of drug use, s/he must be addicted to the drug.

To ensure that drug use is not recurring, an employer may request evidence that an individual is participating in a drug rehabilitation program or may request the results of a drug test (see below).

A "rehabilitation program" may include in-patient, out-patient, or employee assistance programs, or recognized self-help programs such as Narcotics Anonymous.

8.6 Persons "Regarded As" Addicts and Illegal Drug Users

Individuals who are not illegally using drugs, but who are erroneously perceived as being addicts and as currently using drugs illegally, are protected by the ADA.

For example: If an employer perceived someone to be addicted to illegal drugs based upon rumor and the groggy appearance of the individual, but the rumor was false and the appearance was a side-effect of a lawfully prescribed medication, this individual would be "regarded as" an individual with a disability (a drug addict) and would be protected from discrimination based upon that false assumption. If an employer did not regard the individual as an addict, but simply as a social user of illegal drugs, the individual would not be "regarded as" an individual with a disability and would not be protected by the ADA.

As with other disabilities, an individual who claims that s/he was discriminated against because of past or perceived illegal drug addiction, may be asked to prove that s/he has a record of, or is regarded as having, an addiction to drugs.

8.7 Efforts to Prohibit Drug and Alcohol Use in the Workplace

The ADA does not prevent efforts to combat the use of drugs and alcohol in the workplace

The ADA does not interfere with employers' programs to combat the use of drugs and alcohol in the workplace. The Act specifically provides that an employer may:

- prohibit the use of drugs and alcohol in the workplace.
- require that employees not be under the influence of alcohol or drugs in the workplace.

For example: An employer can require that employees not come to work or return from lunch under the influence of alcohol, or drugs used illegally.

Require that employees who illegally use drugs or alcohol meet the same qualification and performance standards applied to other employees. Unsatisfactory behavior such as absenteeism, tardiness, poor job performance, or accidents caused by alcohol or illegal drug use need not be accepted nor accommodated.

For example: If an employee is often late or does not show up for work because of alcoholism, an employer can take direct action based on the conduct. However, an employer would violate the ADA if it imposed greater sanctions on such an alcoholic employee than it did on other employees for the same misconduct.

While the ADA permits an employer to discipline or discharge an employee for illegal use of drugs or where alcoholism results in poor performance or misconduct, the Act does not require this. Many employers have established employee assistance programs for employees who abuse drugs or alcohol that are helpful to both employee and employer. However, the ADA does not require an employer to provide an opportunity for rehabilitation in place of discipline or discharge to such employees. The ADA may, however, require consideration of reasonable accommodation for a drug addict who is rehabilitated and not using drugs or an alcoholic who remains a "qualified individual with a disability." For example, a modified work schedule, to permit the individual to attend an ongoing self-help program, might be a reasonable accommodation for such an employee.

An employer can fire or refuse to hire a person with a past history of illegal drug use, even if the person no longer uses drugs, in specific occupations, such as law enforcement, when an employer can show that this policy is job-related and consistent with business necessity.

For example: A law enforcement agency might be able to show that excluding an individual with a history of illegal drug use from a police officer position was necessary, because such illegal conduct would undermine the credibility of the officer as a witness for the prosecution in a criminal case. However, even in this case, exclusion of a person with a history of illegal drug use might not be justified automatically as a business necessity, if an applicant with such a history could demonstrate an extensive period of successful performance as a police officer since the time of drug use.

An employer also may fire or refuse to hire an individual with a history of alcoholism or illegal drug use if it can demonstrate that the individual poses a "direct threat" to health or safety because of the high probability that s/he would return to the illegal drug use or alcohol abuse. The employer must be able to demonstrate that such use would result in a high probability of substantial harm to the individual or others which could not be reduced or eliminated with a reasonable accommodation. Examples of accommodations in such cases might be to require periodic drug or alcohol tests, to modify job duties or to provide increased supervision.

An employer cannot prove a "high probability" of substantial harm simply by referring to statistics indicating the likelihood that addicts or alcoholics in general have a specific probability of suffering a relapse. A showing of "significant risk of substantial harm" must be based upon an assessment of the particular individual and his/her history of substance abuse and the specific nature of the job to be performed.

For example: An employer could justify excluding an individual who is an alcoholic with a history of returning to alcohol abuse from a job as a ship captain.

8.8 Pre-Employment Inquiries About Drug and Alcohol Use

An employer may make certain pre-employment, pre-offer inquiries regarding use of alcohol or the illegal use of drugs. An employer may ask whether an applicant drinks alcohol or whether he or she is currently using drugs illegally. However, an employer may not ask whether an applicant is a drug addict or alcoholic, nor inquire whether s/he has ever been in a drug or alcohol rehabilitation program. (See also Pre-Employment Inquiries, Chapter V.)

After a conditional offer of employment, an employer may ask any questions concerning past or present drug or alcohol use. However, the employer may not use such information to exclude an individual with a disability, on the basis of a disability, unless it can show that the reason for exclusion is job-related and consistent with business necessity, and that legitimate job criteria cannot be met with a reasonable accommodation. (For more information on pre-employment medical inquiries, see Chapter VI.)

8.9 Drug Testing

An employer may conduct tests to detect illegal use of drugs. The ADA does not prohibit, require, or encourage drug tests. Drug tests are not considered medical examinations, and an applicant can be required to take a drug test before a conditional offer of employment has been made. An employee also can be required to take a drug test, whether or not such a test is job-related and necessary for the business. (On the other hand, a test to determine an individual's blood alcohol level would be a "medical examination" and only could be required by an employer in conformity with the ADA.)

An employer may refuse to hire an applicant or discharge or discipline an employee based upon a test result that indicates the illegal use of drugs. The employer may take these actions even if an applicant or employee claims that s/he recently stopped illegally using drugs.

Employers may comply with applicable Federal, State, or local laws regulating when and how drug tests may be used, what drug tests may be used, and confidentiality. Drug tests must be conducted to detect illegal use of drugs. However, tests for illegal use of drugs also may reveal the presence of lawfully-used drugs. If a person is excluded from a job because the employer erroneously "regarded" him/her to be an addict currently using drugs illegally when a drug test revealed the presence of a lawfully prescribed drug, the employer would be liable under the ADA. To avoid such potential liability, the employer would have to determine whether the individual was using a legally prescribed drug. Because the employer may not ask what

prescription drugs an individual is taking before making a conditional job offer, one way to avoid liability is to conduct drug tests after making an offer, even though such tests may be given at anytime under the ADA. Since applicants who test positive for illegal drugs are not covered by the ADA, an employer can withdraw an offer of employment on the basis of illegal drug use.

If the results of a drug test indicate the presence of a lawfully prescribed drug, such information must be kept confidential, in the same way as any medical record. If the results reveal information about a disability in addition to information about drug use, the disability-related information is to be treated as a confidential medical record. (See confidentiality requirements regarding medical inquiries and examinations in Chapter VI.)

For example: If drug test results indicate that an individual is HIV positive, or that a person has epilepsy or diabetes because use of a related prescribed medicine is revealed, this information must remain confidential.

8.10 Laws and Regulations Concerning Drugs and Alcohol

An employer may comply with other Federal laws and regulations concerning the use of drugs and alcohol, including the Drug-Free Workplace Act of 1988; regulations applicable to particular types of employment, such as law enforcement positions; regulations of the Department of Transportation for airline employees, interstate motor carrier drivers and railroad engineers; and regulations for safety sensitive positions established by the Department of Defense and the Nuclear Regulatory Commission. Employers may continue to require that their applicants and employees comply with such Federal laws and regulations.

For example: A trucking company can take appropriate action if an applicant or employee tests positive on a drug test required by Department of Transportation regulations or refuses to take such a drug test.

Cliff Notes Property Management

WATCH FOR KEY WORDS!

Many errors are the result of rushing and skimming. Read each question over carefully along with its four answer choices. Watch for qualifying words such as “never” “except”, “not”, “incorrect”, “must”, “best”, “normally” etc. These key words are vital to determining the correct answer, and should set off an alarm in your head when they appear.

READ ALL THE ANSWERS!

Don't get caught picking the first answer you read that sounds good. Read all of the answers, and then pick the best answer. You may encounter questions that have more than one correct answer. In this case, choose the answer that is the most correct. Sometimes it helps to arrive at the most correct answer by the process of elimination.

GUESSING...

Guessing should only be used as a last resort. However, guessing can be used to your advantage if you know a few basic rules. First, don't panic. There are always going to be questions you have to guess at. Here are a few tips that can help:

Educated Guesses: There are almost always one or more answers that are obviously wrong for a particular question. Eliminate those, and your odds are much improved at selecting the right answer. Also, use other questions on the exam to help you. Sometimes other questions will give you help on the questions you need to guess at.

Absolute Words: Words like “all”, “none”, “always”, “never”, “must”, “cannot”, “every”, “not”, “absolutely”, “impossible”, “totally”, “unique” etc. have the effect of strengthening statements. When you see such words in one of the choices to a question, it is less likely to be correct because it refers to an absolute case. In contrast, qualifiers tend to generalize a statement and make it more likely to be true. These words include “may”, “possibly”, “often”, “sometimes”, and “usually” etc.

If these suggestions do not help you, make a random guess and move on. Try not to waste a lot of time guessing the correct answer.

THE DAY OF THE TEST

Make sure you arrive at your testing location on time. Go to bed early the night before and get a good rest. If you are going to eat breakfast, eat enough so you have plenty of energy, but don't overeat; it may make you sleepy.

DURING THE TEST, IGNORE THOSE AROUND YOU!

Do not concern yourself if the person next to you finishes faster than you, makes more notes than you, etc. It is possible that more than one version of the exam is being administered?

EXTRA TIME

It does not help you to leave the exam early. Take advantage of any extra time by double checking your answers. The difference between passing and failing may only be one answer.

Good Luck

CLIFF NOTES

review (in work book)

RED = Real Estate Division
LL = Landlord/Lessor

*Fair Debt Collections Act
*Equal Credit opportunity Act
*Federal Fair Credit Reporting Act

*** NRS 118 / FAIR HOUSING

020/Protected status= Race, religious creed, color, national origin, disability, *ancestry, *sexual orientation, *gender identity or expression, familial status, sex, . {*State not Fed.}. (*Federal* Equal Credit Opportunity Act protects age [40-70yrs], public assistance, birth control & practice, marital status and child support - a rental application is considered the same as a credit application)

045/Disability= A record of having or being regarded as having a physical or mental impairment that substantially limits major life activities. (includes HIV & AIDs)

050/Discriminate= To separate or segregate (aka Steering)

060/Exempt from 118= You own no more than 3 units and are involved not more than 3 residential transactions at any one time/ You own a 4plex (or less), occupy one of the units and in the preceding 12 months have not participated in more than 3 real estate transactions./ No real estate licensee involved../ No discriminatory advertising.

065/Familial status= Children are protected from discrimination from conception thru 18 yrs, adopting, permission to have custody of child (exemption: Senior housing)

070/Family= includes a single individual

075/Gender Identification or expression means gender related appearance, expression or behavior regardless of the person's assigned sex at birth

090/"Rent" means rent, lease, sublease, let or otherwise grant occupancy of a unit not owned for compensation

093/Sexual Orientation= having or being perceived as having an orientation for bisexuality, homosexuality, or heterosexuality.

100 Licensee can not: discriminate in advertising/ instill fear of a protected status person moving into the neighborhood lowering the property values/ retaliate against a person

for assisting an individual exercising his or her rights.

101/Disabled modifying a dwelling= LL cannot refuse providing tenant pays for the modification/ returns the unit its original condition at end of lease/ places with the LL a deposit not to exceed cost of returning property to it's original condition/ deposit must be placed into an interest bearing account/ unused deposit, and interest, is returned to the lessee/ LL shall make reasonable accommodations in the rules, policies, practices and services for the person with the disability to use and enjoy the premises

103/Residential ADA = March 13, 1991/ covers 4 or more attached units, including the 2nd floor if there is an elevator (kitchen, bathrooms & halls wide enough for a wheelchair/ Light switches, outlets, etc. wheelchair level)/ Bathroom walls must be reinforced to accommodate grab bars/ (Not covered by ADA=Less than 4 units.)

105/Assist animal= Any animal that affords physical or psychological relief to a person with a disability. Proof of need may be satisfied by a statement from a provider of health care/ LL cannot prohibit and may not charge a fee.

110/Filing a complaint= If you have been injured or believe you may be injured by fair housing violation, you may file a complaint with the commission

120/Actions for damages= Anyone may file a complaint in district court to enforce the discriminatory practice laws within one year following an alleged violation

165/Rent to property taxes= July and periodic rent changes, LL must advise tenant how much of the rent went to property taxes and what is left.

171/Definitions= "Real property" includes an apartment, a dwelling, or a mobile home owned by lessor on lessor's property / "Rental agreement" means an agreement to lease or sublease real property with periodic rental payments./"Tenant" is the person(s) who has/have the right to possess the unit subject to a rental agreement

175/Remediated damages= If a tenant skips on the lease of real property, the lessor must attempt to re-rent the property at a fair market rent, or lose the right to damages.

195/Skipping on the lease= If LL thinks the tenant has abandoned the property and rent is in default, lessor may serve tenant of notice of belief that the property has been abandoned. Tenant has 5 days to pay rent and give notice that the property has not been abandoned and where legal process may be served. If tenant does not pay rent owing and give the required notice, the property shall be deemed abandoned. The fact that the tenant left personal property on the real property does not justify a finding that the LL did not have reason to believe the property had been abandoned.

***** NRS 118A / LANDLORD TENANT – RESIDENTIAL**

060/cause= Delinquent rent / non-payment of other charges / non-compliance with 118A.,

rules & regulations, rental agreement. (these are all breaches of the lease), plus condemnation (not a breach of the lease).

080/Dwelling= Structure to be occupied as a residence or sleeping place by 1 or more.

090/Exclude (aka Constructive Eviction)= lock out, failure to provide essential services.

110/Normal wear= deterioration that occurs without negligence, carelessness of abuse.

140/Premises= The dwelling and the facilities and appurtenances that come with it.

150/Rent= payments to landlord for occupancy of a dwelling, inc. late fees

160/Rental Agreement= written or oral agreement of the use and occupancy of the unit.

170/Tenant(s)= Person(s) entitled under the rental agreement to occupy a dwelling to the exclusion of others.

180/Applicability=118A applies to all residential rentals in Nevada, except: mobile homes/ low rent public housing(HUD)/ institutional housing (medical, geriatric, educational, religious, etc.)/ hotel/motel (less than 30 days)/ where occupancy is part of an employee's pay/ where premises are used primarily for agricultural.

190/Service= A person is served if they have actual knowledge of or should have known under prevailing circumstances, and service was in compliance with NRS 40

200/ A Residential Rental agreement shall contain (but is not limited to):

*Signature of lessee and lessor (or their representatives)

*Identification of property (not in NRS, refer to Property Management by Rbt Kyle)

*Must provide one copy of the lease free and additional copies of the lease if Requested / may charge a reasonable fee

*Term of lease

- *Amount of rent, manner & time of payment
- *Must address occupancy by children or pets
- *Services included with rent
- *Fees required and use of those fees
- *Deposits required and conditions of refund (refers to the security deposit)
- *Charges for late payments or dishonored checks (penalties must stated)
- *Inspection rights of landlord
- *Listing of persons or number of persons to occupy premises
- *Who is going to pay utilities (landlord's responsibility if not stated otherwise)
- *Signed inventory and condition of the premises, copy kept in tenant's file (doesn't say who does the inventory or who signs)
- *Summary of NRS 202.470 (nuisance law - doesn't say what a nuisance is, just that you can't have one))
- *How and where to report a nuisance and-or building safety violations
- *Information regarding the tenant's right to fly a United States flag
- *Other than normal wear, the premises will be returned in same condition as when tenancy began.

If not addressed in the lease, these provisions will be adjudicated in the favor of the tenant.

210/Payment of rent/term= Rent is payable without demand when and where agreed/ unless stated otherwise, tenancy is from month to month / rent is paid at the beginning of the tenancy/ Rent paid is the fair rental value for the use and occupancy of the premises

220/Prohibited provisions= Tenant may not be required to: give up any legal rights/ pay landlord's legal fees (may allow for prevailing party to collect attorney's fees)/ limit landlord's liability / give a different notice to terminate a lease

230/unconscionability= If a rental agreement is unconscionable: a court may refuse to enforce it/ enforce only that part not unconscionable/ Parties must be given the opportunity to present evidence explaining the unconscionable provision.

240/Security= May only be used for **delinquent rent, cleaning and damages beyond normal wear**

242/Security (cont.)= Lessor may not demand or receive security, including the last month's rent, exceeding three months periodic rent / Payment of all or part of the security by a surety bond may be rejected by either the lessor or lessee/ may be used upon termination of tenancy for reasons stated in '240' (above)/ Unused portion of the security must be returned to the tenant within 30 days after the end of tenancy, by giving it to the tenant or sending it to tenant's last known address with an itemized accounting of that portion not returned / Tenant has 30 days to dispute the amount withheld/ Penalty for not returning the unused portion of security is the total amount of the security, plus an amount to be fixed by the court equal to the entire deposit/ **Law also allows for a non-refundable cleaning deposit.** / with exception of the cleaning deposit, no agreement shall state that the security is non-refundable.

244/Change of ownership or death of client= Prior to recordation of the deed, transfer all deposits held to the successor in interest (get a receipt) and advise tenant in writing giving the name, address and phone number of the successor in interest /or/ return

all deposits to the tenant (get a receipt) and advise the successor in interest.

Successor in interest cannot require additional security from the tenant.

250/Receipts= If requested receipt not given, no further money has to be paid by the lessee to the lessor until the requested receipt is given. Request may be oral. Does not forgive the debt, it offsets debt until requested receipt is given.

260/New tenant= Before becoming a tenant, tenant must be told the name and address of

the manager & owner, where to serve civil process & notices(within Nv.) and phone # of a responsible person to report emergencies (within Co. or 60 mi. of the property)..OR (270) have the information posted in 2 conspicuous places (one in elevator if available)

275/Foreclosure disclosure= Failure of the landlord to disclose to a prospective tenant that a property to be leased is the subject of any foreclosure proceedings constitutes a deceptive trade practice

280/Delivery of Premises= At the commencement of the rental term the premises shall be delivered to the tenant in a habitable condition.

290/Habitability of a dwelling= Must have: water protection/ plumbing/ hot and cold running water/ appropriate fixtures/ sewage disposal/ heating/ electricity/ trash receptacles (removal of trash is paid by LL unless agreed otherwise in writing). bldgs & grounds clean/ hvac-elevator-appliances in good working order If supplied./ parties may agree that tenant will make certain repairs, maintenance tasks and minor remodeling

300/Advance notice of rent increases (period to period leases)= 45 days, unless periodic tenancy is less than monthly / 15 days if periodic tenancy is less than monthly.

310/Tenants' obligations= Comply with the lease/ keep the premises as clean as possible/

dispose of waste in a clean, safe manner / keep the plumbing fixtures as clean as possible/ use the facilities and appliances in reasonable manner/ do not permit or allow any part of the premises to be damaged, destroyed or removed/ do not allow conduct on the premises that disturbs the neighbors.

320/Rules of Landlord= May adopt rules and regulations: to promote the convenience, safety and welfare of the tenants and landlord / to preserve the property from abuse/ make fair distribution of services / that apply to all tenants equally/ informs the tenants of what must or must not be done/ that do not effect obligations to pay rent, utilities or other charges/ that do not effect tenant's right to have a pet/ enforceable after tenant consents to change in writing or has 30 days advance written notice.

325/Right to display a U.S.Flag= Tenant has the right to display a U.S.Flag on leased premises/ may not be for commercial purposes/ Lessor may adopt reasonable rules regarding the placement and manner of the display / In any action resulting from the display of the flag, the prevailing party has a right to recover fees and costs/ Flag must be made of cloth, fabric or paper/ displayed from a pole, staff or in a window/ comply with '4 U.S.C.Chapter 1'/ flag cannot be made of: balloons, flora, lights,

paints, paving materials, roofing, siding or other similar components.

330/LL's access to Premises= At reasonable times during normal business hours/ to inspect/ show unit to prospective buyers or renters/ make repairs, alterations etc/ 24 hr notice (need not be in writing) / may enter in case of emergency without 24 hr.notice/ (500) Landlord may sue tenant for damages if entry is refused / tenant may sue LL for damages for abusing the right to enter

335/Sheriff's card required= Employees of a housing facility for persons 55 years age and older, who have access to the units, and work 36 or more hours per week are required to have a current Sheriff's work card/ real estate licensees excepted

340/Right to terminate lease= 60+ yrs old or have a physical or mental disability requiring relocation for treatment/ must give 30 days notice within 60 days of relocating/ cotenant may terminate lease by giving 30 notice within 60 days of Tenants lease termination/ Tenant dies, cotenant or spouse may terminate lease with 60 days notice within 3 months of tenant dying/ Notices must be inwriting

350/LL Breach of the Lease (minor)= LL failing to comply with the rental agreement= 14 days to remedy or be making a good faith attempt/ tenant may terminate lease and or recover damages/ breach cannot be result of any action of tenant or guests.

355/LL Breach of lease (minor)= 14 days/ LL failing to maintain the rented unit. Tenant may terminate, recover damages, sue/ All breaches of a lease- clock starts when written notification of the breach is given from one party of the lease to the other/ action cannot be taken by the aggrieved party as long as the person breaching the lease is making a good faith effort to remedy/cure the breach)

360/If LL does not remedy a breach or make a good faith effort to remedy a breach within the 14 days allotted/ the tenant may remedy the breach and withhold the cost of such remedy in an amount not to exceed one months rent/ once every 12 months.

370/If LL fails to deliver a unit as agreed in a lease, the prospective tenant may sue LL and any hold-over tenant in possession of the unit for damages / give LL 5 days notice to cancel the lease / all deposits are returned/ if LL has used due diligence to evict the hold-over tenant, LL is not liable for damages.

380/LL Breach of lease (major)= 48 hrs (Sat., Sun. & legal holidays not withstanding) / deals with not supplying 'essential services' (including a functioning door lock if required by the rental agreement)/ Tenant may procure essential services as needed, recover damages, withhold rent (must be deposited with local justice court) / breach is not the result of actions of tenant or tenant's guests/ tenant is entitled to damages if landlord knew of the breach or had been notified of the breach by a governmental entity / Tenant must be current in the payment of rent.

390/Constructive eviction/Expedited relief= If the landlord removes the tenant from the premises, blocks entry, interrupts essential services or otherwise makes the premises uninhabitable, the tenant may file an action with the court within 5 days/ the court shall conduct a hearing on the verified complaint within 3 days/ The court may restore the premises to the tenant, award damages, and enjoin the landlord from further violations

400/Damage or destruction of dwelling=If the premises are damaged or destroyed

- making it uninhabitable, tenant may immediately vacate and within 7 days give landlord notice terminating the lease (need not be in writing)/ Money held by the landlord is to be returned to the tenant/ This provision does not apply if the damage/destruction was the cause of the tenant, a member of his household or guest.
- 430/Tenant Breach of lease(major)= 5 days/ deals with tenant not complying with the terms of the lease/ LL may evict tenant or contract with tenant to cure the breach.
- 440/Tenant breach of lease(minor)= 14 days, deals with minor repairs & housekeeping.
LL may clean or make repairs if tenant doesn't, and bill back to Tenant as rent.
- 450/Abandonment of Dwelling= It is presumed the premises have been abandoned if the tenant is absent from the dwelling for a period of time equal to one half the time for periodic rent payments, unless LL was advised of the absence and rent is current. .
- 460/Disposal of personal property left on the premises= Lessor must store tenant's property in safe place for 30 days/ has make a reasonable effort to locate the tenant/ has mailed written notice to the tenant at tenant's last known address advising tenant of lessor's intention to dispose of the property/ and 14 days has elapsed since giving that notice / before releasing goods to tenant, landlord may collect the reasonable and actual cost of inventory, moving and storage, or deduct such costs from the sale of the items/ The remaining money is to be sent to the tenant at tenant's last known address.(remember, this is NRS 118A - Residential, not commercial)
- 470/Estate at sufferance = Hold-over tenant. If a tenant does not vacate the premises at the end of the rental term, LL may sue for possession. If LL consents to tenants Holdover (accepts rent), occupancy becomes period to period (mo. to mo.) but terms of the lease remain the same
- 480/LL may only recover possession of a rented dwelling when the lessee peaceably returns the dwelling to the LL or the dwelling is returned through a court order

490/Contested eviction= In an eviction action based on nonpayment of rent, if it appears money is due landlord and judgment is delayed for any reason, Tenant (if tenant is in possession of the premises) may be required to place with the court one days rent for each day until the next hearing date. If tenant does not make such deposit within 24 hrs. judgment will be awarded to the landlord!

***** NRS 118C / LANDLORD-TENANT COMMERCIAL**

- 020 Abandoned Personal Property= The tenant or the owner of personal property left after the termination of tenancy must be given 14 days written notification, certified mail with return receipt requested, of LL's intention of disposing of the property.
- 230/ Disposing of Abandoned Property= After giving 14 days notification (certified mail-return receipt requested) the LL may dispose of the personal property and recover costs of inventory and disposal or recover his reasonable and actual costs of inventory, moving and safe storage before releasing the abandoned personal property
to the person rightfully claiming the property.(30 days safe storage -residential only)
- 200/Obligations of the Landlord= The LL may not interfere with the leased premises or the tenants business in any way, except to make a bona fide repair or replacement -

which must promptly be performed/ LL may only prevent tenant from entering the leased premises by court order, construction, bona fide repairs, emergency or by changing the locks of a tenant who is delinquent in paying at least a part of the rent./ When locks are changed for nonpayment of rent, the LL must post notice on the door for a period of at least 5 days, stating the phone number, business hours and name or company where a key may be obtained in exchange for the delinquent rent.

210/Tenant's right in event of an unlawful lock-out= Tenant must file a complaint in justice court and must testify under oath in court as to the facts of the unlawful lock/tenant must post a bond with the court in the amount of one months rent

***** NRS 40 / ACTIONS - CONFLICTING CLAIMS TO REAL PROPERTY**

251/Unlawful Detainer= Notices to end periodic tenancies: week to week - 7 days/ estate a will - 5 days / all others - 30 days/ failing to perform basic or contractual obligations - 5 days// A tenant, not a natural person, has received 3 notices for nonpayment of rent w/i a 12 mo. period is guilty of an unlawful detainer and may be evicted immediately after failing to pay timely rent // A tenant 60 yrs. or older or physically or mentally disabled may submit a request for an additional 30 days Occupancy. If LL refuses, tenant may submit the request to the court. If the court refuses, tenant must be given 5 days from the date the court order was entered denying the request

2512/ Mobile Home Park Lot = 10 day notice to pay rent or quit on pad (5 day on unit)

2514/ 3 Day Notices to quit= Nuisance, drugs, unlawful business, improper assignment-sublease, waste

255/ 3 Day Notices to quit= change of ownership (when current tenant doesn't vacate)

260/Agricultural Lands= If LL has not attempted to evict an agricultural tenant within 60 days following the end of a lease, tenant is entitled to retain possession of the land for

an additional year on the same terms and conditions

605/Appurtenance=Amenities that benefit one or more residents but are not a part of the dwelling .unit.

770/Not material to the transaction=homicide, suicide, death not resulting from a condition of the property, HIV/AIDs, sex offenders, transitional housing, methamphetamine (if property is remediated by a licensed or certified entity), are subjects that are not a result of a condition of the real property and considered confidential information./ "Nevada Law and Reference Guide, Pg. II-8 = "If asked a direct question regarding a confidential matter, the licensee should state that the information is confidential and refuse to answer" / except as otherwise provided in an agreement between the buyer, lessee or tenant and that person's agent is not liable in any action at law or in equity for failing to disclose "subjects that are not material to the transaction"

*****NRS 645 / GENERAL PROVISIONS**

002/Advance fee= fee claimed, charged or received for an advance fee listing to assist an owner or lessor promote the sale or rental of a business or real estate/ does not include publications intended for general publication/ (322)use of fee received must

be reported to the client within 3 months of receiving the advance fee.

0045/Agency= Relationship between a principal and an agent arising out of a brokerage Agreement(NOTE; this is inconsistent with 009 below)

005/Brokerage Agreement= may be written or oral, does not include property management. /See (.320) regarding exclusive agency

009/Client = person contracting with the broker

019/Property Management defined= “ the physical, administrative or financial management of real property, or the supervision of such activities for a fee, commission or valuable consideration, pursuant to a property mgmt. agreement”

019/0192/Property Management = is the physical, administrative or financial maintenance and management of real property or the supervision of such activities/ contract must be in writing, signed by the broker and the client/ broker must be compensated

0195/Property manager= person managing the property, not the broker, can manage for free; also a generic term used for the person supervising multiple managers

230/License required= it is unlawful for any person, LLC, corporation, partnership or association to engage in any real estate activity without the appropriate license . /RED may prefer a complaint for a violation of this section before any court of competent jurisdiction and assist with prosecution.

235/Fines= You may be fined by the Real Estate Commission for engaging in any real estate activity without the appropriate license, certificate, permit, registration or authorization or / if you assist or offer to assist in such violation. / The fine may be the greater of \$5,000 or any economic gain.

240/License and permit not required= managing real estate owned by one person (does not include sales activity/leasing) / person accepting rent.(cannot ask for rent or other payment) / office on the property, don't manage any other property / Anyone managing under a certificate, registration or the approval of the RED / managing government housing / properties acquired for development / corporate properties managed by an employee / foreclosures

250/Power of cities and towns= Cities and towns may impose taxes, licensing and regulations in addition to those imposed by the state.

2515/Brokers Price Opinion= ‘a written analysis, opinion and conclusion that a licensee prepares relating to the estimated price for a specific piece of property’

252/Known material information about the property must be disclosed/ must disclose if acting for more than one party/ may not disclose confidential information for more than 1 year after agency/ Agent has no duty: to verify accuracy of statements made by a certified inspector, to verify financial condition of the parties, or conduct an investigation into the condition of the property in question.

256/Asset management= A broker providing asset management services as described in NRS 645H.490 must submit an annual report to RED detailing such service(s)/ providing proof satisfactory to RED that the laws governing such service(s) are

being followed. (If you are going to be caring for foreclosed properties, read this law/ it has nothing to do with Financial Asset Management traditionally referenced in real estate)

280/Compensation=A licensee may not share any compensation for any real estate activity with a non-licensee/ a licensee may accept or pay compensation for real estate activities only from or through his/her broker.

260One act= Any act incidental to a transaction constitutes the commission of the entire transaction

310/Deposits and Trust Accounts= (Broker may keep up to \$100 of non-trust funds in the trust account for operational purposes. Reference: position statement in "Open House" news letter, April 2010)) / \$ rec'd by the broker must be accounted for at consummation or termination of the transaction involved / \$ must be turned over to the broker promptly / Broker must deposit money belonging to others into the trust account promptly unless all persons with an interest in the money agree otherwise in writing / Trust account shall detail disposition of money and ownership / RED kept advised of names of trust accounts and where held / Reporting to RED to be on forms provided by RED

313/ Audits by RED= If RED has reasonable cause, RED may audit the brokers accounts

320/Exclusive agency= Must be in writing/ provide a definite, specified and complete termination date without any additional notices of termination/ be signed by the broker and principal, or their representatives

321/Fair housing fines= \$500 first offense/ 2nd offense show cause why license should not be revoked (deals with real estate activities, not property management)

370/Broker's position= Corporation-corporate officer, LLC-manager, Partnership-partner / may conduct real estate only for the Corp, LLC, or partnership and not on his own behalf / this is not in reference to broker's 2nd personal license.

380/ Two broker's licenses= The broker's license issued under the name of the Corp, LLC or Partnership may be used only for business conducted by the corp., LLC et.al./

broker may have have a 2nd license in his own name with written approval from the corp. et al, acknowledging that the broker will be conducting personal business

6052/The property management permit expires and is renewable with the holder's real estate license.

6055/Designated Manager=If a broker does not have a permit, he/she must appoint a natural person who is a broker/broker salesman, with a permit, and two of the last four years conducting property management activities in the USA as a R.E. licensee, to be the Designated Property Manager/ Advise RED of the appt. on RED's form. (NOTE: this law does not state what experience a broker with a permit must have if He-she wants to conduct Property Management activities without a Designated Property Manager)

6056/Property Management Contract must include: Term/ Renewal Options (if any)/ brokers compensation/ What is to be done with the income from the property/ cancellation provision (if any)/ Brokers authority/ (identity of the property and the principles to the contract, from Property Management text by Rbt Kyle)

630/*Violations= Deals with honesty, Commission may fine up to \$10,000 or the amount of any ill gotten gain, plus revoke, deny, suspend license / Licensees- can't make a material misrepresentation / can't make false promises to persuade, influence or induce / can only be paid for real estate activity. by your broker / cannot represent any other real estate broker without your broker's consent / cannot commingle money or other property / for personal gain, cannot induce any person to cancel a Brokerage or Property Management agreement.

633/ Cannot use designation not earned / Cannot pay commission, compensation or finders fee to non-licensee / Must have expiration date on agreements / must leave an executed copy of agreements with all parties / As they are not specifically forbidden, rebates are allowed / RED will keep a log of all complaints that the commission may take action on and submit a written report to the Legislative Counsel Bureau each Feb. 1 of odd numbered years (these are considered when writing laws).

635/ Must have permission from owner or agent to offer property / May not discriminate.

660/If known. or should have known, violations of an associate must be reported (does not state to who) , or you are in violation/ *Brokers may be fined \$5000 for failing to maintain adequate supervision.

670/ *If a broker's license is suspended or revoked, the Corp., LLC or Partnership must discharge (sever) the broker and hire a new broker / The broker may reengage with the Corp., et al, if the broker's license is reinstated.

720/ R.E.Commission has no power to enforce subpoenas. If subpoena is not honored the commission may have the District Court issue a subpoena/ or NAC 645.860 if a party fails to appear after being notified, the hearing may be held without the absent party and evidence presented shall be considered to be factual.

760/ A licensee is entitled to judicial (District Court) review of any ruling or decision of the real estate commission not in favor of the licensee, (NRS 233B)

8711/"Commercial Real Estate" means all real estate located in this state, except: complexes of not more than four units / unimproved real estate where up to four units may be built / and units sold individually -condominiums and townhouses

990/ *A person who attempts to obtain a license or attempts to sell or sells real estate by means of deceit or fraud is guilty of a category D felony / a licensee who violates these laws may be fined up to \$5000 / an LLC, Corp, Partnership may be fined not more than \$2,500 / in addition to sanctions by RED, violations may be referred to any court of competent jurisdiction for criminal prosecution.

*** NAC 645 / GENERAL PROVISIONS

350/*Any involuntarily inactivated, suspended or revoked brokers license shall be returned to the division with the licenses of all licensees associated by the broker / If a broker dies, his/her license automatically expires - another broker may submit an affidavit to RED, within 7 days of the broker dying, to manage the brokerage for not more than 60 days.

380/ 2nd License=A broker for a corporation., LLC, or partnership may have a second license in his/her own name with written approval from the corporation. llc, or

partnership acknowledging that broker may be conducting personal business.

- 605/Licensee: cannot offer specialized services without expertise (all disclosures must be in writing to all parties)
- * must disclose interest in property
 - * must disclose any dividend or kick-back with name of person or co.
 - * must disclose expectation of a fee from referrals
 - * must disclose material facts to parties to the transaction
 - * must fully disclose of compensation from more than one party to the transaction
 - * must ensure all documents are properly signed and all parties have a signed copy
 - * cannot, in any way, impede an investigation by the division

610/Licensee cannot use false or misleading advertising / may not include his/her name or

the name an associate on any sign or advertisement containing “for sale by owner” or “for lease by owner” unless the licensee has a ownership interest / If another broker has an exclusive listing, the licensee cannot put a sign on or advertise the property without written consent of the listing broker / property owner must be advised of any consent given or withheld / Licensee must conduct all real estate activity under the name on his/her license / Franchised brokerages must include, “in a conspicuous way”, the real, fictitious or corporate name under which the broker is licensed and a statement that each office is independently owned and operated.

611/ Teams= More than one licensee/ employed by the same broker/ team name uses last name of at least one member/ advertising complies with NRS 645/ team name may not be deceptively similar to a team name already being used.

613/ Internet=disseminating unsolicited information on the internet or e-mail is advertising / Clicking the acceptance box on the internet does not create a relationship / A rubber stamp is not a legal signature

632/ Rejected offers= Must be rejected in writing by the offeree

637/Disclosure of relationship= as soon as practicable, but not later than any written document being signed, licensee must disclose his/her relationship as agent or principal to his/her client and any party not represented by the licensee/ confirmation of disclosure must be incorporated into the document files relating to the transaction.

640/Disclosure of interest=: that he/she is a broker, broker salesperson, or a salesperson, active or inactive, ownership interest in or a relationship with any business, friend or relative, person or entity, when representing him or herself or any party to or in the a real estate transaction

645/ Broker must give RED written permission to inspect and audit any money accounts / on RED’s form /and indemnify RED from any resulting liability.

650/ Records of real estate transactions, consummated or not, must be kept for 5 years / paperwork to broker within 5 days after being executed by all parties.

655/Record of transactions / trust accounts must be numbered consecutively or indexed / kept in this state / open for audit by RED during business hours or whenever business is being conducted in the office / computer must be available for computerized records / RED advised prior to moving records / brokers signature required on trust account withdrawals / rubber stamp does not constitute a signature / salesperson may be cosigner with the broker on trust account / property management must have two trust accounts separate from any used in the broker’s real estate business (one for deposits and one for other rental activity). / trust

account shall be reconciled within 30 days of receiving a bank statement
657/Payment of deposits=Licensee shall pay over any deposit to the broker, escrow, or designated company within 1 business day after receiving a fully executed contract
660/ Prior to depositing money into an escrow business or company, a licensee shall make full disclosure if he or she, or any associate, has any interest in the escrow business or company.
670/Division may use a form of it's design when conducting an inspection,/ require to broker or person in charge of the office to sign such form/ office shall have copies of current statutes and regulations.

800/To obtain a Property Management Permit, a Licensee must submit an application to the Division on a form prescribed by the Division, a fee of \$40, a certificated of completion of 24 hours of instruction in Property Management at an accredited educational institution in this state (Successful completion of a course in property management from an accredited or nationally recognized organization may be accepted in lieu of the 24 hours), evidence of passing an examination administered by an organization designated by the Division (PSI), The Property Management Permit is effective the later of the application being submitted or the fee being paid..

8005/A designated property manager for a corporation, limited liability company, partnership, or sole proprietor/ must be a broker or broker-salesperson / "with 2 years full time active experience within the 4 years immediately preceding the date the person applies for a permit to engage in property management on behalf of the corporation , LLC, et.al". (Does not say what experience is required) . Note" this conflicts with NRS 645.6055 which requires the experience be in " property management activities in the U.S.A. as a real estate licensee".

805/Designated Property manager quits (5 / 15 or end of month/ 30 / 30)=
Ask bank for statement within 5 days / Send a reconciliation of trust account to RED within 15 days (of mgr. leaving) or the end of the month (which-ever occurs later) / It covers the 30 days prior to designated manager leaving / hire a new manager within 30 days / If unable, file an extension appeal with RED or advise RED that you are no longer going to be conducting real estate management.

806/Trust acct. reconciliation must be sent to RED annually, corresponding to the expiration date on the brokers license, covering the preceding 30 days. / financial records shall be kept for 5 years after the last activity involving the trust account/ If records are kept on a computer, a copy shall be kept on a separate disc.

807/*With written permission from the broker, a broker or broker-salesperson who holds a management permit may sign checks on a trust account without the signature of the broker who employs him-her/ A signature applied by a rubber stamp does not constitute a legal signature

855/Broker attendance required= A broker is required to attend any disciplinary hearing conducted by the commission concerning any licensee affiliated with that broker. If violation occurred with a past broker, both the past broker and current broker must attend the hearing

EVERYTHING SENT TO THE REAL ESTATE DIVISION (RED) MUST BE ON A FORM PROVIDED BY THE REAL ESTATE DIVISION.

REVIEW (NRS 116)

COMMON ELEMENT—owned by all (.110318) (NRS 117.040)

LIMITED COMMON ELEMENT—owned by ONE or more, but not all —goes with the unit (059)

CONDOMINIUM—REAL ESTATE/COOPERATIVE —stock in association —proprietary lease (.0027, .03 1, .077)

DECLARANT—DEVELOPER/DECLARATION —paperwork filed by developer (.035, .037)
IDENTIFYING NUMBER—delineates one unit from another (.053)

LEASEHOLD COMMON INTEREST COMMUNITY—subject to a lease, the expiration of which would terminate or reduce the size of the common interest community —the ONLY lease that must be recorded (.055, .2106)

OMBUDSMAN— Investigates and attempts to resolve disputes. Facilitates arbitration and mediation, educates owners and board members, registers associations and members (name, address, phone, name of manager, info on exec. board and declarant, # units, \$ assessed) \$3.00 unit by Jan. 1 (less than 12 units exempt) (.625, .31155)

ALTERATION OF BOUNDARIES/RELOCATION OF BOUNDARIES—may, unless forbidden in bylaws, proportion of common areas then needs to be recalculated (.2112, .2113)

TERMINATION OF ASSOCIATION/ MERGER WITH ANOTHER ASSOCIATION— 80% vote of all owners, not valid until recorded with county (.2118, .2121)

LIENS AGAINST A COMMON INTEREST COMMUNITY —against each unit/not against common areas, foreclosed property may be withdrawn from community (.3117)

OWNERS ASSOCIATION FORMED WHEN/FORM—prior to first conveyance, must be profit, non-profit, trust or partnership (.3 101)

INSURANCE PLACED? / HOW MUCH —prior to first conveyance, 80% of actual cash value of common areas (.31 13)

UNIT OWNER ASSUMPTION OF EXECUTIVE BOARD CONTROL—% owned vs % seats) 25%=25(1)%, 50%=33 1/3%, 75%=100%, / 5 yrs after last sale or 5 yrs after last right to expand (.3 1032)

EXECUTIVE BOARD—3+ members, 2 yr terms, secret ballot, stated month for election. 30 day notice given, majority of unit owners required (representation voting permitted) —removal, 2/3 vote of quorum, members appointed by declarant can only be removed by declarant (.31034)

DELIVERY OF EXECUTIVE BOARD PROPERTY CONTROLLED BY THE DECLARANT—not more than 30 days after losing control of the board (.31038)

PLAIN ENGLISH—bylaws (.3 106.3)

STATUTE OF LIMITATION ON FORECLOSURES—3 years (from the time an assessment becomes delinquent) (.3 116.5)

MAILING OF FORECLOSURE NOTICES—certified or registered mail, return receipt requested (all other civil processes served with certificate of mailing) (.311 62.1a) (NRS 40.280 .3A)

REDEMPTION PERIOD ON FORECLOSURE-90 DAYS (.31162.3)

QUORUM—owners: 20% present or by proxy/executive board: 50% at beginning of meeting (.3 109)

INTEREST ON UNPAID ASSESSMENTS— up to 18% per year (3115.3) / interest established by the association, not to exceed the legal rate per annual (.31031.8(2))

EXECUTIVE MEETING—every 90 days (.31083)

MEMBERSHIP MEETING—yearly, if none held within last year.— March 1. (.3108.1)

EXECUTIVE SESSION—board may go into to discuss personnel issues, the attorney, discuss homeowner violations and construction defaults only homeowners being discussed permitted to attend. Only meeting homeowners are not allowed to attend and speak at (.31085).

RESALE PACKAGE—declaration assessments budgets judgments (don't have to provide if less than 12 units) (.4109)

NEW UNIT WARRANTY .6 yrs, can be reduced to not less than 2 years by mutual agreement (.4116)

SURPLUS FUNDS—refunded or applied to next year's assessment (.3114)
Unless provided otherwise in the declaration.

FINE BECOMES A LIEN—when due, or at time of first payment (.3 116)

DIFFERENCE BETWEEN A PERMIT/CERTIFICATE—permit: must have RE license, can manage anything/certificate: no broker, can manage only common interest communities (.013)

FINES: Give 30 days notice of violation citing provision violated. After 30 days, advise of intention to fine, up to \$100 per violation or a total amount of \$500, whichever is less. Schedule hearing. After hearing, if unit owner does not prevail, fine can be imposed if violation not cured within 14 days fine may be re imposed every 7 days (or portion thereof) without additional notices or hearings. (.3 1031)

REVIEW II

VIOLATIONS OF STATE FAIR HOUSING LAWS--\$500 first offense, then order to show cause re: revocation of license

MANAGER QUITES—5/1 5/30/30. within 5 days statement from bank, 15 days (or end of month, whichever is longest) trust account reconciliation to division, covers 30 days prior to manager leaving, 30 days to get new manager extension may be applied for (NAC 645.805)

HOW \$ PERMIT RENEWED--\$40 (NAC 645.800.1(B) and 2)
LESS THAN 1 YR TO RENEW = \$20

TRUST ACCOUNT RECONCILIATION TO DIVISION, WHEN—yearly, corresponding to the expiration date on the broker's license, covers the 30 preceding days *(LAST day of the month)*
(NAC 645.806)

HOW LONG CAN A TRUST/LEDGER ACCOUNT BE IN DEFICIT—no more than 45 continuous days in one year (NAC 645.6052)

CONTINUING EDUCATION REQUIRED FOR RENEWAL OF PERMIT—3 hours, part of (not in addition to) the 15 hours now required (30 hours if first renewal) (NRS 645.6052)

WHEN MUST A SECOND FLOOR APARTMENT BE HANDICAPPED—4 or more units serviced by an elevator (NRS 118.103.3A)

WHEN MUST A LICENSEE DISCLOSE DUTIES OWED TO A TENANT—always, law states: as soon as practicable/always prior to signing of document (NAC 645.63 7)

CONTRACT FOR MANAGEMENT OF REAL ESTATE IS CALLED—brokers agreement to manage (anything signed by the broker is a "brokers agreement")

CLIENT—person entering into contract with broker —(NRS 645.009,) CUSTOMER-tenant

HOW LONG DOES AN ASSOCIATION HAVE TO PRODUCE A 'SELLERS PACKAGE' 10 days or all delinquencies are forgiven (NRS 116.4109.3)

HANDICAPPED WANTS TO MODIFY APT. To **Accommodate Handicap** Must make reasonable effort to accommodate, must allow modification if structural integrity and mechanical systems are not affected, can require apt. be restored, can require deposit not to exceed cost or restoration (only deposit that must be placed in interest bearing account (NRS 118.101)

SERVICE ANIMAL—any animal trained or in training by a recognized organization to accommodate the handicapped. Cannot be restricted, cannot charge deposit (NRS 118.105)

HANDICAPPED & FAMILIAL STATUS	1988
RACE	1866
LEAD BASED PAINT (disclose to everyone)	1978
ASBESTOS	1987(6)
OSHA	1974

PROPERTY LEFT BY TENANT—store in safe place for 30 days. Give tenant 14-day notification that property is being disposed of. If sold, proceeds can be used to pay for cost of storage if any (NRS 11 8A.460).

HOW COMMERCIAL PROPERTY VALUED—gross income

STATUTE OF LIMITATIONS ON A CONDO FORECLOSURE—I year, may be extended for an additional year (NR.S 117.070)

SATELITE DISH PERMITTED ON PORCH, - BALCONIES ET. -part 45, u.s. code part 1, sub parts 5, paragraph 1.4000. (Telecommunications of 1996) –

ADA COMPLIANCE—	Commercial	1/26/92
	Residential .	3/13/91

REVIEW III

SEXUAL ORIENTATION AND AGE—not protected status (NRS 118.020).

FAMILY DEFINED—can be a single individual. (NRS 118.070) ..

JULY AND PERIODIC RENT CHANGES—tenants must be notified of amount \$ that went to real estate taxes and what was left, NNN and % leases exempt, enforced by the department of taxation (NRS 18.165) :

3-DAY NOTICE—foreclosure and nuisance (unauthorized subletting/assigning of lease, unlawful business, rubbish/trash, drug activity (NRS 40.2514,40.255) :

WHAT LEASE MUST BE RECORDED—any lease, the expiration or termination of which will terminate or reduce the size of a common interest community

COMMON ENGLISH—bylaws (NRS 116.3106.3)

BLOCKBUSTING—instilling fear that a protected status will move in and negatively affect property values

STEERING—segregating protected status individuals, unlawful whether intended or not

WHEN CAN A TENANT LEGALLY REFUSE TO PAY RENT -when not given a requested receipt (does not forgive debt) (NRS 11 8A.250), making minor repair when not made by landlord (NRS 11 8A.360), unit uninhabitable and not repaired.

NEW OWNER: DEPOSITS/NOTIFICATIONS-tenants to be given name, address and phone number of the new owner and deposits be put in new owner's name prior to recordation of the deed. Alternate method is to return deposits to tenants and notify new owner of same (NRS 118A.244)

60 YRS OLD/SPOUSE DIES—may terminate residential lease with 30 days notice if done within 6 months of spouse dying and income is less than \$10,000 gross yr (NRS118.340)

CONDO/HOW DISSOLVED—major fire or disaster, 50+% of those affected, 50 yrs old and not economical and 50+% vote of owners (NRS 117.050).

HOW LONG MUST FINANCIAL RECORDS BE KEPT -5 years from last transaction (NAC 645. 806)

USEABLE SQ. FT - that which you actually occupy .

PASS THRU -increases in the costs of running the building over a base year, passed thru to the tenant

SECURITY DEPOSIT— no more than three times periodic rent, used for cleaning beyond normal wear and tear, unpaid rent, damages-unused must be refunded within 30 days with explanation of usage (NRS 118.240, 118A.242)

CLEANING FEES—amount and disposition as negotiated (NRS 118A200.2A)

NEW TENANT NOTIFICATION/ALTERNATE METHOD—prior to signature—must be told who the owner is, when and where to pay rent, where legal service can be served and phone # where a responsible adult can be notified in case of emergencies, or, legible posting in elevator and one prominent location. or, if no elevator, two prominent locations (NRS 118A .250)

TENANT SKIPS ON LEASE—landlord must attempt to re-rent at fair market rental (NRS 118.175)

TENANT BREACHED LEASE—minor 14 days, major 5 days (Written notification a must) (NRS 118A.430, 440)

LANDLORD BREACHES LEASE—minor 14 days, major, 48 hrs weekends and holiday *excluded* (NRS 118A.350, .360)

FIXTURES—permanently attached to premises, become landlord's property

TRADE FIXTURE—necessary to tenants business, tenants property

REJECTED OFFERS must be in writing. transaction records must be kept for 5 years (NAC 645.632, 650)

LEGISLATORS WEB SITE .www.leg.nv.us NRS/CH-645

DIVISIONS WEB SITE .www.red.state.nv.us

ISSUES YOU SHOULD BE FAMILIAR WITH (4/190)

- * If a rental becomes uninhabitable because of a fire or flood (or other disaster)
 - tenant may vacate immediately, and
 - give landlord notice to terminate within 7 days of vacating (need not be in writing).
 - Landlord must return all deposits, prepaid rent, or other funds belonging to the tenant

- * A licensed agent may manage a friend's rental (when/how)? ... The inference is that the expectation is the management would be free since it is for a friend
 - Real estate management requires a management contract, signed by the broker.
 - A broker cannot manage for free.

- * May a licensed assistant working for a broker may prepare and file an eviction?
 - An eviction is not a property management function and can be filed by anyone, with or without a real estate license. Adding the word 'assistant' has no bearing on the question.

- * Can a real estate manager (owner) require a tenant to pay the cost of filing and the related costs of evicting the tenant? Court costs are usually awarded to the losing party if a case goes to court. Remember, you cannot charge the tenant for anything, or not charge a fee for anything that is not covered in the lease.

- * If a security deposit mailed to a past tenant is returned by the post office as being undeliverablewhat should the broker do with the money?
 - The broker should deposit the money with the State of Nevada 'Unclaimed Funds', As no time frame is given, deposit should be done promptly..

- * If an agent receives a deposit relating to a real estate transaction on a Sunday, what should the agent do with the cash?
 - give the money to the broker, escrow business or company designated in the contract within 1 business day after receiving a fully executed contract..

- * Money received by the broker that is part of a real estate management transaction must be deposited into the broker's management trust account promptly (NRS 645.310).

- * If a manufactured home has not been converted to real property, it must be disclosed to the prospective tenant. I have not been able to find any law that specifically requires this disclosure, but think it may fall under the requirement to disclose material facts in NRS 645.601. Converting manufactured housing (personal property) into real property is addressed in NRS 361.244. I think manufactured houses that have been converted to real property should also be disclosed to the prospective tenant or buyer

- * All health hazards, including but not limited to asbestos, lead and mold, in or on the rental property in question must be disclosed to prospective tenant(s).

- * If a tenant prepays one year's rent in advance and abandons the rental in six months, can the landlord rent the property to another tenant during the remaining six months of the original lease, without refunding the remaining prepaid rent to the original tenant?
 - No. A landlord may not collect rent from two people renting the same property at the same time. The landlord may hold the tenant to the lease through the remaining six months of prepaid rent..and/or..attempt to re-rent the unit at 'fair market value' and take the property back once a new tenant is found.. When the landlord accepts the return of the unit through the abandonment process, the landlord is required to return any unused prepaid rent and 'unused security deposit being held, to the 'then' past tenant within 30 days,

- * What does 'Rental Insurance' protect? -The Rental (HO-6 insurance)
- * What does the Tenant's Rental Insurance protect? -The Tenant's Personal Property (HO-4).....be sure to read the entire question.

- * What notice must be given for a tenant to vacate a property?...
 - after other notices (breach of the lease..etc) have been served, an 'Unlawful Detainer' must be served ordering the tenant to vacate the property...The exceptions are 'Notice Pay Rent or Quit', 3 day notices to quit under NRS 40.2514 (nuisance, drugs, subletting, drugs). and 3 days notices to quit when there is a change of ownership,\ and the past owner/seller doesn't move (NRS 40.255.1), These notices to quit are, in themselves, 'Unlawful Detainer' notices.

- * When should a property manager notify the landlord that a tenant wants a lower rental rate?
 - This may be a trick question in that the request is made by a 'tenant'...not a prospective tenant. Best answer will probably be 'as soon as practicable', if asked by a prospective tenant, be answer would be 'prior to processing the Application.

- * 'Age Restricted' housing is addressed in Federal Fair Housing laws
 - Under age restricted housing guide lines, familial status is an exception to fair housing Laws. Age restricted housing MAY refuse to allow children, If they don't, they face the possibility of having the 'age restricted' designation being taken away by HUD. Allowing visitors under the 'restricted ' age to stay for short periods is at The discretion of the home owners association (CIC), or Landlord (rentals)

- * What protected status' is in Nevada Fair Housing Laws that is not in Federal Fair Housing Laws?
 - Gender Identity, Sexual Orientation, Ancestry.

- * If a tenant gets drunk and damages the rental, who is responsible for the repairs?
 - The tenant (Damage is not 'normal wear / Note- tenant being drunk has nothing to do with the answer, it is an attempt to confuse the issue).

- * According to NRS 645, how long may a trust account carry a negative balance?
 - 45 consecutive days in any one year (regardless of why it went negative)
 - Watch for distracters such as the deficit being the result of a bad check, it has nothing to do with the question.

- * If a tenant submits a 'bad' check for any payment owing, a demand should be made for immediate payment for the sum of the 'bad' check and any penalties for submitting a bad check that are in the lease.

- * Locking Doors, Smoke Detectors, Adequate (Style of) Lighting?
 - Not having locking doors does not make a rental unit uninhabitable according to NRS 118A. NRS 118A does state that if locking doors are required in the lease, the landlord is responsible for providing and maintaining them.
 - Smoke detectors are not addressed in real estate laws. Property Management Text only addresses where smoke detectors should be placed: "centrally located on each floor".
 - Adequate lighting is addressed in the Property Management text as a safety necessity. There should be sufficient lighting in common areas, parking lots and walkways to facilitate safe usage. In Property Management text it is called a 'Safety Essential'.

- * A Clear driveway to allow the navigation of a wheel chair complies with the ADA. (A unit must be accessible to a disabled (handicapped) person unless the terrain upon which the unit is constructed is such that compliance is not possible.

- * If a Real Estate Licensee leases a property belonging to his cousin to a tenant, without disclosing the relationship..... My opinion is that the law is broken because leasing is considered a sales activity, which by law requires disclosure.

- * Money refunded to a tenant (or prospective tenant) must be the same bills that the tenant/prospective tenant gave to the broker, or in the form of a check drawn on the broker's trust account. NAC states that 'money belonging to others' must be placed in a trust account, in this state, and be available for withdrawal on demand.

- * the broker may place money held into interest bearing trust account(s)...the law states that money belonging to others must be placed in to a trust account and whether it is interest bearing or not is not addressed
 - ...remember that trust accounts are for holding money held belonging to others, any interest earned from those deposits belongs to the person(s) the money is being held in trust for...not the broker.

- * There is no law requiring that brokerage trust accounts must be held by a financial institution carrying FDIC insurance (or any other form of insurance).

- * A licensed real estate agent may only accept compensation for real estate activity (be it salary, commission, bonus, or gratuity) from his/her broker of record.
- * NRS 118A states that a residential unit is not habitable if it does not have hot and cold running water.
- <>
- * Once a rental unit is peaceably relinquished to a tenant, the only legal way a lessor may get the property back is when the lessee peaceably gives the property back to the lessor, the lease expires, or the property is taken back by a court order.
- * With the exception of emergencies, which do not require a prior notice of intended entry, a 24 hour notice of intended entry must be given to a residential tenantthe law does not state how that notice must be given, or what constitutes an emergency. All entries, except must be during tenants normal business hours, unless specifically agreed upon by the tenant.
- * Trust account reconciliations sent to the NRED must be on a form provided by the RED.
- * A residential tenant's leasehold obligations include: keeping the premises as clean as conditions permit, complying with the terms of the lease/rental agreement and disposing of (taking out) the trash.
- *Negotiating a lease with an unrepresented customer makes that person your?
-That person was and still is your customer.
- * A Broker/Client relationship requires contract between the broker and the client.
- * In a 'gross lease', the tenant pays base (stated) rent only.
- * Remember NRS 118A.200 requires that 'when, where, and how' rent is to be paid must be stated in the lease. Property Management Text suggests that rental payments be made by direct deposit.
- * Tenant entered into a lease with a 'pass-through' provision requiring the tenant to pay 10% of the increases in the cost of running the rental property, over that being paid during a base year. The cost of running the property during the base year was \$100,000, the cost of running the property the following year was \$125,000.... What is/was the increase in the tenants rent? = \$2,500 (125,000 -100,000 = 25,000 / 10% = 2,500 +100,000 = \$102,500). Pass-through payments are addressed in the lease and are usually paid in a 'lump' sum when billed or amortized throughout the year and paid with the rent.

- * Operating budgets are (normally) prepared annually.
- * A residential lease cannot require a tenant to pay court costs, but the lease may state that the losing party pays court costs.
- * An account must be titled "trust account" when it holds money not belonging to the Broker. To open a 'trust account', The broker must open a checking account in this state and entitle it 'Trust Account'. According to RED, this puts all persons with an interest in the account on notice that the funds there in do not belong to the broker. The broker shall deposit \$200 in brokerage funds into each trust account cover The costs of maintaining the account(s), and keep a balance of brokerage funds in the account(s) sufficient to cover on going operational expenses, though not more than \$200 and any time. More than \$200 of brokerage funds in a trust account will be viewed a commingling
- * If a Trust Account is moved or altered (signature change, etc) a 'AUTHORIZATION TO INSPECT RECORDS' (form # 512) must be submitted to RED...it indemnifies the financial institution being inspected from civil liability resulting from the inspection being conducted by RED.
- * The sale or rental of a manufactured residence that is not real estate (not anchored to a foundation and recorded as real property with the State of Nevada) must be disclosed to a prospective buyer or tenant.

Property Management Data

Base Year Pass Troughs

Definition: The act, action, or process of offsetting increased costs by raising prices

The 1st year rent is paid throughout the year. Any increase in expenses are amortized throughout the next year as an increase in monthly payment. The same goes on in each successive year.

Budgeting for the next years potential vendor pricing increase after being given increases for the previous years. This needs to go into the yearly budget of expenses for next year.

What is the meaning of budgeting? Budget variance?

In its simplest form, a budget is a plan or forecast in the form of a list. The list shows spending items and incoming revenue items for a specific time period. The purpose of the budgeting process is to provide a budget figure for each item. As time passes, actual spending and revenues enter the list to compare with original budget figures. Where budget and actual figures differ, the difference is called a variance.

Capital budgets vs. operating budgets: What are the differences?

Two major kinds of plans normally stand at the top of the budget hierarchy. One is the budget for capital expenses, or CAPEX. The second is the budget for operating expenses, or OPEX. Note especially that CAPEX and OPEX do not overlap. They handle completely different spending items. Moreover, firms create capital and operating budgets through different processes, involving different managers.

Those preparing funding requests should keep in mind these points:

Firstly, capital and operating budgets usually apply different criteria for prioritizing requests and deciding spending.

Secondly, many proposals include both CAPEX and OPEX spending. As a result, those asking for funding in such cases must state specifically what they need from the capital budget and what they need from the operating budget.

Thirdly, as a result, the wise manager therefore writes the funding request and its business case with an eye on both sets of decision criteria.

Capital spending CAPEX vs. operating expenses OPEX

Whether an expense item is CAPEX or OPEX depends on the nature of the purchase and how owners use it. And, the country's tax laws may also help determine what is a capital item and what is not.

Unearned revenue can be thought of as a "prepayment" for goods or services that a person or company is expected to produce for the purchaser. As a result of this prepayment, the seller has a liability equal to the revenue earned until delivery of the good or service.

Risk management is the identification, assessment, and prioritization of risks followed by coordinated and economical application of resources to minimize, monitor, and control the probability and/or impact of unfortunate events or to maximize the realization of opportunities.

Risk management is the continuing process to identify, analyze, evaluate, and treat loss exposures and monitor risk control and financial resources to mitigate the adverse effects of loss.

Loss may result from the following:

financial risks such as cost of claims and liability judgments

operational risks such as labor strikes

perimeter risks including weather or political change

strategic risks including management changes or loss of reputation

Risk Concerns:

Elements of Loss Expense

Actual damages to physical assets to repair or replace.

- Increase in expenses or reduction of revenue due to loss.
- Cost of investigation, legal fees, fines and awarded judgments.
- Loss of worker productivity and adverse publicity and public opinion.
- Higher potential insurance premiums.
- Payments made due to the death, disability or resignation of employees.

Risk Control Techniques

- Avoidance of activities which cause loss.
- Reduction of the frequency of loss - risk prevention.
- Reduction of the severity of loss - risk reduction.
- Contractual transfer of responsibility for loss occurrence.

Risk Financing Techniques

- Retention of losses either by design or omission.
- Borrowing of funds or use of bonds or use of other forms of capital
- Contractual non-insurance transfer of responsibility for loss payment.
- Insurance transfer to a non-owned insurance company when and if the exposure is insurable and the cost is not prohibitive.

Things you should KNOW FOR THE TEST

(revised 2-16)

References: 8th edition and page number in Property Management by Rbt. Kyle

9th edition and page number in Property Management by Rbt. Kyle

CASH (BASIS) ACCOUNTING= Money is recorded when paid or received

ACCRUAL (BASIS) ACCOUNTING= Money is recorded when owed or earned

BALANCE SHEET (aka "Statement of Financial Position)= "The financial statement reporting assets and total equities (the sum of all liabilities and owners equity) as of a specific date.

(Ref: Financial Accounting Information by A Thompson Montgomery. pg 580 & 588)

ASSET(S) = NOT A LIABILITY

= Things belonging to the company with a monetary value

LIABILITY = Claims against the assets of the company

= Monetary (money value) things held by the company but not owned

CURRENT = Asset or Liability, payable or collectable within one year or operating cycle

FIXED = Asset or Liability, NOT payable or collectable for more than one year or operating cycle

INTANGIBLE = An Asset with no physical characteristics (ex: patents, trademarks.)

UNEARNED REVENUE= (1) Money received for future services or products (ex. Rent)

(2) Unearned Revenue is a liability (belongs to others until earned, then it becomes an asset)

DEBT SVC= The mortgage payment (part is interest, part offsets liability {what is owed})/
each payment reduces the amount of liability and increases the value of the asset)

PROFIT-LOSS STATEMENT= "periodic report to the owner listing gross receipts rather than itemized sources of income and total operating expenses instead of individual expenditures". Does not include debt service, but after the mortgage payment has been deducted from the gross receipts, the loan principal must be added back to determine the net profit on the profit-loss statement {gross receipts - operating expenses, mortgaged payment + mortgage loan principal = net profit}

CASH FLOW (aka -- net receipts remitted to the owner) = NOI minus deposits to the reserve Account (9-206)

RETURN ON INVESTMENT (roi) = Gross collectable income minus expenses, before debt debt service (mortgage payments). NOTE: although debt service is a 'fixed expense', it is not a component of 'Net Operating Income'. (8-527 / 9-207)

NET OPERATING INCOME (NOI) = Gross collectable income minus fixed and variable operating expenses, before debt service. NOTE: although debt service is a 'fixed expense', it is not a component of Net Operating Income. (8-527 / 9-207)

·FIXED· & ·VARIABLE RELATIVE TO EXPENSES= (9-207)

*FIXED EXPENSE= Budgeted expense that does not fluctuate with rental income or occupancy of the property {i.e. payment is the same each month} (8-524)

*VARIABLE EXPENSE= Budgeted expense that increases or decreases with increases or decreases in rental income or occupancy of the property {i.e. utility costs, property management fee, etc} (8-532 // 9-520)

*NONRECURRING VARIABLE EXPENSE= A variable expense that occurs only once or rarely {i.e. new roof, repaving the parking lot, adding a room} (9-515)

CASH FLOW ANALYSIS = Allows Landlord to analyze the actual return on the investment, after taxes, to determine what action(s) to take regarding the property (9-287)

CASH FLOW REPORT= "Tells the client the sources of income, expenses, net operating income and net cash flow, and is the single most important financial report"/ usually accompanied by an explanation of abnormal items. (8-41/212 // 9-904)

CAPITALIZATION RATE = One of the methods of projecting a property's value, it's net operating income, and the rate of return on the owner's investment / converts future income into present value. (8-520 // 9-218)

HOW ARE COMMERCIAL (income producing) PROPERTIES VALUED?=-

The Income Approach - assumes that the income generated by the property will determine the property's value. An appraiser's "Estimated Potential Gross Income" is only one of the steps in determining the value of a property (8-17)

BREAKEVEN ANALYSIS= Primary method of calculating the profitability of a property./ % of occupancy at which gross income is equal to fixed expenses/ When the gross income exceeds the break-even point, the property becomes profitable. (8-221/20 // 9-217)

BUDGET-COMPARISON STATEMENT= Compares the property's actual finances {cash flow report} to the original budget and functions as an operational check list. (8-212 // 9-204)

RESERVE FUNDS= In the expense category in the operating budget. It is money set aside for repair and replacement expenditures not covered by insurance {ex. unbudgeted repairs} (8-40/529 // 9-40/299) {Not enough \$ in the reserve account? Tell the client the account needs money! /you should keep track of and explain each expenditure in the Budget Comparison Statement/ ask that the fund be replenished when the fund balance gets low.}

EXPENSE STOP = The amount a Landlord pays, over a specified period of time, to operate a rental property (8-110/348 middle of page)

PASS-THROUGH (aka Escalation Clause) = Increases in the cost of running the building, other than economic indexes, over a base time frame {aka Expense Stop} and {usually} billed back to tenants monthly in addition to rent. (8-110 // 9/336)

STEP-UP CLAUSE (aka Graduated clause)= Specific rental increases at specific times

CAM (Common Area Maintenance) = Maintenance costs of large common areas {parking lots, plazas etc}. billed back to tenants monthly with rent or when the maintenance is performed.

AGING REPORT = Money owed by tenants by who, how much, how long delinquent

TYPES OF MANAGEMENT = (8-3/8/100 // 9-4)

- *Commercial - Includes Office and Retail (which also includes Food Courts) (9-6)
{definition of commercial property: privately owned/publicly used}
- *Industrial - "Design dictates use" (9-8)
- *Special Purpose - "Use dictates design" (9-9)
- *Residential - Scattered-site housing, Multifamily properties (9-4)

WHAT IS A FUNCTION OF THE BUDGET = A budget is:

1. A future projection (8--41/214 // 9-208))
2. A basis for planning
3. A guide for directing & coordinating company operations
4. A standard against which results can be measured

A BUDGET IS = The formulation of: (8-38)

- * Anticipated revenue, adjusted to reflect market trends
- * Estimated yearly operating costs
- * Estimated reserve funds
- * Cash flow in light of the clients objectives

MANAGEMENT FEE = *Negotiable*. may be flat rate per unit or % of gross rent over a base rate.
(8-62/311 // 9-60)

ADMINISTRATIVE EXPENSES = Management fee, office payroll expenses, Prof. fees

CAPITAL EXPENDITURE BUDGET = Projects several years into the future / Capital Improvements can be broken into two major categories- 'preservation' and 'income producing' capital expenditures. It is not part of the Management Budget(8-310/385 // 9-378)

MANAGER OWES FIDUCIARY TO = the Broker (Primary). The Client(Secondary)/"Agency attaches to the broker...and through the broker to the broker-salesperson or salesperson"
{reference: The Nevada Law and Reference Guide 2nd Edition, pg 1-4, 3rd paragraph.
-to obtain a copy see page 19 of this handout;} (9-52)

THE BROKER OWES FEDUCIARY TO = The Client/Principal (8-54).

FIDUCIARY = Care, Confidentiality, Obedience, Accounting, Loyalty, Disclosure, Agency, Diligence. (8-54)

THE BROKER OWES THE MANAGER = What is stated in their contract

MANAGER OWES THE CUSTOMER = Honesty and fair dealing (there is no contractual agreement between a customer and the broker.

MAXIMUM TERM OF A MANAGEMENT CONTRACT= Negotiable / "should be a guaranteed and a reasonably long period knowing that the owners governing board will change frequently" (8-58 // 9-302)

RECOMMENDED TERM OF A MANAGEMENT CONTRACT= One year minimum (8-58)

DUTIES OWED AND CONSENT TO ACT= Signed forms must be kept in the transaction file for 5 years.

CONTRACTS = are inheritable if written (the exception is 'oral' contracts)

FORMATION OF A CONTRACT= Parties must have the capacity to contract, purpose must be lawful, form must be legal, parties must intend to create a legal relationship. Parties must consent, may be written or unwritten.

STATUTE OF FRAUDS =real estate leases of up to one year may be oral/ all other conveyances of real estate must be in writing (NRS 111) (8-10-530) (9-100)

A LEASE is an contract, written or unwritten, with specific terms between two or more persons or entities, transferring the right to exclusive possession and use of real estate, in which there is a promise of performance in return for a valuable benefit (consideration). To create a valid lease the lessor must retain a reversionary right: that is, the lessor (Landlord) must grant the right of possession to the lessee (tenant) but retain the right to retake possession after the lease term has expired. A lease is not binding until 'delivered and Accepted'. (9-101) (AB 284)

WHAT MUST BE STATED IN EVERY LEASE (Contract)=

Identification (no address is required by law) identification of the rental and the names of the principles to the contract {lessor/landlord - lessee/tenant} (8-58 /55) (9-101)

A LEASE (IS) = A contract for performance (8-100/105)

A conveyance of real estate {from Lessor to Lessee} (8/100 - bottom of page)

Personal property of the Lessee

Conveys an equitable interest in the property to the Lessee

LEASEHOLD ESTATES (8-100/102 // 9-96)

* Estate for Years - Set term with beginning and ending dates (can be for any duration)

* Estate from Period to Period - can be for any recurring time frame. Self renewing until one party to the estate desires to terminate the estate. If rent is paid weekly, the required notice to terminate is 7 days / at least 30 days for all other periodic tenancies.

* Estate at Sufferance - If tenant does not move out at the end of an estate for years, the estate is at sufferance and the tenant is a hold-over tenant. / if rent is accepted, the estate becomes Period-to-Period under the same terms as the estate for years, excepting the termination date

* Estate at Will - Unstructured, oral, not enforceable if term is more than one year / only leasehold estate that is not inheritable / requires a five day notice to terminate. (NRS 40.25 covers rental terminations)

UNIFORM RESIDENTIAL LANDLORD-TENANT ACT (1972)= .Drafted by the 'National Conference of Commissioners on Uniform State Laws' / designed to standardize and regulate the relationship between residential lessors and their tenants / Many of the provisions used in current leases were adopted from this 'Act' (8-260/532 // 9-233)

REMEMBER= Residential Leases= NRS 118 & 118A / Commercial leases= Contract Law

QUALIFYING TENANTS= (8-337 // 9-86/122/396)

*Residential= Identification, rental history, credit history, employment & Income.
(look for one or more of these on your answer sheet, not all four)

Application should be clear, concise, comprehensive with permission to check customer's credit, criminal & rental history. Keep a file of rejected applications and place the accepted application in the tenant's lease file. (8-126)

*Commercial= Financial stability (Dun & Bradstreet), liquidity, type of business, space needed, when needed, why moving, rental history, decision maker?(8-87)

*Industrial = Financial stability, area needed (office & open), transportation and labor needs, zoning requirements, floor load/construction, truck doors, power/ electricity-gas, rail spur availability, parking, HVAC & heating, zoning requirements, restrooms (number and location) (8-405)

LEASE EXECUTION=

*Residential=Verify identification, have signature notarized if not executed in your presence

*Commercial/Industrial=Require a corporate resolution stating the person signing lease is authorized to encumber the corporation / Have signature(s) notarized if not signed in your Presence/ Verify signatures signed in your presence. (Do a paragraph by paragraph comparison of the signed copy with your master copy to verify the executed copy is the copy one you sent to the prospective tenant for execution)

RENTAL CENTER=

The higher the turnover, the greater the need

*Removed from distractions (day to day business)

*Closing Area- No view or best view (8-90/277/337 // 9-88)

- Model of the project
- Artist renderings
- Display of 'building standard' finishes (carpet, drapes, wall coverings)
- Floor plans - of existing 'built-out' space
- Floor plates (blue prints) - of 'raw' space

SUB-LEASE (aka Sandwich Lease) = Transfers only some of the tenant's interest in the premises" (part of the premises/ part of the remaining term or both) (8-112/348 // 9-108)
i.e- subtenant acquires possession of the premises, tenant remains liable for compliance of the lease terms.

ASSIGNMENT OF LEASE= "Transfers all of the tenant's rights and responsibilities to a third party. The tenant can transfer rights and benefits granted under the lease, but only The landlord can transfer the tenant's responsibilities under the lease. (8-519 // 9-242)

UNSIGNED LEASE= "If the lessor or lessee signs and delivers a written lease and either party pays or accepts rent, the lease may be considered (by the court) to be binding". (8-261 // 9-255)

MARKETING AXIOM= *Know your product (8-74)
*The best source of new business is your present customer

FEES = All fees paid to the Lessor (Landlord) by the Lessee (Tenant), and the disposition of those fees are negotiable. Provisions relating what fees are collected for and whether or not they are refundable must be contained in a residential lease (NRS 118A.200)

RETURNING SECURITY DEPOSIT:

RESIDENTIAL= Security must be returned within 30 days of the termination of the tenancy with an accounting of what was used. Penalty for not returning the unused portion of the security is the total amount of the deposit plus a sum to be affixed by the court not to exceed the amount of the entire deposit {i.e. double the deposit} (NRS 118A.242)

COMMERCIAL/INDUSTRIAL= Falls under contract law / whatever is stated in the lease

RENT-ROLL= A (brief) abstract of the important items in a lease (ex. tenant's name, suite #, contact person, phone #, term, rent, next increase etc). Allowing a property manager to access important items without researching the entire lease

WHEN COLLECTING RENT(S)= Current or past due, the manager is a representative of the client (lessor) and not a debt collector (collection agency/agent defined -NRS 649.020&025)

DISPOSITION OF MONEY BELONGING TO OTHERS= (NAC 645.657) licensee must pay over money to broker or other designee stated in the contract within one business day of the contract being executed. Broker must deposit the money into the trust account within one banking day

SITE MANAGER= Has an office on a property and manages the day to day activities / the word preceding manager usually indicates what the manager manages / property manager is a generic title

ASSET MANAGER= Oversees investments in real estate on behalf of the investors. from an ownership perspective, similar to a securities portfolio manager (8-10 // 9-10) / (Not to be confused with NRS 645H.030 which defines Asset Management as contracting with a foreclosing entity to perform custodial maintenance of a foreclosed property, requiring an Asset Management Permit, or a Real Estate Broker or Designate Manager with a Property Management Permit.)

BUILDING STANDARD= A specific set of amenities and alterations the lessor is willing to provide free of charge to an incoming commercial tenant. (8-520 // 9-343)

TENANT IMPROVEMENT ALLOWANCE= A dollar amount negotiated (between the lessee and lessor) to 'build-out' or upgrade the leased premises {\$ amount varies, often offered as an incentive to facilitate the execution of the Lease}. Tenant Leasehold Improvements belong to the lessor, regardless of who pays for them. (8-138)

TYPES OF LEASES= (8-102/524 // 9-98)

- * Gross (aka straight lease)- Most residential leases / same rent payment each month
- * Modified Gross - Most office leases, may have 'step-up', graduated or specific rental increase clauses, economic index clauses (CPI), non- economic index rental increases (union wages, utilities, property taxes)
- * Full Service Lease (aka Turn-key Lease) - Gross or Modified Gross lease with utilities and cleaning included
- * Step-up lease (aka- Graduated Lease) - Rental rate increases by a stated amount on specific dates over the term of the lease (8-108/348 // 9-104)
- * Reappraisal Lease - A method of determining the amount of rent to be paid on the renewal of a land lease (9-106)
- * Index lease- increases or decreases in rent are tied to a certain index or economic condition (9-104) {ie: rent increases or decreases as the 'index' or economy goes up or down}

* NET Lease(s) = Tenant pays some or all the expenses of the leased property (except debt service) in addition to the stated rent. Expenses paid by the tenant are evidenced by N, NN or NNN. (The following formulas are from the Property Management text)

* N Lease = stated rent + real estate taxes, utilities, and special assessments

* NN Lease = N + insurance (8-103/415/527)

* NNN Lease = NN + repair & maintenance

(To make a NN lease into a NNN lease, what must be added?)

* PERCENTAGE Leases (aka Overage Lease) (8-106/374/528 // 9-99/368)

- Usually have a "minimum performance provision"

- Usually have a provision allowing LL to audit sales records

* Straight % Lease = % of gross sales, no minimum rent (8-531)

* Minimum Guaranteed % Lease (aka: overage % Lease) = Tenant pays either a fixed minimum rental rate or a % of gross sales, whichever is greater (8-528))

* Combination % Lease = stated base rent plus a % of gross sales

* Variable Scale % lease = % decreases when negotiated gross sales plateaus are achieved. (ex. 6% on sales up to \$10,000, 4% on sales between \$10,000 & \$20,000, and 2% on sales over \$20,000 - during a specified period of time)

* Maximum % Lease = % of sales with a preset ceiling (maximum) on the amount of rent to be paid. (8-375)

AGE RESTRICTED HOUSING=

* 55+ = 80% of units must have a resident at least 55 years old. (8-312)

* 62+ = Intended for, and occupied solely by, persons 62 years of age or older.

* Age Restricted Housing complies with policies and procedures that are relevant to a demonstration of compliance with HUD requirements, and are checked periodically by HUD to ensure compliance. (8-242/320 // 9-314). (Federal Fair Housing)

FAMILIAL STATUS= With the exception of age restricted housing, which can/may refuse children, the activities of children can only (legally) be restricted when a hazard or hazardous situation is eminent. (8-242 // 9-234/235)

SECTION 8 HOUSING= Tenant pays a portion of the rent based on tenant's income, HUD pays the remainder (\$ differs by area) / federally funded, locally administered by the Southern Nevada Housing Authority (8-314/530 // 9-308)

EQUAL HOUSING POSTER (Previously known as a 'Fair Housing Poster)= Must be posted in a prominent location in offices involved in residential real estate, visible to customers entering the office. Not having a Equal Housing Poster displayed is prima-facie evidence of discrimination. (8-239 // 9-230)

SHERMAN ANTITRUST ACT (PRICE FIXING)= "two or more individuals conspire to set a price", often referred to as 'price fixing' / for PSI test only= "uniform trade rates are not legal." (8-235 // 9-227)-that restriction was overturned by the U.S. Supreme Court in 2012.

EVICTION (FILINGS)= commonly known as a Suit for Eviction, Suit for Possession, or Forcible Entry and Detainer Suit /in western states it's Unlawful Detainer (8-117/163 // 9-114)

LICENSE= Personal, nontransferable permission to do a specific activity.

FRONT FOOT= Refers to property line bordering a roadway, lake, river, etc.

ESTOPPEL= Used in the purchase of income producing property. It is a statement signed by the tenant verifying that the lease the tenant entered into is the same as the lease the seller claims the tenant signed. (9-109)

MATERIAL FACT= is 'any' fact that is relevant to a person making a decision

*INSTALL A GRAB-BAR AT OWNERS EXPENSE - Though not required by law, this helps satisfy NRS 118.101.1(b) {make reasonable modification for a person with a disability} and NRS 118.103.2(c)(1) {reinforce bathroom walls so that bars, for use by a person with a disability may be installed (8-243)

RISK MANAGEMENT (DEFINITION)= " Risk management is concerned with both the financial and humanitarian consequences of unforeseen events, and taking steps to reduce those consequences." (8-427/53 // 9-419)) - recommended reading

RISK MANAGEMENT PRINCIPLES= (8-427/439 // 9-419) it's not just insurance

1. Identify- measure the frequency and financial severity of the event
2. Avoid – stop the activity / discontinue the loss-causing activity
3. Control –with safety programs / loss reduction plans / emergency preparedness
4. Retain - absorb the consequences of risk (ex. self insured)
5. Transfer –buy insurance / contract services with third parties

6. Monitor results - *make decisions regarding effectiveness of the action(s) taken, are additional actions needed(?)*

The MANAGER SHOULD= (8-427/530 // 9-430)

- * Be named co-insured on all liability insurance policies that the owner holds on the premises
- * Have an indemnity clause in the management agreement indemnifying the manager from any liability exposure caused by the client (8-439)
- * Have an indemnity clause in leases indemnifying the lessor and manager against liability from injuries to employees, visitors and guests of the tenant injured within the leased premises
- * Have a clause in the management agreement that the manager is not responsible for work performed by vendors contracted by the client, or that is beyond ordinary supervision, or products supplied by vendors.
- * Place a 'dollar cap' on the amount for which the manager would be responsible.
- * Insure office contents and equipment: purchase "employee honesty insurance", carry Errors and Omissions Insurance
- * Not contract with vendors, contracts with vendors should be between the Client and the vendor, with the manager named as 'agent' of the client.

CLIENT SHOULD = "make insurance decisions based on recommendations from the clients own insurance broker", (8-247/439 // (9-423) considerations should include:

- * Loss of Rent (income) - Loss of income, rent (occupancy)
- * Employer liability - Umbrella policy on employee accidents
- * Commercial General Liability with the manager as additional insured
- Umbrella policy covering the legal responsibility and cost of defense for damage to property of others
- * Fire/Multi- Peril - Replacement of property lost do to fire or disaster, not depreciated value
- * Flood Insurance - where applicable and/or appropriate

IF THE UNIT IS A CONDOMINIUM= Client should carry HO-6 insurance, insures the unit

CUSTOMER/TENANT= Should be required to carry HO-4 insurance, insures Tenant's Personal property (8-438 // 9430)

INJURY/DAMAGE= to or on the managed property /Take a report {and pictures} of the injury/damage and notify the clients insurance agent ASAP / notify Client/Broker asap
{Do not give the client's insurance information to anyone without the client's approval}
(8-430 - bottom of page)

ADVANTAGE OF HIRING OUTSIDE SECURITY= Absenteeism / deferred liability (8-429)
Vendor's insurance assumes liability, a replacement guard is a phone call away

INSUREABLE INTEREST= The economic interest suffered in the event of a loss.(9-422)

SHELL SPACE (RAW SPACE)= Commercial/Industrial space with no interior improvements.
locally we have 4 grades of space

MANDATORY DISCLOSURES= new owner/ new tenant/ lead based paint/ what you don't disclose (NRS 40.770)/required notifications in a residential lease/ location of trust accounts to RED/ duties owed to an unrepresented customer/ any material fact concerning the property;/ kick- backs/ personal (includes friends, relatives and associates) interest in the transaction {how much, what for and from who - to all parties, in writing}

AGENCIES=(The Nevada Law and Reference Guide, 2nd edition*, Pg 1-3)

*General Agency - "An agent is authorized under a general power-of-attorney to perform all duties for the principle that the principle could perform to convey real property".

Special Agency - "The agent is given limited authority to act for the client within certain restrictions and for specific transactions."

*Universal Agency -Not recognized in Nevada Law

SURETY BONDS= Management employees who handle money or have access to a tenant's unit should be 'bonded'. (think of a 'surety bond' as guaranteeing / it guarantees the beneficiary will be compensated if a described event happens) (8-59 // 9-57)

TENANT BREACHES LEASE. WHEN CAN MANAGER MAKE REPAIRS=

Breach not cured, no good faith effort to cure within the prescribed time:

*Minor Breach: Lessor may effect repair(s) or cleaning and bill the actual and reasonable costs, or the fair and reasonable value of the work, to tenant as rent.

*Major Breach: Lessor must contract with tenant to cure (repair) the breach

ELEVATOR vs. 2nd FLOOR= RESIDENTIAL- 4 or more units, 2nd floor must be ADA compliant only if there is an elevator. If there is no elevator, only first floor must be ADA compliant. (NRS 118.103.3) / If an OFFICE BUILDING has no elevator, the second floor is still required to be ADA compliant. (Americans with Disabilities Act requires access to the 2nd floor, not specifically an elevator)

NUISANCE?= 1)barking dog, 2)car parked in your spot, 3)smell of marijuana smoke, 4)loud children 5)loud music /kids on skate boards? Relative to Property Management, a NUISANCE is the actual 'physical' interference with another's use or enjoyment . A car parked in your spot is a good example.

FIXTURES= belong to the lessor. They are 'things that are permanently attached to the premises, including tenant leasehold improvements (regardless of who pays for those improvements).

TRADE FIXTURES (aka Chattel Fixtures)= Items that appertain to the Tenant's business / belong to the Tenant /address them in the lease if they are to be attached to or penetrate the premises. {ex. Exhaust fan above a stove in a restaurant} (8-113/531 // 9-111/373)

BOMA BUILDING CLASSIFICATIONS= Vary from city to city, generally determined by age, location, and market position: (8-327 // 9-323)

- *CLASS A- newer/prestigious, prime location, high occupancy, higher rents
- *CLASS B- fair to good quality, good location, adequate systems, declining rents
- *CLASS C- competes for tenants requiring adequate space at below average rents
- *CLASS D- nearing end of its functional life (not in Property Management, 8th edition)

BUILDING MEASUREMENTS:

*NEW YORK METHOD= All of the construction area is included {includes stairwells and elevator shafts} (9-326)

*BOMA RENTABLE= Measures from the inside finish of the outer wall to the middle of common walls, vertical penetrations of floors (elevators, stairs) are not included.

*RENTABLE Sq.Ft -What rent is based on (8-329/329)

-What tenant occupies plus tenant's proportionate share of common area

*USEABLE Sq.Ft -What tenant actually occupies (not what tenant uses).

-floor area of an office building that can be used for tenant office space

*LOAD FACTOR -difference between rentable and useable Sq.Ft on a multi-tenant occupancy floor of an office building. (8/526)

*LOSS FACTOR - difference between rentable and useable Sq.Ft on a single-tenant occupancy floor of an office building (8-526)

FIRST NATIONAL REAL ESTATE ORGANIZATION= BOMA(International), Building Owners and Managers Association {Chicago - 1908} (8-14 // 9-14)

LIFE CYCLE COSTING= Price, operating costs, and other known economic factors of two or more pieces of equipment are compared, new vs. new (which new item is most cost effective) or new vs. existing (to determine which is most economically beneficial). Is it economically better to buy a new one or repair the old one. (8-189)

HANDYMAN (all employees)= By law, employees must have workers compensation insurance.

REPAIRS= NRS 624.031(11) restricts what property managers may contract to \$10,000 per Management Contract, a must read for property managers.

COMMINGLING= *Borrowing one clients \$ to pay another clients debt

*Broker mixing clients \$ with his own

*Broker receives \$100 deposit, returns 5 \$20 bills (if deposits are not put into the trust account, the broker is required to return the same bills.

CONVERSION= Stealing the Clients money (watch for Embezzle= "to appropriate fraudulently to one's own use"/ fraud = "involves deceit or trickery".)

WHY is a new property easier to manage than an 'old' property?

LEASE (CLAUSES)

Acceleration = The occurrence of a predetermined event that accelerates a future event to the present

Recapture = Allows the lessor to take back leased premises if not being used by the lessee (8/529 // 372)

Condemnation = 1- If property is condemned in it's entirety by a governmental agency. the lease is automatically cancelled and the lessor is free of any liability
2- If part of the property is taken through condemnation, proceeds belong to the lessor / Tenant may sue (individually) for damages suffered by the tenant resulting from the condemnation. (9-107)

Relocation = Allows a lessor to relocate a tenant upon the occurrence of a predetermined event.

Use Clause = Restricts what the premises may be used for (8-139/529 // 9-106)

Non-Compete (Retail/Food) = 1- Restricts the lessee from opening another store within an agreed distance of the location being leased (8-135/378/527 // 9-371)
2- Protects the tenant from having a competing store move into/onto the property.

Continuous Operation = Retail, requires being open for business during specified hours

Reconstruction (Retail/food) = If the premises become nonfunctional for any reason not the lessor's fault, lessee will make repairs and reopen within an agreed period of time

Non-disturbance Agreement = Mortgagee agrees not to evict the lessee in the event of a foreclosure, providing tenant (lessee) is in compliance with the lease. The lessor cannot make this guarantee (9-109)

Quiet Enjoyment = Guarantees the tenant the right to occupy and use the premises and limits lessor's access to the premises to what is stated in the lease. NRS 118A.330 allows Lessor entry to inspect, make repairs and show the premises to prospective buyers or lessees, NRS 118A.200 requires this information be included in the lease. NRS 118A.500-if tenant refuses access as required in the lease, lessor may obtain court ordered entry, terminate the lease, AND sue for damages / If lessor abuses the right to access, tenant may sue the lessor.

MARKET ANALYSIS = major employers in area, / income & employment data/ transportation availabilities/ supply and demand trends/ economic base of city (area)/ future economic prospects/ population demographics(trends/income) (8-30 // 9-30)

SHOPPING CENTER CLASSIFICATIONS= (8-361 // 354))

- * STRIP (aka CONVENIENCE CENTERS)- 10,000 - 30,000 sqft. 4 to 10 stores. urban area/suburbs, on a main thorough-fare, typically straight line w/front parking
- * NEIGHBORHOOD- 100,000 sqft. 15-20 stores, 1000 families w/i 1.5 mi.. Often anchored by a market
- * COMMUNITY- 150,000-300,000 sqft. 20-70 stores, 5000 families within 5 miles
- * REGIONAL- 300,000-800,000 sqft. 70-225 stores, 50,000-150,000 fam. within 10-50 miles
- * SUPER REGIONAL- 1.5m sqft. major regional draw (ex: Mall of America)

LIFE-SAFETY/ SECURITY PROGRAMS= OSHA Emergency Standards '29.CFR 11910.30'. requires the employer, if single occupancy building, or the landlord, if multi-tenant, to develop an emergency plan that is site specific.

refer osha.gov/slc/etools/evacuation/employees.html / NV OSHA - 4safenv.state.nv.us

* FOUR GOALS OF ANY PROGRAM (9-450)

1. Preventing emergencies or security breaches
2. Detecting a breach as early as possible and sounding an alarm
3. Containing or confining
4. Counteracting the damage by prompt and proper action. such as extinguishing a fire
Or arresting an intruder

VENDOR CONTRACTS= competitive bid / bid bond {guarantees contractor can provide a performance bond if awarded the contract} / verify references & quality of work / require liability and workers comp. ins. w/LL and Mgr. co-insured / verify if contractor's permits are pulled & business licenses are held / provide termination provision in contract / obtain lien releases when payments are made for work performed./ from the contractor's insurance carrier get an agreement to be notified 30 days prior to insurance being cancelled. and/or if insurance is not being kept current / hold periodic progress meetings (8-439 // 9-169)

MAINTENANCE CLASSIFICATIONS=

- * ROUTINE= Housekeeping chores
- * PREVENTATIVE= Maintenance (routine inspections, replacing air conditioning filters, smoke alarm batteries)
- * CORRECTIVE= Actual repairs (fixing a leaky faucet)- frequent or repeated repairs are still corrective
- * NEW CONSTRUCTION= Anything new (ex: new wall paper / new swimming pool).
New Construction is usually a capital expenditure
- * DEFERRED= Obvious repairs postponed (9-167)

RETROFITTING= Energy saving program of replacing or upgrading HVAC equipment that is often controlled and monitored by a computer. (8-530 // 9-8)

BUSINESS CYCLES (CYCLICAL FLUCTUATIONS)= (8-23/26 // 9-23)

- * EXPANSION= production increases
- * RECESSION= supply meets/surpasses demand
- * CONTRACTION= less & less demand. fewer products made
- * REVIVAL= consumers venture back into the market

INDUSTRIAL LOCATION PREFERENCES= (8-398 // 9-389)

- * MARKET ORIENTED- near distribution points/ customers
- * RESOURCE ORIENTED- near raw materials.
- * LABOR ORIENTED- near available and cost effective labor pool
- * UTILITY OF THE PROPERTY (Most important)

INDUSTRIAL RENTS= are usually quoted by the year, with rent paid monthly or on dates specified in the lease (8-416) // (9-408)

LOFT(S)= A building with non-specialized interior space / 'Property Management' describes Loft Buildings as "multi-story low rent buildings once used for light industry, reminders of the former concentration of industrial activity in the central urban areas of older cities that are being converted into other uses" (8-9/270 // 9-8))

INCUBATOR SPACE= A business park with varying sized small units, combining office and industrial space, for small and growing businesses (9-7)

WALK-UP APARTMENTS= No elevator, three to four floors, minimal services, building entry is usually at the sidewalk / Sample question: What type of apartment complex offers the fewest services? best answer: 'walk-up apartments' / Other multi-family properties include : garden apartments, luxury high rise apartments, and multistory elevator buildings with efficiency and one bedroom units concentrated primarily around the edge of downtown areas of large cities. (8-268 // 9-266)

SCATTERED-SITE HOUSING= Decentralized single family housing (8-268 // 9-265))

ENTERPRISE ZONES= Financially depressed area(s) offering tax and other financial inducements to attract businesses (8-9 // 9-9)

FOREIGN TRADE ZONES= Locations where imported merchandise is stored, but not taxed until shipped to market [from the warehouse] (8-402/524 // 9-394))

ECONOMIC CONDITIONS= *Inflation- short term leases, escalation clause
*Deflation - Longer leased terms (to maintain higher rents)

TECHNICAL OVERSUPPLY= * Available space exceeds demand (7-33)

ECONOMIC OVERSUPPLY = *Tenants cannot afford price

AD VALOREM (added value)= Usually a non-recurring variable expense.

FAST TRACK= "contractor begins construction before final plans are completed"
(8-524 // 9-179)

Post a NOTICE OF NONRESPONSIBILITY in a prominent location on the property, as soon as possible, where work on the leased premises is being performed that was not contracted by the lessor.(8-379). this puts the vendor on notice that the lessor is not responsible for payment of the work. / be familiar with NRS 108.234 / in real life. after posting notice. file a copy with the county recorder / this puts all parties with an interest in the property on notice that the landlord did not contract the work.

REDUCING RENT IN RETURN FOR SERVICES= If you give a reduction in the rent to a tenant in return for personal services, you are guilty of (1)not disclosing personal gain to the client and (2)not acting in the clients best interest

CLOSE FRIENDS AND RELATIVES= You cannot legally help friends and relatives with real estate or management activities without a management contract signed by your broker/ but you may give your opinion on a contract or lease provision / Helping write a contract or lease provision for anyone who is not a client is practicing law without a license.

SMOKE DETECTORS= "Should be located on each floor, in a centralized system". The manager should ensure that the detectors are tested regularly" (8-463 / 19-453)) / The National Fire Protection Agency (NFPA) suggests one on each floor of a residence and outside each sleeping area / Note: Maintenance of the smoke alarms are the lessor's responsibility unless the lessee and lessor agree that the lessee will maintain them (get it in writing)

OPEN RANGE= Ranchers are not required to fence their property/ You may fence your property / you may remove live stock from your property, but you cannot injure the animal(s) / sellers (lessors) of property adjacent to "Open Range" must provide the purchaser {lessee} with an Open Range Disclosure / retain a copy of the signed disclosure / provide a signed copy to the purchaser (lessee) / and record a signed copy of the disclosure with the county recorder in the county where the property is located / NRS 113.065 / form is on RED's web site - remember: leasing is a sales activity.

<u>YEARS TO</u>	<u>RACE</u> (first fair housing law).....	NEVER EXEMPT..1866
<u>REMEMBER</u>	<u>OSHA</u>	1974
	<u>LEAD BASED PAINT</u> (banned in).....	1978 (8/248)
	(best answer on test my be 1977)	
	<u>ASBESTOS</u>	1986 (8/443)
	<u>FAMILIAL STATUS</u> and	
	<u>HANDICAPPED</u> (last addition to Fed. Fair Housing)..	1988
	<u>ADA RESIDENTIAL</u>	(.March 13) 1991 (8/243)
	<u>ADA COMMERCIAL</u>	(Jan. 26) 1992 (8/248)

LEAD BASED PAINT= (Residences built on or prior to 1978) Renters-buyers are to be provided with records of any presence of lead based paint or other hazard / get a lead based paint disclosure signed and keep on file for 3 years after the date on the lease / lead

poisoning is detected by a blood test / all contractors must take EPA accredited training prior to painting or repairing houses where children under 6 or pregnant women reside / rule applies to where more than 6 sq.ft. is to be disturbed in a room or 20 sq.ft. on the exterior / warning signs must be posted and the work area contained to prevent dust and debris from spreading /// Sources of lead: chipping and peeling paint, dirt and dust (inhaled) around old houses, dirt and dust tracked into the home, drinking water (some old homes used lead solder)/ children residing in or frequenting properties with residences constructed prior to 1978 should be tested for lead poisoning at 2 and 6 years of age. (epa.gov/lead) (8-254 // 9-240))

(UREA)FORMALDEHYDE= is a colorless strong smelling gas commonly known as a preservative in medical laboratories and mortuaries / it is also used in the production of particle board, fiberboard, plywood, cabinetry, glues, carpet, permanent press fabrics, paper product coatings, and numerous other household and synthetic products / exposure may cause headaches, dizziness, respiratory problems and it has been linked to several cancers./ it has been classified as a known human carcinogen by the International Agency for Research on Cancer. (8-448 // 9-440)

ASBESTOS= is a fibrous mineral commonly used until the mid-1970s in insulation and fireproofing materials / inhaling asbestos fibers can cause lung cancer and other respiratory ailments / the needle sharp fibers accumulate in the lungs and the pleural lining causing inflammation and scarring / symptoms from asbestos caused cancer (mesothelioma) usually do not appear for 20 to 40 years after exposure / only about 10 percent of law-suites involve people working in construction, most are filed by people who were at one time inside a building containing asbestos fireproofing material. / asbestos-was-used-in-yarn, felt, thread, cloth, paper, stage and movie props, crayons, paints, baby powder, pottery, mattresses and cigarette filters / it is still used in numerous products including vehicle brakes, roof shingles, building panels, electric insulating materials, thermal insulation, protective aprons and gloves / In 1991 the 5th Circuit Court of Appeals in New Orleans overturned the ban on asbestos, as a result the only products that remain banned are flooring felt, roll board, and corrugated, commercial, and specialty paper - and other products that have not historically contained asbestos / the EPA has no existing bans on most other asbestos containing products or uses - and does not track the manufacture, processing or distribution in commerce of asbestos containing products / If you are in an older house and the ceiling resembles 'cotton candy', it's probably asbestos/ If constructed prior to 1986 have the property inspected by a licensed 'asbestos' certified contractor to ascertain if there is asbestos. <http://epa.gov/asbestos/pubs/ban.html> (8-447 // 9-434/438)

MOLD= Molds are the most common form of fungi on earth, it can grow on almost any material as long as moisture and oxygen are available/ Most molds reproduce through the formation of spores, tiny microscopic cells that are resistant to drying and are released into the air/ When spores land on a suitable moist surface, they begin to grow and release

chemicals that digest and can eventually destroy the surface and underlying materials./
Mold may occur if any waterlogged material are not totally dried within 24-48 hours /
Porous materials cannot be cleaned and may remain a source of mold growth /
Remediation entails not only stopping the water intrusion but removing water damaged
materials / Exposure to mold may cause mild to severe health problems to individuals
depending upon their individual sensitivity. (<http://www.osha.gov/sltc/molds/index.html>)
(8-444 // 9-435)

RADON= is a naturally occurring gas from decaying rock and soil that attaches to dust
and smoke / concentration and exposure determines the risk of cancer / as of 6/30/10, of
5,268 homes tested in Nevada, 25.2% had above 4pCi/L (pico-curies/liter), the level
above which the EPA has determined is hazardous to human health / Radon is the 2nd
leading cause of cancer in the USA. The EPA estimates that 21,000 people die from
radon induced cancer each year. (8-447 // 9-439)

FILING A FAIR HOUSING COMPLAINT

FEDERAL: (1) May file a complaint directly with HUD within one year/ HUD will
attempt to reach a conciliation 'between the parties'/ If this fails the case will be heard by
an Administrative Law Judge as a civil action in a U.S. District Court of a state court.
(Sec. 810 {42 U.S.C. 36101}) (8/245)

(2) May file a civil action in an appropriate United States District Court or
State Court no later than 2 years after being aggrieved.
(Sec. 813 {42 U.S.C. 3613}) (8/245)

(3) The U.S. Attorney General may commence a civil action within than 18
months on behalf of the aggrieved person or prosecute a violations referred by HUD.
(Sec. 814.42 U.S.C. 3614)

NEVADA: (1) A person who believes that he/she will be aggrieved by a discriminatory housing
practice that is about to occur may file a complaint with the (Nevada Equal Rights)
Commission.
(NRS 118.110 / NRS 233)

(2) An aggrieved person may commence an action in district court within one year
following the date of occurrence of an alleged violation (NRS 118.120)

<u>NAVADA FAIR HOUSING</u>	<u>* PROTECTED STATUS*</u> <u>FEDERAL EQUAL CREDIT OPPORTUNITY ACT</u>	<u>FEDERAL FAIR HOUSING</u>
RACE	RACE	RACE
COLOR	COLOR	COLOR
RELIGION	RELIGION	RELIGION
NATIONAL ORIGINE	NATIONAL ORIGINE	NATIONAL ORIGINE
SEX	SEX	SEX
FAMILIAL STATUS	FAMILIAL STATUS	FAMILIAL STATUS
HANDICAPPED	*AGE (btwn 40 & 70)	HANDICAPPED
ANCESTRY	*PUBLIC ASSISTANCE *	
**GENDER ID	*MARITAL STATUS	
**SEXUAL ORIENTATION		
<u>(Heterosexual, bisexual or Homosexual)</u>		

Note: Handicapped is not protected under the Equal Credit Opportunity Act

* in the Equal Credit Opportunity Act only

** in Nevada Fair Housing only

*** Includes child support. Note: birth control practices & marital status are not relevant to the loan (rental) process. Under the Equal Credit Opportunity Act (ECOA) a residential rental application is considered to be the same as a loan application.

REVIEW

*Federal Fair Debt Collection Act

*Equal Credit Opportunity Act (in your blue notebook, also in Property Management.

*Federal Fair Credit Reporting act by Rbt Kyle, 9th edition, Chapter 10)

Things you should know but are probably NOT ON THE TEST

NV ATTORNEY GENERAL'S OPINIONS= [HTTP://AG.NV.Gov](http://AG.NV.Gov) (under New & Publications) check the year the opinion was given, scroll down to the opinion identification number. Regarding a 'rebate' - go to year 1997, AGO 97-20 it's at the bottom of pg. 105

*CRIME FREE MULTI-HOUSING= A crime prevention and drug familiarization class presented by the L.V.Metro Police. If you are managing four or more connected residential units in an area patrolled by Metro you may not be able to get a Business License unless you can show proof of taking this class. Classes last from 8AM to 5PM and are free. E-mail: E8940B@L.VMPD.COM

*CRIME FREE HOUSING WORKSHOP= A Henderson Police Sponsored class for all residential property managers, designated managers, and association managers. For information contact Sandy Croft at sandy.croft@civicofhenderson.com (it's the same program offered by Metro, but the contact person is more accessible). Note: the Crime Free Application and Lease Addendums can be attached to 'section-8' leases per U.S. Supreme court opinion rendered 3-23-2002.

SERVICE MEMBERS CIVIL RELIEF ACT (2003) / {previously know as 'The Soldiers and Sailors Civil Relief Act of 1941'

Places restrictions on landlords evicting military personnel from homes and apartments during wartime activities. It also provides military personnel with financial protection in a number of areas including: foreclosures, lease terminations and loan defaults. This law is currently being enforced by HUD - you should be familiar with it - just type the title into Google

TRUST FUND ACCOUNTING AND RECORD KEEPING FOR NEVADA BROKERS.

RED's interpretation of the laws governing the keeping and reporting of trust accounts (*they may not be what you think they are*) - a **MUST READ** for Brokers and Designated Managers
www.realest.nv.us

CHECKING REAL ESTATE LICENSES

Licensee Lookup/ www.red.state.nv.us / under 'quick links' / click on 'license lookup' / search by name, license #, address, type of license, license status - it is often preferable to search using multiple category filters

'THE NEVADA LAW AND REFERENCE GUIDE'. Second Edition 2010

A legal resource 'guide' for Nevada real estate licensees
(this is the Real Estate Division's interpretation of a number of laws)
www.realest.nv.us (139 pages)

NEVADA LEGAL SERVICES (702/386-0404) Located in the basement of the Las Vegas court (nlslaw.net) Provides free legal assistance to both landlords and tenants / *feed-back* suggests that it might be advisable to not disclose that you are a real estate licensee when making an appointment / just tell them that you have a problem that you need assistance with.

*CRIMETIME.COM (click on 'black book on-line') give name and birth date / reportedly has hundreds of applications including criminal history/using national and individual state data bases that include charge when arrested-charge convicted of (charges are often reduced through plea bargaining), time served, where served, and current parole-probation status / verifying SSN's including date of issuance / employment history, .etc (instructor gave a demonstration of this site in the 'crime free multi- housing' class I attended - it was pretty amazing)...and it's free

WWW.I.VMPD.COM - 'Metro's web site, numerous app's including Crime Mapping.
Google = 24CFR-part15 (type in "screening for eviction) Requires HUD to do a criminal background screening on tenants receiving federal assistance

google= NFPA730 -National Standard guidelines for premises security (guidelines recognized by most insurance companies)

I have checked the following web sites to verify that they do exist, I cannot vouch for the accuracy of the information they provide or what they might charge :

AlertID.com - interface with your local police department

HospitalSafetyScore.org - evaluates hospitals

Accessclarkcounty.com - county information

www.reviewjournal.com/fortherecord - public information (employee salaries, restaurant inspections, etc)

Legal information- nolo.com
[investor words.com](http://investorwords.com)
Lectlaw.com
Ask.com
[law depot.com](http://lawdepot.com)
LexisNexis.com

Nevadareportcard.com - school evaluations, information

Buildium.com - online property management accounting, was 20 accounts=\$20
I've been told it is now less expensive and they also do background checks
(has been used by past students who give it a high recommendation)

Investopedia.com - Accounting information

Onesite.com - accounting

Appfolio.com - on line property management software

Propertyware.com - on-line property management / property management software

Realpage.com - Property management software

Rentometer.com - type in the description of your property and zip code = rental comparisons

dictionaryboss.com - definitions

Financial-dictionary.freedictionary.com - financial definitions

[people search/ reverse e-mail- phone#. etc](#)

Whiepages.com

Peoplefindes.com

Spolkeo.com

ussearch.com -

Intellius.com

peopleyahoo.com -

switchboard.com -

ussearch.com -

Mylife.com - people search / find out who has been looking for you

<http://Felonspy.com/search.htm/> - find felons living near you

instantcheckmate.com - find felons living near you

E-renter.com

ussearch.com

intellius.com

advantagetenant.com

Gosection8.com -social security verification and background checks

(check year social security card was issued against applicant's age)

Online-reference-tools.com - languages, translations, definitions, info on most everything

<http://www.hoover.com> - accurate, verifiable information on 85m people, 65m companies

(site also brings up a bunch of stuff about vacuum cleaners)

(our attorney told me to include this)

REMEMBER, I AM NOT AN ATTORNEY, AND I AM NOT INTENDING ANY OF MY MESSAGES (OR OPINIONS) TO BE CONSIDERED A LEGAL OPINION, OR TO BE USED AS A LEGAL OPINION. IF YOU NEED A LEGAL OPINION, PLEASE CONTACT YOUR LEGAL COUNSEL FOR THAT OPINION TO STAY IN SAFE HARBOR.

(HINTS regarding hypothetical questions that may be asked on the test)

- * If a rental becomes unavailable because of a fire or flood (or other disaster)
 - tenant may vacate immediately, and
 - give landlord notice to terminate within 7 days of vacating (need not be in writing).
 - Landlord must return all deposits, prepaid rent, or other funds belonging to the tenant

- * A licensed agent may manage a friend's rental _____ ?
 - under no circumstances (requires a management contract, signed by the broker)
 - with this type of question assume that there is not contract with your broker and the any show of gratitude would be given directly to you from the friend.

- * A licensed assistant working for a broker may prepare and file an eviction?
- * An assistant working for a broker may not (legally) prepare and file an eviction (the key to this question is 'licensed'. the question, as stated, falls under financial management).

- * If a security deposit mailed to a past tenant is returned by the post office as being undeliverable, addressee unknown...what do you do with the deposit?
 - the broker should sent the money to the State of Nevada 'Unclaimed Funds'.

- * If an agent receives cash on Sunday, what should be done with the cash?
 - give the money to the broker before the close of business on the next business day.

- * Money received by the broker that is part of a real estate management transaction must be deposited into the broker's management trust account prior to the end of the next banking day.

- * If a manufactured home has not been converted to real property, it must be disclosed to the prospective tenant. I have not been able to find any law that specifically requires this disclosure, but think it may fall under the requirement to disclose material facts in NRS 645.601. Converting manufactured housing (personal property) into real property is addressed in NRs 361.244. In any event, read all the answers.. this is probably the right answer.

- * Health hazards, including but not limited to asbestos, lead and mold, in or on the rental property in question must be disclosed to prospective tenants.

- * If a tenant prepays one years rent in advance and abandons the rental in six months, can the landlord rent the property to another tenant during the remaining six months of the original lease, without refunding the prepaid rent to the original tenant?
 - No, a landlord may not collect rent from two people renting the same property at the same time. Remember the landlord may hold the original tenant on the lease, using the prepaid rent, while attempting to find a new tenant...but once a new lease is signed, the original tenant is off the lease and any unused portion of the prepaid rent must be refunded.

- * Money refunded to tenant (or prospective tenant) must be the same bills that the tenant/prospective tenant gave to the broker, or in the form of a check drawn on the broker's trust account.
- * the broker may place money held in trust into interest bearing trust accounts....remember that trust accounts are money held belonging to others. any interest earned from those deposits belongs to the people the money is being held in trust for...not the broker.
- * There is not law requiring brokerage trust accounts be held by a financial institution Carrying FDIC insurance.
- * A licensed real estate agent may only accept compensation for real estate activity (be it salary, commission, or bonus) from his broker of record.
- * A residential unit is considered uninhabitable if it does not have hot and cold running Water.
- * Once a rental unit is peaceably relinquished to a tenant, the only legal way a kesseee may get the property back is when the tenant peaceably gives the property back to the lessee, the lease expires, or the property is taken back through the courts by court order.
- * With the exception of emergencies, which do not require an notice of intended entry. A 24 hour notice of intended entry must be given to a residential tenantthe law does not state how that notice must be given, or what constitutes an emergency.
- * Trust account reconciliations sent to NRED must be on form(s) provided by the division
- * A residential tenant's leasehold obligations include: keeping the premises as clean as conditions permit, complying with the terms of the lease/rental agreement and disposing of (taking out) the trash.
- * Negotiating a lease with an unrepresented customer makes that person your? -that person was and still is your customer.
- * A Broker/Client relationship requires a written contract between the broker and the Client.
- * In a 'gross lease', the tenant pays base (stated) rent only.
- * Remember NRS 118A.200 requires that 'when, where, and how' rent is to be paid must be stated in the lease. Property Management Text suggests that rental payments be made by direct deposit.

- * What does 'Rental Insurance' protect? -The Rental (HO-6 insurance)
What does the Tenant's Rental Insurance (HO-4) protect? -The tenant's personal property.....be sure to read the entire question.
- * What notice must be given for a tenant to vacate a property?...
-after other notices (5 day pay rent or quit.....etc) have been served .
an 'Unlawful Detainer' must be served ordering the tenant off of the property.....
- * When should a property manager notify the landlord that a tenant wants a lower rental rate?
- best answer will probably be 'prior to processing the application'.
- * What notice, served on a tenant, can go straight to eviction without an 'unlawful detainer' being served?
-5 day notice to pay rent or quit. this is the right answer since the question is "what notice, served on a tenant". but you should be aware of the following law:
- (NRS 40.251.2(c)(2): "If a person is not a natural person and has received three notices of nonpayment of rent within a 12 month period . immediately upon failing to pay timely rent"... the landlord may file to evict the tenant without serving any additional notices including an 'unlawful detainer'..
- * Remember 'age restricted' housing is addressed in Federal Fair Housing laws
-under age restricted housing, familial status is an exception to fair housing laws.
- * What protected status is in Nevada Fair Housing Laws that is not covered in Federal Fair-Housing-Laws?
-Gender Identity, Sexual Orientation, Ancestry.
- * If a tenant gets drunk and damages the rental, who is responsible for the repairs?
-The tenant (Damage is not 'normal wear / Note- tenant being drunk has nothing to do with the answer, it is an attempt to confuse the issue).
- * According to NRS 645, how long may a trust account carry a negative balance?
-45 consecutive days in any one year (regardless of why it went negative)
-Watch for distracters such as the deficit being the result of a bad check, it has nothing to do with the question.
- * Property Management Text, by Rbt Kyle, considers smoke detectors, a locking door and smoke detectors to be safety essentials. 'style of lighting' is not. (note: NRS 118A, 290 does not list these items as being necessary to make a residential unit habitable.
- * A Clear driveway to allow the navigation of a wheel chair complies with the ADA.
- * If a Real Estate Licensee leases a property belonging to his cousin, to a tenant, without disclosing the relationship..... the law is broken, disclosure is required.

* Tenant entered into a lease with a 'pass-through' provision requiring the tenant to pay 10% of the increases in the cost of running the rental property, over a base year. The cost of running the property during the base year was \$100,000 dollars. the cost of running the property the following year was \$125,000..... What is/was the increase in the tenants rent? - \$2,500 ($125,000 - 100,000 = 25,000 / 10\% = 2,500 + 100,000 = \$102,500$). Pass-through payments are addressed in the lease and are usually paid in a 'lump' sum when billed or amortized throughout the year and paid with the rent.

* Operating budgets are (normally) prepared annually.

- *All property management records must be kept in this state
- *All paperwork must be given to the Broker within 5 days after being signed by all parties to the transaction
- *Records of all management activity, whether consummated or not, must be kept by the Broker for five years following the last management activity involving the property
- *Transaction files must be numbered consecutively or indexed to permit audit by the Division
- *The broker shall be deemed available for audit during normal business hours or when business is being conducted in the office
- *A computer shall be made available to allow for auditing brokerage records kept on a computer
- *The broker or other person in charge of the broker's office shall sign a form provided by the Division acknowledging the audit

d. Reporting Requirements (addressed above)

e. Handling of Trust Funds: (addressed in 'a')

f. Commingling: (deals primarily with money but may involve anything of value)

- *Borrowing one clients money to pay another clients debt
- *Broker mixing the clients money with his own
- *Broker receives a \$100 bill deposit, returns five \$20 bills (if deposits are not put into the trust)

account, the broker is required to return the same currency received

Conversion: A real estate term for embezzlement

g. Basic Accounting

*Cash (Basis) Accounting: money is recorded when paid or received

*Accrual (Basis) Accounting: money is recorded when owed or earned

*Balance Sheet (aka Statement of Financial Position): The financial statement reporting assets and Equities (claims against the firms total assets), as of a specific date,

*Total Equities: "The sum of all liabilities and owners equity (aka money invested) on the balance sheet"

*Asset: 1) Not a liability

2) Things belonging to the (company) with a monetary value

*Liability: 1) Claims against the assets of the (company)

2) Monetary (money value) things held but not owned

*Current: Asset or liability is payable or collectable within one year or operating cycle

*Fixed: Asset or Liability is NOT payable or collectable for more than one year or operating cycle

*Intangible asset: is an asset with no physical characteristics (ex. Patents, trademarks)

*Unearned Revenue: 1) Money received for future services or products (ex. Rent)

2) Unearned revenue is a liability to the recipient (it belongs to others until it is

NV Property Management Quick NOTES

RED = Real Estate Division
LL = Landlord/Lessor

Review online
*Fair Debt Collections Act
*Equal Credit opportunity Act
*Federal Fair Credit Reporting Act

*** NRS 118 / FAIR HOUSING

020/Protected status = Race, religious creed, color, national origin, disability, *ancestry, *sexual orientation, *gender identity or expression, familial status, sex. (*State not Fed) (*Federal* Equal Credit Opportunity Act protects age [40-70yrs], public assistance, birth control & practice, marital status and child support – a rental application is considered the same as a credit application).

045/Disability = A record of having or being regarded as having a physical or mental impairment that substantially limits major life activities. (includes HIV & AIDs)

050/Discriminate = To separate or segregate (aka Steering)

060/Exempt from 118 = You own no more than 3 units and are involved in no more than 3 residential transactions at any one time. You own a 4 plex (or less), occupy one of the units and in the preceding 12 months have not participated in more than 3 real estate transactions. No real estate licensee involved. No discriminatory advertising.

065/Familial status = Children are protected from discrimination from conception thru 18 years, adopting, permission to have custody of child (exemption: Senior housing)

070/Family = Includes a single individual

075/Gender Identification or expression = gender related appearance, expression or behavior regardless of the person's assigned sex at birth.

090/"Rent" means rent, lease, sublease, let or otherwise grant occupancy for compensation of a unit not owned.

093/Sexual Orientation = having or being perceived as having an orientation for bisexuality, homosexuality, or heterosexuality.

100 Licensee cannot: discriminate in advertising/instill fear of a protected status person moving into the neighborhood, lowering the property values/retaliate against a person for assisting an individual exercising his or her rights.

101/Disabled/modifying a dwelling = LL cannot refuse providing tenant pays for the modification, returns the unit its original condition at end of lease and places with the LL, a deposit not to exceed the cost of returning property to it's original condition. Deposit must be placed into an interest bearing account and any unused deposit/interest, is returned to the lessee. LL shall make reasonable accommodations in the rules, policies, practices and services for the person with the disability to use and enjoy the premises.

103/Residential ADA = March 13, 1991. Covers 4 or more attached units, including the 2nd floor if there is an elevator (kitchen, bathrooms & halls wide enough for a wheelchair and light switches, outlets, etc. at wheelchair level). Bathroom walls must be reinforced to accommodate grab bars (not covered by ADA = Less than 4 units).

105/Assist animal = Any animal that affords physical or psychological relief to a person with a disability. Proof of need may be satisfied by a statement from a provider of healthcare. LL cannot prohibit and may not charge a fee.

110/Filing a complaint = If you have been injured or believe you may be injured by Fair Housing violation, you may file a complaint with the commission.

120/Actions for damages = Anyone may file a complaint in district court to enforce the discriminatory practice laws within one year following an alleged violation.

165/Rent to property taxes = July and periodic rent changes, LL must advise tenant how much of the rent went to property taxes and what is leftover.

171/Definitions = "Real property" includes an apartment, a dwelling, or a mobile home owned by lessor on lessor's property. "Rental agreement" means an agreement to lease or sublease real property with periodic rental payments. "Tenant" is the person(s) who has/have the right to possess the unit subject to a rental agreement.

175/Remediated damages = If a tenant skips on the lease of real property, the lessor must attempt to re-rent the property at a fair market rent, or lose the right to damages.

195/Skipping on the lease = If LL thinks the tenant has abandoned the property and rent is in default, lessor may serve tenant a notice of belief that the property has been abandoned. Tenant has 5 days to pay rent and give notice that the property has not been abandoned and where legal process may be served. If tenant does not pay rent owing and give the required notice, the property shall be deemed abandoned. The fact that the tenant left personal property on the real property does not justify a finding that the LL did not have reason to believe the property had been abandoned.

*** NRS 118A / LANDLORD TENANT – RESIDENTIAL

060/Cause = Delinquent rent/non-payment of other charges/non-compliance with 118A, rules & regulations, rental agreement (these are all breaches of the lease), plus condemnation (not a breach of the lease).

080/Dwelling = Structure to be occupied as a residence or sleeping place by 1 or more.

090/Exclude (aka Constructive Eviction) = lock out, failure to provide essential services.

110/Normal wear = Deterioration that occurs without negligence, carelessness or abuse.

140/Premises = The dwelling, facilities and appurtenances that come with it.

150/Rent = Payments to landlord for occupancy of a dwelling, includes late fees.

160/Rental Agreement = Written or oral agreement of the use and occupancy of the unit.

170/Tenant(s) = Person(s) entitled under the rental agreement to occupy a dwelling to the exclusion of others.

180/Applicability = 118A applies to all residential rentals in Nevada except: mobile homes/low rent public housing (HUD), institutional housing (medical, geriatric, educational, religious, etc.) hotel/motel (less than 30 days)/ where occupancy is part of an employee's pay/where premises are used primarily for agricultural.

190/Service = A person is served if they have actual knowledge of or should have known, under prevailing circumstances, and service was in compliance with NRS 40.

200/ A Residential Rental agreement shall contain (but is not limited to):

- *Signature of lessee and lessor (or their representatives)
 - *Identification of property (not in NRS, refer to Property Management by Robert Kyle)
 - *Must provide one copy of the lease free and additional copies of the lease if requested /may charge a reasonable fee
 - *Term of lease
 - *Amount of rent, manner & time of payment
 - *Must address occupancy by children or pets
 - *Services included with rent
 - *Fees required and use of those fees
 - *Deposits required and conditions of refund (refers to the security deposit)
 - *Charges for late payments or dishonored checks (penalties must be stated)
 - *Inspection rights of landlord
 - *Listing of persons or number of persons to occupy premises
 - *Who is going to pay utilities (it is landlord's responsibility if not stated otherwise)
 - *Signed inventory and condition of the premises, copy kept in tenant's file (doesn't say who does the inventory or who signs).
 - *Summary of NRS 202.470 (nuisance law - doesn't say what a nuisance is, just that you can't have one)
 - *How and where to report a nuisance and/or building safety violations
 - *Information regarding the tenant's right to fly a United States flag
 - *Other than normal wear, the premises will be returned in same condition as when tenancy began.
- If not addressed in the lease, these provisions will be adjudicated in the favor of the tenant.**

210/Payment of rent/term = Rent is payable without demand when and where agreed. Unless stated otherwise, tenancy is from month to month/rent is paid at the beginning of the tenancy. Rent paid is the fair rental value for the use and occupancy of the premises.

220/Prohibited provisions = Tenant may not be required to: give up any legal rights/pay landlord's legal fees (may allow for prevailing party to collect attorney's fees) limit landlord's liability/give a different notice to terminate a lease.

230/Unconscionability = If a rental agreement is unconscionable a court may refuse to enforce it or enforce only that part not unconscionable. Parties must be given the opportunity to present evidence explaining the unconscionable provision.

240/Security = May only be used for **delinquent rent, cleaning and damages beyond normal wear.**

242/Security (cont.) = Lessor may not demand or receive security, including the last month's rent, exceeding three months periodic rent. Payment of all or part of the security by a surety bond may be rejected by either the lessor or lessee/ may be used upon termination of tenancy for reasons stated in '240' (above). Unused portion of the security must be returned to the tenant within 30 days after the end of tenancy

by giving it to the tenant or sending it to tenant's last known address with an itemized accounting of the portion not returned. Tenant has 30 days to dispute the amount withheld. Penalty for not returning the unused portion of security is the total amount of the security, plus an amount to be fixed by the court equal to the entire deposit. **Law also allows for a non-refundable cleaning deposit** with exception of the cleaning deposit, no agreement shall state that the security is non-refundable.

244/Change of ownership or death of client = Prior to recordation of the deed, transfer all deposits held to the successor in interest (get a receipt) and advise tenant in writing giving the name, address and phone number of the successor in interest or return all deposits to the tenant (get a receipt) and advise the successor in interest. Successor in interest cannot require additional security from the tenant.

250/Receipts = If requested receipt not given, no further money has to be paid by the lessee to the lessor until the requested receipt is given. Request may be oral. Does not forgive the debt, it offsets debt until requested receipt is given.

260/New tenant = Before becoming a tenant, tenant must be told the name and address of the manager and owner, where to serve civil process & notices (within NV) and phone # of a responsible person to report emergencies (within County or within 60 mi. of the property). OR (270) have the information posted in 2 conspicuous places (one in elevator if available)

275/Foreclosure disclosure = Failure of the landlord to disclose to a prospective tenant that a property, to be leased, is the subject of any foreclosure proceedings, constitutes a deceptive trade practice.

280/Delivery of Premises = At the commencement of the rental term the premises shall be delivered to the tenant in a habitable condition.

290/Habitability of a dwelling = Must have: water protection/plumbing/hot and cold running water/appropriate fixtures/sewage disposal/heating/electricity/trash receptacles (removal of trash is paid by LL unless agreed otherwise in writing). Bldgs & grounds clean/hvac-elevator-appliances in good working order if supplied. Parties may agree that tenant will make certain repairs, maintenance tasks and minor remodeling

300/Advance notice of rent increases (period to period leases) = 45 days, unless periodic tenancy is less than monthly/15 days if periodic tenancy is less than monthly.

310/Tenants' obligations = Comply with the lease/keep the premises as clean as possible/dispose of waste in a clean, safe manner/keep the plumbing fixtures as clean as possible. Use the facilities and appliances in reasonable manner, do not permit or allow any part of the premises to be damaged, destroyed or removed and do not allow conduct on the premises that disturbs the neighbors.

320/Rules of Landlord = May adopt rules and regulations to promote the convenience, safety and welfare of the tenants and landlord, to preserve the property from abuse, make fair distribution of services that apply to all tenants equally. Informs the tenants of what must or must not be done/that do not effect obligations to pay rent, utilities or other charges and that do not effect tenant's right to have a pet/enforceable after tenant consents to change in writing or has 30 days advance written notice.

325/Right to display a U.S. Flag = Tenant has the right to display a U.S. Flag on leased premises. May not be for commercial purposes. Lessor may adopt reasonable rules regarding the placement and manner of the display. In any action resulting from the display of the flag, the prevailing party has a right to recover fees and costs. Flag must be made of cloth, fabric or paper/displayed from a pole, staff or

in a window and comply with '4 U.S.C. Chapter 1'. Flag cannot be made of: balloons, flora, lights, paints, paving materials, roofing, siding or other similar components.

330/LL's Access to Premises = At reasonable times during normal business hours to inspect, show unit to prospective buyers or renters, make repairs, alterations etc. 24 hr notice (need not be in writing) may enter in case of emergency without 24 hr notice. (500) Landlord may sue tenant for damages if entry is refused. Tenant may sue LL for damages for abusing the right to enter.

335/Sheriff's card required = Employees of a housing facility for persons 55 years age and older, who have access to the units, and work 36 or more hours per week are required to have a current Sheriff's work card. Real estate licensees excepted.

340/Right to terminate lease = 60+ yrs old or have a physical or mental disability requiring relocation for treatment. Must give 30 days' notice within 60 days of relocating and co-tenant may terminate lease by giving 30 notice within 60 days of tenant lease termination. If tenant dies, co-tenant or spouse may terminate lease with 60 days' notice within 3 months of tenant dying. Notices must be in writing.

350/LL Breach of the Lease (minor) = LL failing to comply with the rental agreement = 14 days to remedy or make a good faith attempt. Tenant may terminate lease and/or recover damages. Breach cannot be result of any action of tenant or guests.

355/LL Breach of lease (minor) = 14 days LL failing to maintain the rented unit. Tenant may terminate, recover damages, sue. All breaches of a lease clock starts when written notification of the breach is given from one party of the lease to the other. Action cannot be taken by the aggrieved party as long as the person breaching the lease is making a good faith effort to remedy/cure the breach.

360/If LL does not remedy a breach or make a good faith effort to remedy a breach within the 14 days allotted the tenant may remedy the breach and withhold the cost of such remedy in an amount not to exceed one month's rent/once every 12 months.

370/If LL fails to deliver a unit as agreed in a lease, the prospective tenant may sue LL and any hold-over tenant in possession of the unit for damages. Give LL 5 days' notice to cancel the lease. All deposits are returned. If LL has used due diligence to evict the hold-over tenant, LL is not liable for damages.

380/LL Breach of lease (major) = 48 hrs (Sat., Sun. & legal holidays notwithstanding). Deals with not supplying 'essential services' (including a functioning door lock if required by the rental agreement) Tenant may procure essential services as needed, recover damages, withhold rent (must be deposited with local justice court). Breach is not the result of actions of tenant or tenant's guests. Tenant is entitled to damages if landlord knew of the breach or had been notified of the breach by a governmental entity. Tenant must be current in the payment of rent.

390/Constructive eviction/Expedited relief = If the landlord removes the tenant from the premises, blocks entry, interrupts essential services or otherwise makes the premises uninhabitable, the tenant may file an action with the court within 5 days. The court shall conduct a hearing on the verified complaint within 3 days. The court may restore the premises to the tenant, award damages, and enjoin the landlord from further violations.

400/Damage or destruction of dwelling = If the premises are damaged or destroyed making it uninhabitable, tenant may immediately vacate and within 7 days give landlord notice terminating the lease (need not be in writing). Money held by the landlord is to be returned to the tenant. This provision does not apply if the damage/destruction was the cause of the tenant, a member of his household or guest.

430/Tenant Breach of lease(major) = 5 days/ deals with tenant not complying with the terms of the lease.
LL may evict tenant or contract with tenant to cure the breach.

440/Tenant Breach of lease(minor) = 14 days, deals with minor repairs & housekeeping. LL may clean or make repairs if tenant doesn't, and bill back to Tenant as rent.

450/Abandonment of Dwelling = It is presumed the premises have been abandoned if the tenant is absent from the dwelling for a period of time equal to one half the time for periodic rent payments, unless LL was advised of the absence and rent is current.

460/Disposal of personal property left on the premises = Lessor must store tenant's property in safe place for 30 days, has made a reasonable effort to locate the tenant, has mailed written notice to the tenant at tenant's last known address advising tenant of lessor's intention to dispose of the property and 14 days has elapsed since giving that notice. Before releasing goods to tenant, landlord may collect the reasonable and actual cost of inventory, moving and storage, or deduct such costs from the sale of the items. The remaining money is to be sent to the tenant at tenant's last known address.
(remember, this is NRS 118A - Residential, not commercial)

470/Estate at Sufferance = Hold-Over tenant. If a tenant does not vacate the premises at the end of the rental term, LL may sue for possession. If LL consents to tenants holdover (accepts rent), occupancy becomes period to period (mo. to mo.) but terms of the lease remain the same.

480/LL may only recover possession of a rented dwelling when the lessee peaceably returns the dwelling to the LL or the dwelling is returned through a court order.

490/Contested eviction = In an eviction action based on nonpayment of rent, if it appears money is due to the landlord and judgment is delayed for any reason, Tenant (if tenant is in possession of the premises) may be required to place with the court, one days' rent for each day until the next hearing date. If tenant does not make such deposit within 24 hrs, judgment will be awarded to the landlord.

*** NRS 118C / LANDLORD-TENANT COMMERCIAL

020 Abandoned Personal Property = The tenant or the owner of personal property left after the termination of tenancy must be given 14 days written notification, certified mail with return receipt requested, of LL's intention of disposing of the property.

230/ Disposing of Abandoned Property = After giving 14 days notification (certified mail-return receipt requested) the LL may dispose of the personal property and recover costs of inventory and disposal or recover his reasonable and actual costs of inventory, moving and safe storage before releasing the abandoned personal property to the person rightfully claiming the property.
(30 days safe storage-residential only)

200/Obligations of the Landlord = The LL may not interfere with the leased premises or the tenant's business in any way, except to make a bona fide repair or replacement, which must promptly be performed. LL may only prevent tenant from entering the leased premises by court order, construction.

bona fide repairs, emergency or by changing the locks of a tenant who is delinquent in paying at least a part of the rent. When locks are changed for nonpayment of rent, the LL must post notice on the door for a period of at least 5 days, stating the phone number, business hours and name or company where a key may be obtained in exchange for the delinquent rent.

210/Tenant's right in event of an unlawful lock-out = Tenant must file a complaint in justice court and must testify under oath in court as to the facts of the unlawful lock. Tenant must post a bond with the court in the amount of one months' rent.

*** NRS 40 / ACTIONS - CONFLICTING CLAIMS TO REAL PROPERTY

251/Unlawful Detainer = Notices to end periodic tenancies: Week to Week - 7 days, Estate at Will - 5 days, all others 30 days. Failing to perform basic or contractual obligations - 5 days. A tenant, not a natural person, who has received 3 notices for nonpayment of rent within a 12 mo. period is guilty of an unlawful detainer and may be evicted immediately after failing to pay timely rent. A tenant 60 yrs. or older or physically or mentally disabled may submit a request for an additional 30 days Occupancy. If LL refuses, tenant may submit the request to the court. If the court refuses, tenant must be given 5 days from the date the court order was entered denying the request.

2512/ Mobile Home Park Lot = 10 day notice to pay rent or quit on pad (5 day on unit).

2514/ 3 Day Notices to quit = Nuisance, drugs, unlawful business, improper assignment-sublease, waste

255/ 3 Day Notices to quit = change of ownership (when current tenant doesn't vacate)

260/Agricultural Lands = If LL has not attempted to evict an agricultural tenant within 60 days following the end of a lease, tenant is entitled to retain possession of the land for an additional year on the same terms and conditions.

605/Appurtenance = Amenities that benefit one or more residents but are not a part of the dwelling unit.

770/Not material to the transaction = homicide, suicide, death not resulting from a condition of the property, HIV/AIDs, sex offenders, transitional housing, methamphetamine (if property is remediated by a licensed or certified entity), are subjects that are not a result of a condition of the real property and considered confidential information. "Nevada Law and Reference Guide, Pg. II-8 = "If asked a direct question regarding a confidential matter, the licensee should state that the information is confidential and refuse to answer" / except as otherwise provided in an agreement between the buyer, lessee or tenant and that person's agent is not liable in any action at law or in equity for failing to disclose "subjects that are not material to the transaction".

***NRS 645 / GENERAL PROVISIONS

002/Advance fee = fee claimed, charged or received for an advance fee listing to assist an owner or lessor promote the sale or rental of a business or real estate/does not include publications intended for general publication. (322) use of fee received must be reported to the client within 3 months of receiving the advance fee.

0045/Agency = Relationship between a principal and an agent arising out of a Brokerage Agreement (NOTE: this is inconsistent with 009 below)

005/Brokerage Agreement = may be written or oral, does not include property management.
See (.320) regarding exclusive agency

009/Client = person contracting with the broker

019/Property Management defined = “the physical, administrative or financial management of real property, or the supervision of such activities for a fee, commission or valuable consideration, pursuant to a property management agreement”.

019/0192/Property Management = is the physical, administrative or financial maintenance and management of real property or the supervision of such activities/contract must be in writing, signed by the broker and the client/ broker must be compensated.

0195/Property manager = person managing the property, not the broker, can manage for free; also a generic term used for the person supervising multiple managers.

230/License required = it is unlawful for any person, LLC, corporation, partnership or association to engage in any real estate activity without the appropriate license. RED may refer a complaint for a violation of this section before any court of competent jurisdiction and assist with prosecution.

235/Fines = You may be fined by the Real Estate Commission for engaging in any real estate activity without the appropriate license, certificate, permit, registration or authorization or if you assist or offer to assist in such violation. The fine may be the greater of \$5,000 or any economic gain.

240/License and permit not required = managing real estate owned by one person (does not include sales activity/leasing) Person accepting rent (cannot ask for rent or other payment) office is on the property, and doesn't manage any other property. Anyone managing under a certificate, registration or the approval of the RED / managing government housing/properties acquired for development/corporate properties managed by an employee/foreclosures.

250/Power of cities and towns = Cities and towns may impose taxes, licensing and regulations in addition to those imposed by the state.

2515/Brokers Price Opinion = ‘a written analysis, opinion and conclusion that a licensee prepares relating to the estimated price for a specific piece of property’.

252/Known material information about the property must be disclosed/ must disclose if acting for more than one party/ may not disclose confidential information for more than 1 year after agency.
Agent has no duty: to verify accuracy of statements made by a certified inspector, to verify financial condition of the parties, or conduct an investigation into the condition of the property in question.

256/Asset management = A broker providing asset management services as described in NRS 645H.490 must submit an annual report to RED detailing such service(s) providing proof satisfactory to RED that the laws governing such service(s) are being followed. (If you are going to be caring for foreclosed properties, read this law/ it has nothing to do with Financial Asset Management traditionally referenced in real estate)

280/Compensation = A licensee may not share any compensation for any real estate activity with a non-licensee. A licensee may accept or pay compensation for real estate activities only from or through his/her broker.

260One act = Any act incidental to a transaction constitutes the commission of the entire transaction

310/Deposits and Trust Accounts = (Broker may keep up to \$100 of non-trust funds in the trust account for operational purposes. Reference: position statement in "Open House" newsletter, April 2010)
\$ rec'd by the broker must be accounted for at consummation or termination of the transaction involved.
\$ must be turned over to the broker promptly. Broker must deposit money belonging to others into the trust account promptly unless all persons with an interest in the money agree otherwise in writing. Trust account shall detail disposition of money and ownership. RED kept advised of names of trust accounts and where held. Reporting to RED to be on forms provided by RED

313/ Audits by RED = If RED has reasonable cause, RED may audit the brokers accounts

320/Exclusive agency = Must be in writing. Provide a definite, specified and complete termination date without any additional notices of termination and be signed by the broker and principal, or their representatives.

321/Fair housing fines = \$500 first offense/ 2nd offense show cause why license should not be revoked (deals with real estate activities, not property management)

370/Broker's position = Corporation-corporate officer, LLC-manager, Partnership-partner /may conduct real estate only for the Corp, LLC, or partnership and not on his own behalf. This is not in reference to broker's 2nd personal license.

380/ Two broker's licenses = The broker's license issued under the name of the Corp, LLC or Partnership may be used only for business conducted by the corp., LLC et.al./broker may have a 2nd license in his own name with written approval from the corp. et al, acknowledging that the broker will be conducting personal business.

6052/The property management permit expires and is renewable with the holder's real estate license.

6055/Designated Manager = **If a broker does not have a permit**, he/she must appoint a natural person who is a broker/broker salesman, with a permit, and two of the last four years conducting property management activities in the USA as a R.E. licensee, to be the Designated Property Manager/Advise RED of the appt. on RED's form. (NOTE: this law does not state what experience a broker with a permit must have if he-she wants to conduct Property Management activities without a Designated Property Manager)

6056/Property Management Contract must include: Term/Renewal Options (if any) brokers compensation.

What is to be done with the income from the property/cancellation provision (if any).

Brokers authority (identity of the property and the principles to the contract, from Property Management text by Robert Kyle)

630/*Violations = Deals with honesty, Commission may fine up to \$10,000 or the amount of any ill gotten gain, plus revoke, deny, suspend license. Licensees - can't make a material misrepresentation/can't make false promises to persuade, influence or induce /can only be paid for real estate activity by your broker. Cannot represent any other real estate broker without your broker's consent /cannot commingle money or other property for personal gain, cannot induce any person to cancel a Brokerage or Property Management agreement.

633/ Cannot use designation not earned / Cannot pay commission, compensation or finders fee to non-licensee. Must have expiration date on agreements, must leave an executed copy of agreements with all parties. As they are not specifically forbidden, rebates are allowed. RED will keep a log of all complaints that the commission may take action on and submit a written report to the Legislative Counsel Bureau each Feb.1st in odd numbered years (these are considered when writing laws).

635/ Must have permission from owner or agent to offer property / May not discriminate.

660/If known, or should have known, violations of an associate must be reported (does not state to who), or you are in violation/ *Brokers may be fined \$5000 for failing to maintain adequate supervision.

670/ *If a broker's license is suspended or revoked, the Corp, LLC or Partnership must discharge (sever) the broker and hire a new broker. The broker may reengage with the Corp., et al, if the broker's license is reinstated.

720/ R.E. Commission has no power to enforce subpoenas. If subpoena is not honored the commission may have the District Court issue a subpoena *or* NAC 645.860 if a party fails to appear after being notified, the hearing may be held without the absent party and evidence presented shall be considered to be factual.

760/ A licensee is entitled to judicial (District Court) review of any ruling or decision of the real estate commission that is not in favor of the licensee, (NRS 233B)

8711/"Commercial Real Estate" means all real estate located in this state, except: complexes of not more than four units/unimproved real estate where up to four units may be built and units sold individually - condominiums and townhouses.

990/ *A person who attempts to obtain a license or attempts to sell or sells real estate by means of deceit or fraud is guilty of a category D felony. A licensee who violates these laws may be fined up to \$5000 / an LLC, Corp, Partnership may be fined not more than \$2,500 / in addition to sanctions by RED, violations may be referred to any court of competent jurisdiction for criminal prosecution.

*** NAC 645 / GENERAL PROVISIONS

350/*Any involuntarily inactivated, suspended or revoked broker's license shall be returned to the division with the licenses of all licensees associated by the broker. If a broker dies, his/her license automatically expires. Another broker may submit an affidavit to RED, within 7 days of the broker dying, to manage the brokerage for not more than 60 days.

380/ 2nd License = A broker for a corporation, LLC, or partnership may have a second license in his/her own name with written approval from the corporation, LLC, or partnership acknowledging that broker may be conducting personal business.

605/Licensee: cannot offer specialized services without expertise

- * must disclose interest in property
- * must disclose any dividend or kick-back with name of person or co.
- * must disclose expectation of a fee from **referrals**
- * must disclose material facts to parties to the transaction
- * must fully disclose of compensation from more than one party to the transaction

**(all disclosures must
be in writing to
all parties)**

- * must ensure all documents are properly signed and all parties have a signed copy
- * cannot, in any way, impede an investigation by the division

610/Licensee cannot use false or misleading advertising /may not include his/her name or the name an associate on any sign or advertisement containing "for sale by owner" or 'for lease by owner" unless the licensee has an ownership interest. If another broker has an exclusive listing, the licensee cannot put a sign on or advertise the property without written consent of the listing broker / property owner must be advised of any consent given or withheld. Licensee must conduct all real estate activity under the name on his/her license. Franchised brokerages must include, "in a conspicuous way", the real, fictitious or corporate name under which the broker is licensed and a statement that each office is independently owned and operated.

611/ Teams = More than one licensee employed by the same broker. Team name uses last name of at least one member. Advertising complies with NRS 645. Team name may not be deceptively similar to a team name already being used.

613/ Internet = Disseminating unsolicited information on the internet or e-mail is advertising. Clicking the acceptance box on the internet does not create a relationship. A rubber stamp is not a legal signature.

632/ Rejected offers = Must be rejected in writing by the offeree.

637/Disclosure of relationship = As soon as practicable, but not later than any written document being signed, licensee must disclose his/her relationship as agent or principal to his/her client and any party not represented by the licensee. Confirmation of disclosure must be incorporated into the document files relating to the transaction.

640/Disclosure of interest = that he/she is a broker, broker salesperson, or a salesperson, active or inactive, ownership interest in or a relationship with any business, friend or relative, person or entity, when representing him or herself or any party to or in the a real estate transaction

645/ Broker must give RED written permission to inspect and audit any money accounts on RED's form and indemnify RED from any resulting liability.

650/ Records of real estate transactions, consummated or not, must be kept for 5 years. Paperwork given to broker within 5 days after being executed by all parties.

655/Record of transactions/trust accounts must be numbered consecutively or indexed, kept in this state and be open for audit by RED during business hours or whenever business is being conducted in the office. Computer must be available for computerized records / RED advised prior to moving records. Brokers signature required on trust account withdrawals /rubber stamp does not constitute a signature. Salesperson may be co-signer with the broker on trust account. Property management must have two trust accounts separate from any used in the broker's real estate business (one for deposits and one for other rental activity). Trust account shall be reconciled within 30 days of receiving a bank statement

657/Payment of deposits = Licensee shall pay over any deposit to the broker, escrow, or designated company within 1 business day after receiving a fully executed contract.

660/ Prior to depositing money into an escrow business or company, a licensee shall make full disclosure if he or she, or any associate, has any interest in the escrow business or company.

670/Division may use a form of their design when conducting an inspection. Require broker or person in charge of the office to sign such form/office shall have copies of current statutes and regulations.

800/To obtain a Property Management Permit, a Licensee must submit an application to the Division on a form prescribed by the Division, a fee of \$40, and a certificate of completion of 24 hours of instruction in Property Management from an accredited educational institution in Nevada. (Successful completion of a course in property management from an accredited or nationally recognized organization may be accepted in lieu of the 24 hours), evidence of passing an examination administered by a testing center designated by the Division (Pearson Vue). The Property Management Permit is effective the latter of the application being submitted or the fee being paid.

8005/A designated property manager for a corporation, limited liability company, partnership, or sole proprietor/ must be a broker or broker-salesperson "with 2 years full time active experience within the 4 years immediately preceding the date the person applies for a permit to engage in property management on behalf of the corporation, LLC, et.al". (Does not say what experience is required) "Note" this conflicts with NRS 645.6055 which requires the experience be in "property management activities in the U.S.A. as a real estate licensee".

805/Designated Property manager quits (5 /15 or end of month/ 30 / 30) = Ask bank for statement within 5 days / Send a reconciliation of trust account to RED within 15 days (of manager leaving) or the end of the month (whichever occurs later). **It covers the 30 days prior to designated manager leaving / hire a new manager within 30 days.** If unable, file an extension appeal with RED or advise RED that you are no longer going to be conducting real estate management.

806/Trust acct. reconciliation must be sent to RED annually, corresponding to the expiration date on the brokers license, covering the preceding 30 days. Financial records shall be kept for 5 years after the last activity involving the trust account. If records are kept on a computer, a copy shall be kept on a separate disc.

807/*With written permission from the broker, a broker or broker-salesperson who holds a management permit may sign checks on a trust account without the signature of the broker who employs him-her. A signature applied by a rubber stamp does not constitute a legal signature.

855/Broker attendance required = A broker is required to attend any disciplinary hearing conducted by the Commission concerning any licensee affiliated with that broker. If violation occurred with a past broker, both the past broker and current broker must attend the hearing

EVERYTHING SENT TO THE REAL ESTATE DIVISION (RED) MUST BE ON A FORM PROVIDED BY THE REAL ESTATE DIVISION.

3 Different Types of Commercial Real Estate Leases

There are three basic types of commercial real estate leases. These leases are organized around two rent calculation methods: "net" and "gross." The gross lease typically means a tenant pays one lump sum for rent, from which the landlord pays his expenses. The net lease has a smaller base rent, with other expenses paid for by the tenant. The modified gross lease is a happy marriage between the two. While terms vary widely building by building, this basic overview will help businesses shop for the best deal possible.

Gross Lease or Full Service Lease:

In a gross lease, the rent is all-inclusive. The landlord pays all or most expenses associated with the property, including taxes, insurance, and maintenance out of the rents received from tenants. Utilities and janitorial services are included within one easy, tenant-friendly rent payment.

When negotiating a gross lease, the tenant should ask which janitorial services are provided, and how often they are offered. Excess utility consumption beyond building standards is sometimes charged back to tenant; so if the tenant is a big consumer of electricity, this point should be clarified in the lease as well. The tenant pays his own property insurance and taxes.

A benefit of this type of lease is that it is supremely easy for the tenant, which can forecast expenses without worrying about an unexpected lobby maintenance charge, for example. The landlord assumes all responsibility for the building, while tenants concentrate on growing their businesses.

Net Lease

In a net lease, the landlord charges a lower base rent for the commercial space, plus some or all of "usual costs," which are expenses associated with operations, maintenance, and use that the landlord pays. These can include real estate taxes; property insurance; and common area maintenance items (CAMS), which include janitorial services, property management fees, sewer, water, trash collection, landscaping, parking lots, fire sprinklers, and any commonly shared area or service.

There are several types of net leases:

Single Net Lease (N Lease)

In this lease, the tenant pays base rent plus a pro-rata share of the building's property tax (meaning a portion of the total bill based on the proportion of total building space leased by the tenant); the landlord covers all other building expenses. The tenant also pays utilities and janitorial services.

Double Net Lease (NN Lease)

The tenant is responsible for base rent plus a pro-rata share of property taxes and property insurance. The landlord covers expenses for structural repairs and common area maintenance. The tenant once again is responsible for their own janitorial and utility expenses.

Triple Net Lease (NNN Lease)

This is the most popular type of net lease for commercial freestanding buildings and retail space. It is known as the net net net lease, or NNN lease, where the tenant pays all or part of the three "nets"-- property taxes, insurance, and CAMS--on top of a base monthly rent. Common area utilities and

operating expenses are usually lumped in as well; for example, the cost for staffing a lobby attendant would be part of the NNN fees. Of course, tenants also pay the costs of their own occupancy, including janitorial services, utilities, and their own insurance and taxes.

Landlords typically estimate expenses and charge tenants a portion of these expenses based on their proportionate, or pro-rata share. A tenant who leases 1,000 square feet of a 10,000 square foot building would be expected to pay 10% of the building's taxes, insurance, and CAMS, for example.

Triple net leases tend to be more landlord-friendly, and tenants should carefully review NNN fees and negotiate caps on the amounts they can be raised annually. An NNN lease can also fluctuate from month to month and year to year as operating expenses increase or decrease, making the company's expense forecasting tricky and sometimes frustrating.

There are tenant benefits in the NNN leases, however. Transparency is an excellent perk, since tenants can see business operating expenses in relation to what they are charged. Cost savings in operating expenses are passed on to the tenant rather to the landlord. In addition, the monthly rent in a NNN lease is potentially lower than in a gross lease, as tenants have a higher level of responsibility for the building.

Absolute Triple Net Lease

This is a less common option that is more rigid and binding than the NNN lease, where tenants carry every imaginable real estate risk, for example, being responsible for construction expenses to rebuild after a catastrophe, or for continuing to pay rent even after the building has been condemned. Apty called the "hell-or-high-water lease," tenants have ultimate responsibility for the building no matter what.

Modified Gross Lease

As the gross lease is more tenant-friendly, and the net lease tends to be more landlord-friendly, there exists a compromise lease for the convenience of both parties. The modified gross lease (sometimes called the modified net lease) is similar to a gross lease in that the rent is requested in one lump sum, which can include any or all of the "nets"--property taxes, insurance, and CAMS. Utilities and janitorial services are typically excluded from the rent, and covered by the tenant. Tenants and landlords negotiate which "nets" are included in the base rental rate.

The modified gross lease is more popular with tenants, because its flexibility translates into an easier agreement between tenant and landlord. Unlike the NNN lease, if insurance, taxes or CAM charges increase, the lease rate would not change. Of course, if those expenses decrease, the cost savings is passed on to the landlord. As janitorial service and electricity are not covered, tenants can better control how much they spend compared to a gross lease.

Summary of NNN Lease, Modified gross, or Full Service Commercial Leases

When evaluating options for office space lease, it is important to compare the different lease options with an eye toward all expenses, and not just the base rental rates. NNN base rental rates tend to be much lower, with additional expenses added for the real monthly rate.

Market forces will tend to even out rental rates for comparable properties, regardless of type of lease. Tenants should expect to pay roughly the same amount with an NNN, modified gross, or full service lease for similar quality office spaces in the same area.

The most important rule of commercial leases is for tenants to read their leases carefully, and clarify exactly what expenses they have responsibility for. Circumstances under which additional charges will occur should be identified and caps negotiated.

Commercial Leases

Single net or "N" leases: the tenant pays the basic monthly rent plus property taxes (just one N). The landlord or property owner pays operating expenses (also known as common area maintenance or CAM) and property insurance.

Double net or "NN" leases: the tenant pays the basic monthly rent plus property taxes and property insurance (two NN's). The landlord or property owner pays operating expenses.

Triple net or "NNN" leases: the tenant pays the basic monthly rent plus property taxes, property insurance, and operating expenses (all three N's).

As a refresher, full gross leases mean that the landlord or property owner pays the property taxes, property insurance, and operating expenses. This leaves the tenant only responsible for their base rent.

Calculating Rent

Most commonly, commercial real estate is quoted in terms of "per square foot" (PSF). In a rental situation, the rate will either be Net or Gross numbers ("Net PSF" or "Gross PSF"). If a rent is quoted on a net basis, this number does not include the tenant's pro-rated responsibility of taxes or common area expenses (known as CAM). The CAM includes any work that is completed in the common area on behalf of the tenants of the building.

NEVADA PROPERTY MANAGEMENT PERMIT / TEST GUIDE

I. CONTRACTS (MANAGEMENT AND RENTAL AGREEMENTS)(15% of test)

A. Essential Elements of Property Management Agreements

*NRS 645.6056: Requirements: renewal options (if any)/ what is to be done with the income/ brokers compensation and authority/ cancellation provisions (if any)/ signed by the broker and the client (or client's agent)/ identity of the property to be managed// "with free standing single family residences a street address is probably sufficient", multi-family residential (apartments, condos, etc) and commercial require a more detailed 'identification'. Note: Property Management Contracts require the broker's signature, Property Management Contracts and Management Contracts that include a provision that include exclusive agency representation are required to be in writing.

B. (1)Residential Rental Applications/ Tenant Screening, (2)ECOA, (3)FCRA

*(1) Should be clear, concise and comprehensive with permission to check the customer's employment, financial, credit, criminal, rental history and references/ Written approval to check the customer's credit history should be obtained on a separate document with the rental application...also, there are no laws against charging a fee to cover the cost of obtaining the customer's credit report/ The tenant's application should be kept in the tenant's lease file/ applications from non-accepted applicants should be in a file, with the reason for the non-acceptance/ there should be a written policy stating what disqualifies and what disqualifies a prospective tenant (Property Management text 10th edition, pg. 122)

*(2)The Equal Credit Opportunity Act (ECOA)views a rental application to be the same as a credit application/ Under the ECOA emphasis is on 'job stability, net worth, credit rating and sufficient income'. under the ECOA a tenant cannot be disqualified because his/her net worth is conditioned upon receiving child support, alimony, separate maintenance, or public assistance.

*(3)The Fair Credit Reporting Act states that: You must be told if information in your file has been used against you; You have a right to know what is in your file; You have a right to ask for your credit score; You have the right to dispute, incomplete or unverified information; Consumer reporting agencies may not report outdated information; Access to your file is limited; You must give your consent for reports to be provided to an employer; You may limit 'prescreened' offers to credit and insurance you get based on information in your credit report; You may seek damages from violators. If information in your file is used to deny you credit, insurance, employment or any other adverse action against you, you must be given the opportunity to contest the adverse information if: Your file contains inaccurate information as a result of fraud; You are unemployed but expect to apply for employment within 60 days; You have a right to know your credit score, but the agency may charge a fee; Inaccurate, incomplete or unverifiable information must be removed or corrected within 30 days; In most cases, outdated negative information more than 7 years old cannot be used (exception is bankruptcies = 10 years). Agency may provide information about you only to those with a valid need. Identity theft and active duty military have additional rights.

C. Residential Leases

1. Types of Residential Leases

*Usually an Estate for Years (a rental period with a beginning and ending date) with a duration of one year or less - this allows the lessor to adjust the rent to reflect market conditions on each new lease or renewal/ the rental is usually in the form of a 'Gross Lease' (same payment each month)/ in Nevada leases of up to one year may be oral/ Nevada residential leases are required to contain provisions contained in NRS 118A.200 (see below), and may contain any other provisions that are lawful and agreed upon by the parties to the lease/ written leases are inheritable.

*An Estate at Will/Tenancy at Will is usually oral and 'unstructured'/ terminating an Estate/Tenancy at Will requires the lessor to serve the Lessee at five day notice of termination - ending the estate. The Statute of Frauds restricts the legal recognition of any transfer of real estate(by lease, sale, other) of one year or more to be in writing./ Estates/Tenancies at Will are not inheritable.

2. Mandatory Residential Rental Agreement Provisions (NRS 118A.200)

*Signed by the Lessee and the Lessor (or their representatives)/ Lessee must be given one free executed copy of the lease/ Lessee must be given additional copies of the executed lease on request (there is no time period restricting when the additional copies may be requested, Lessor may charge a reasonable fee)/ lease must address the term of the lease/ amount of the rent/ manner and time of rental payments/ required fees and their use/ services included in the rent/ occupancy by children or pets/ (security) deposit required and condition(s) of it's refund/ required fees and their use/ services included in the rent/ charges for late payments and dishonored checks/ a summary of the landlord's access to the premises and inspection rights/ names or number of persons to occupy the premises/ who pays for utilities/ a signed inventory of the rental (does not state who does the inventory or who signs it)/ summary or NRS 470 - it's a law that states you cannot maintain a nuisance, but does not state what a nuisance is / how to report a nuisance or a building safety violation/ tenant's right to fly a U. S. flag/ other than normal wear the unit is to be returned in the same condition as when leased. If these provisions are not included in the lease, you cannot arbitrarily add them at a later time. (Note: though not in state law, the address or identification of the rental and signature of the lessee and lessor, or the representatives is required according to the Property Management text, 10th edition ...read the wording of the question...is it according to law?).

3. Lease Clauses

*Personal Property - requires the tenant to remove personal property and clean the unit at the termination of the lease.

*Quiet Enjoyment - gives the tenant exclusive use and undisturbed possession of the rental and is implied in every lease, whether stated or not stated/ Note: Lessor's right to enter the leased residence, and the terms of

that entry, are specified in NRS 118A.330 and must be stated in the lease (NRS 118A.200).

- ***Assignment** - transfers all of the tenant's benefits and obligations under the lease to another party, A lease is a binding contract between the landlord and the tenant. Assignment requires that landlord's written approval and cannot be done unilaterally by the tenant.
- ***Subletting** - transfers some or all of the tenant's benefits granted in the lease to a third party(a sub-tenant) while the tenant retains the liabilities under the lease. Under NRS 118A, Lessor may refuse or restrict residential subletting
- ***Bankruptcy** - for procedures to follow in the event of a tenant bankruptcy consult an attorney/ there also may be an agreement between the parties that the lease will terminate in the event of a bankruptcy or foreclosure.
- ***Illegal Activities** - Language in the lease should be very clear prohibiting certain activities such as drug trafficking, felony crimes, threatening or intimidating the manager or other tenants, or any other prohibited activities the landlord and tenant agree on.
- ***Subordinate (Subornation)** - Places the lease below other claims in a civil law suit. (does not benefit the lessor).
- ***Estoppel** - Requires the tenant to verify certain terms of the lease, in writing, if requested by the lessor.

D. Breaches and Remedies, Eviction

Time stated (days) references the time within which a breach must be cured, or a good faith effort to cure the breach must be initiated. As long as the 'breaching' party is attempting to cure the breach in good faith, the 'breached' party cannot proceed. Time to cure a breach starts when notice of the breach is mailed or delivered.

***Tenant: 14 days/ minor repairs and or cleaning/** if not cured by the tenant, the lessor may cure the breach and bill the reasonable cost or value of the work back to the tenant as rent.

***Tenant: 5 days/ not complying with the terms of the lease/** if tenant has not cured or is not attempting to cure the breach, lessor may evict the tenant or contract with the tenant to cure the breach.

***Landlord:48 hrs. Saturday, Sunday and legal holidays notwithstanding/ not supplying essential services including a door lock (if required by the lease)/** tenant may procure essential services as needed/ recover damages/ withhold rent, which must be deposit with the local justice court/ procure comparable housing and bill the difference in the rent to the lessor/ breach cannot be caused by the tenant or tenant's guests/ tenant must be current in the payment of rent at the time of the breach/ tenant is entitled to damages if the lessor knew of the breach and did not effect a cure.

***Landlord:14 days/ addresses the landlord failing to maintain the rented premises in a habitable condition/** if the landlord does not cure the breach or initiate a good faith attempt to cure the breach within 14 days the tenant may terminate the lease, recover damages sustained, or sue the lessor for damages// If the lessor does not cure the breach or is not making a good faith effort to cure the breach the tenant may cure the breach and

deduct from rent owing the actual and reasonable cost of the repair (cure), not to exceed one months rent/ tenant may do this only once every 12 months.

*Landlord: 14 days/ addresses the Landlord not complying with the rental agreement/ If the landlord does not cure the breach or make a good faith effort to cure the breach within 14 days the tenant may terminated the lease and or recover damages suffered.

II. RECORDKEEPING, ACCOUNTING AND TRUST ACCOUNT MGMT (10%)

A. Requirements for Trust Accounts: In addition to any other trust account(s) the broker may have for other real estate activities, the broker must have two trust accounts for property management activities/ one trust account for management transactions and one for security deposits/ the broker's signature is required for withdrawals/ a salesperson may be a cosigner with the broker/ a broker-salesperson who holds a property management permit may be the a sole signee on the trust accounts with written permission from the broker/ trust accounts must be reconciled within 30 days of receiving the bank statement/ trust accounts must be maintained within the State of Nevada// RED must be advised of location of the trust accounts at all times (FDIC coverage is not required by law)// the broker shall maintain a ledger account for each unit managed/ all rents and deposits for each unit must be deposited into the management trust account and accounted for the appropriate unit's ledger/ all income, authorized repairs and expenses must be accounted for or paid out of the appropriate unit's ledger (unit means one single family dwelling unit)// trust accounts, including any ledger account may not be in deficit for more than 45 consecutive days in any one year// all financial records must be kept for 5 years from the last financial activity involving the Managed property// Computerized financial records must be kept on a separate disc.

B. Separate Account Required for Security Deposits: (addressed in "A" above)/ The main thing to remember is that NAC requires one trust account to be used for month to month management activities, and one for security deposits (aka: money that is being held for an extended period of time).

C. Record-Keeping Requirements and inspection by the Real Estate Division: Records must be numbered consecutively or indexed/ kept in this state and available for audit/ all records consummated or not consummated, including computerized transactions as well as hard-copies, must be kept for 5 years after the last management activity conducted at the property/ a computer shall be made available to RED for inspecting computerized records.

D. Reporting Requirements: NAC 645.806-The broker of record must send a reconciliation of the trust accounts to RED annually, corresponding with the expiration date (not month) on the broker's license, covering the month preceding that expiration date, on RED's form #546. If the broker does not have money being held in trust, RED's form #546A must be submitted. Fines for failing to submit on time are: #546 = \$1000,

#546A=\$250 / NAC 645.805- if for any reason the Designated Property Manager ceases being the Designated Property Manager the broker of record must send reconciliations of the trust accounts to RED/ by law the following steps are required: request a statement from the depository holding the trust accounts within 5 days send a reconciliation of the trust accounts to RED within 15 days (or the end of the month-which ever is longer), the reconciliation(s) must cover the 30 days prior to the Designated Manager leaving, the broker has 30 days to find another Designated Manager or appeal to RED for an extension.

E. **Handling of Trust Funds:** A licensee must pay over all deposits to the broker or designated company promptly after receiving a fully executed contract/ \$ received by the broker must be accounted for in full at the consummation or termination of the transaction involved/. Broker must deposit \$ belonging to others into the trust account promptly/ The trust account shall detail the disposition of deposits and ownership/ with reasonable cause, RED may audit a broker's business and trust accounts and require the broker to sign an indemnity agreement protecting RED from liability that may arise from such audit/ when RED conducts an audit, RED may require the office manager or a person in charge of the office to sign an acknowledgment of the audit/ if the broker files for bankruptcy, \$ within trust accounts must be placed into an escrow account with instructions to the agent-officer the disburse the \$ pursuant to the agreement under which it was originally deposited.

F. **Basic Accounting**

- ***Budget Comparison Statement** - compares the property's actual finances (financial report) to the original budget and functions as an operational check list
- ***Cash Flow Report** - explains in detail the financial status of the property over a period of time detailing income, expenses, net operating income and net cash Flow. It is the most important financial report and is usually accompanied by a narrative explaining any abnormalities.
- ***Profit and Loss Statement** - is a periodic statement submitted to the owner or asset manager, listing gross income rather than itemized sources and total operating expenses, rather than individual expenditures. The interest paid on the mortgage payment is subtracted from gross receipts and principal paid (reducing the amount owed on the mortgage) is added back to obtain the net profit.
- ***Fixed Expense (aka Direct Expense, Regular Recurring Cost)** - an expense that does not fluctuate with occupancy of or income from the property.
- ***Variable Expense** - An expense that increases or decreases with the increase or decrease in the occupancy of or income from the property.
- ***Non-recurring Variable Expense** - expenses that occur rarely or only once (ex: resurfacing the parking lot, a new roof).
- ***Reserve Fund** - money that is budgeted for repair and/or replacement of items not covered by insurance and other unbudgeted expenditures/ found in the 'expense' category of the operating budget.
- ***Cash Basis (Accounting)** - money is recorded when paid or collected/ this is the system used in Property Management.

***Accrual System (Accounting)-** Money is recorded when earned or owed/
accounting system used by most corporations

***Return on Investment-** Gross collectable income minus expenses before debt
service (mortgage payment), although debt service is a fixed expense, it is not a
a component of Net Operating Income.

III. NEVADA LAWS RELATING TO PROPERETY MANAGEMENT (5%)

A. Permit Requirements:

- 1. Activities requiring a permit-** the physical, administrative or financial
maintenance and management of real property or the supervision of such
Activities.
- 2. Who needs a permit-** it is unlawful for a limited liability company, partnership,
association or corporation to act as a property manager within the State of
Nevada without being represented by a real estate broker who holds a permit to
engage in real estate management in this state/ a sole proprietor who holds a
real estate broker license but not a property management permit, may conduct
property management activities by employing a 'Designated Manager'.
- 3. Renewal Requirements-**The Property Management Permit expires and may be
renewed with the real estate license of the licensee// Licensee must submit a
request to renew the Property Management Permit with the holder's application
to renew his/her Real estate license together with a \$40 renewal fee,
documentation of successfully completing 3 hours of continuing education in an
approved educational course, seminar or conference concerning property
management/ the renewal of the permit is effective on the day the renewal of
the license was submitted to RED or the date the required fee was paid,
whichever is the later.

B. Authority/Responsibilities of Property Managers- In Property Management
agency attaches to the broker, and through the broker to the licensee managing
the property/ as such, the property manager is an agent of the client (Landlord)
and must work within the clients guidelines, goals and objectives, which should
be clearly stated in the management contract/ it is imperative that the manager
identifies what the owner wants to achieve/ the manager should be versed in
(rental) market conditions, civil rights and other applicable laws and
regulations affecting the property/ the manager is governed by the terms of the
contract and certain legal and ethical considerations based on agency law/ the
manager owes fidelity to the owner and has an obligation to follow the owner's
(legal and ethical) instructions.

C. Non-broker Licensee's Compensation- Compensation of real estate licensees
working under the supervision of a real estate broker as an employee or
independent contractor is subject to the understanding or contract between that
licensee and the broker// it is unlawful for a real estate licensee to accept
compensation for any real estate activity from anyone other than his-her broker

5 Key Areas of a Rental Application

By Becky Bower February 4, 2016

Your rental application is the first step to safeguarding your community. Alongside background screening, it's one of the few things that helps you evaluate if an applicant should live amongst your other residents. While it certainly can't tell you a particular resident-to-be's future, as long as you cover 5 key areas in your rental application, you can at least get a hint as to what type of renter they might become.

1. Have You Asked for any Moving Information?

It's crucial that your rental application cover all the aspects that involve why your applicant is moving. Knowing in-depth moving information is not only practical, but also clues you into their relationship with their previous residence or landlord. Questions targeting why they're moving, the date they need to move in, and how many people that will be moving with them, should be on your application.

2. Learn their Previous History but be Wary of Criminal History

Another practical aspect in your rental application should be questions targeting your applicant's previous history. This could be questions about prior evictions or their current rental policy. While you might instantly think to ask about an applicant's criminal history as well, you should start preparing your rental application for when (or if) the ban-the-box legislation gains movement within tenant screening.

Currently, the ban-the-box movement aims to prohibit employers from asking about an applicant's criminal history before extending a formal job offer. While this movement affects employment screening, it's getting momentum in the housing world. In preparation, avoid direct questions about their criminal past on your application. Depend on your background screening report to uncover any major criminal charges or red flags.

3. Do They Have Their Financial Situation Sorted?

When it comes to employment verification, you should already have questions that address these standard rental application topics. However, if you don't, make sure your application addresses if they're prepared to pay first and last month's rent, and if they can afford the deposit (if required). It should also have a space where your applicant can record their income information.

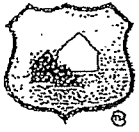
4. Additional Factors For Your Rental Application

You can add additional questions based on concerns you have, but standard extra questions involve if they have any pets, how many vehicles they have, and if they own a water bed. If you add any questions make sure they all relate to the rental property and are justifiable, so as to not seem discriminatory.

5. Your Applicant's References

How much you use personal references during the application process is up to you; however you should make sure to include a space for applicant's employment and rental references. By performing verbal verifications of each of these references, you can determine if your applicant was truthful and if they have/had a good relationship with their company or previous landlord. If you hear anything that raises red flags, use your applicant's background report to investigate further and justify your final decision.

Performing tenant screening alongside your rental application is critical when deciding if an applicant is the right fit for your community. It not only helps you make the best possible decision, but it reassures your nondiscriminatory rental practices. With tenant screening beside your rental application (enhanced by these 5 key question areas), you'll have quality residents in no time.



CRIME FREE LEASE ADDENDUM

In consideration for the execution or renewal of a lease of the dwelling unit identified in the lease, Manager or Owner and Resident agree as follows:

Resident, any member(s) of the resident's household, a guest or any other person affiliated with the resident on or off the resident premises:

1. Shall not engage in criminal activity, including drug-related criminal activity, on or off the said premises. "Drug related criminal activity" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use an illegal or controlled substance (as defined in Section 102 of the Controlled Substance Act [21 U.S.C. 802]).

Initials: _____

2. Shall not engage in any act intended to facilitate criminal activity.

Initials: _____

3. Will not permit the dwelling unit to be used for, or to facilitate criminal activity.

Initials: _____

4. Shall not engage in the unlawful manufacturing, selling, using, storing, keeping or giving of an illegal or controlled substance as defined in N.R.S.453.566 and N.R.S.453.321, at any locations, whether on or off the dwelling unit premises.

Initials: _____

5. Shall not engage in any illegal activity, including, but not limited to:
 - a: prostitution as defined in N.R.S. 201.295;
 - b: criminal street gang activity as defined in N.R.S. 193.168;
 - c: assault and battery as prohibited in N.R.S. 200.471, and N.R.S. 200.481, including domestic battery;
 - d: the unlawful discharge of a weapon, on or off the dwelling unit premises, as prohibited in N.R.S. Chapter 202; or
 - e: any breach of the lease agreement that jeopardizes the health, safety and welfare of the landlord, his agent, or other tenant, or involving imminent or actual serious property damage.

Initials: _____

6. VIOLATION OF THE ABOVE PROVISIONS SHALL BE A MATERIAL AND IRREPARABLE VIOLATION OF THE LEASE AND GOOD CAUSE FOR IMMEDIATE TERMINATION OF TENANCY. A single violation of any of the provisions of this added addendum shall be deemed a serious violation, and a material and irreparable non-compliance. It is understood that a **single violation shall be good cause for immediate termination of the lease.** Unless otherwise provided by law, **proof of violation shall not require a criminal conviction,** but shall be by a preponderance of the evidence.

Initials: _____

7. In case of conflict between the provisions of this addendum and any other provisions of the lease, the provisions of this addendum shall govern.

Initials: _____

8. This LEASE ADDENDUM is incorporated into the lease executed or renewed this day between Manager or Owner and Resident.

Initials: _____

9. I authorize property management to use police generated reports as Direct Evidence against me in an eviction hearing.

Initials: _____

10. Shall not intimidate, or attempt to intimidate, lessor or any agent, employee or representative of lessor.

Initials: _____

Resident Signature

Date

Property Manager's Signature

Date

Resident Signature

Date

Name / Address of Property

APPLICATION FOR RESIDENCY ADDENDUM

Have you or ANYONE (regardless of age) who will be residing with you:

1. Ever been arrested, cited, prosecuted, plead guilty to, or been convicted of a crime? Yes No
2. Ever been placed on probation, parole, or affected by Megan's Law? Yes No
3. Ever been or currently are a member of a gang? Yes No
4. Ever had or currently have a warrant for your/their arrest? Yes No
5. Ever been or currently are involved in any criminal activity? Yes No
6. Ever been evicted or had a forcible detainer filed against you? Yes No
7. Ever moved to avoid eviction or because of problems with other tenants or landlord? Yes No
8. Ever been a petitioner in a case at a bankruptcy court? Yes No

Explain ALL "Yes" answers in detail. (What happened? When? Where? And the results)

All information furnished on this application is, to the best of my knowledge, complete and accurate. Discovery of false or omitted information constitutes grounds for rejection of this application. You or any agent(s) of your choice may verify any and all information from whatever source you choose including the obtaining of a credit report. I authorize all persons or firms named and unnamed in this application to freely provide any and all requested information concerning me and hereby waive all right of action for any consequence resulting from such information and/ or the providing thereof.

Applicant #1 _____ Date _____

Applicant #2 _____ Date _____

What home insurance covers?

Firstly, a home insurance policy is typically broken down into six parts:

- **Dwelling:** This is your house and any attached structures, such as your garage.
- **Other structures:** This means any stand-alone structures, such as a carport or tool shed, not attached to your home. This would be considered a part of "other structures" to an insurance company.
- **Personal property:** This pays to repair or replace your belongings/property that are stolen or damaged in a covered loss anywhere in the world.
- **Additional living expenses:** This is sometimes called loss of use clause, meaning this helps pay for a temporary relocation in the event you are unable to live in your home due to rebuilding or repairing.
- **Personal Liability:** This covers you if you are found responsible for another's injuries on our property or away from home.
- **Medical payments:** Covers medical costs to people at your residence that aren't a resident of the household, regardless of fault.

Actual Cash Value v Replacement Cost

Unless your insurance policy specifies otherwise, any claims you are being reimbursed for will be paid out by what's called **actual cash value** or ACV. Basically, ACV is the amount of money it would cost you to replace your item minus any depreciation. This valuation process will usually be done by your insurance companies claim's department through the claims adjusters.

Difference in an HO-2, HO-3, HO-4, HO-5, and HO-6 policy?

HO-2 – Designates a "basic form" homeowners insurance policy that provides insurance coverage on a "named-peril" basis. "Named-peril" means that your home and personal property are covered against losses that are expressly listed on your policy. Any loss that occurs outside of that list would not be covered by the policy.

Typically, this includes:

- Fire
- Lightning
- Theft
- Vandalism
- Windstorms and hail
- Damage caused by vehicles
- Damage from aircraft
- Weight of ice, snow, and sleet
- Freezing of household systems
- Riots
- Explosions
- Falling objects
- Volcanic eruptions
- Overflow or discharge of water
- Damage from artificially-generated electrical current
- Sudden tearing, cracking or bulging of home

HO-3 – Designates a "broad form" homeowners insurance policy that provides insurance coverage for the structure of your home on an "open-peril" basis. "Open-peril" means that you are covered against **all losses except those that are expressly excluded** on your policy. It's important to note that your personal property is still covered on a "named-peril" basis with an HO-3 policy.

HO-4 – Simply speaking, this policy type describes a renters’ insurance policy. Typically, with these policies, your liability and your personal property are covered up to the policy limits. This is an ideal policy for someone renting an apartment or house.

HO-5 – Designates a “comprehensive form” homeowners insurance policy. This policy type covers both your home and personal property on an “open-peril” basis. This is the broadest form of home insurance available. Given the comprehensive levels of coverage, this isn’t as common of a home insurance policy as a HO-2 or HO-3 policy.

HO-6 – Designates a condo insurance policy. These policies generally cover your personal property and the structure of your If you own a condo, your condo insurance fits into a modified HO-2 policy known as an HO-6. This policy is what the insurance world refers to as a “named-peril policy,” meaning all risks that will be covered are named within the policy contract.

Unlike a homeowner’s policy, your condo insurance doesn’t cover damages to the surrounding area or the exterior walls of your condo. It provides coverage interiorly—for you and your personal belongings within the unit. Coverage for the exterior of your condo and surrounding areas are built into what is referred to as a master policy or an HOA policy; which is owned and maintained by the owner of the condominium complex. Together, your condo policy and your condo association master policy work together to protect you and your assets.

Let’s explore these risks further.

Physical Damage

Within the physical damage portion of your condo insurance contract, there are some caveats that are dependent on the HOA master policy plan. If your master plan has an “all-in” option, it will usually cover original items built into your unit such as appliances, lighting fixtures, wiring, and plumbing. However, if your HOA uses a “bare walls” policy, you will need to make sure your condo insurance policy covers everything within your actual unit i.e.: from the wall studs in.

Personal Property

Regardless of whether you have an “all-in” or “bare walls” type of HOA policy, you must get a condo insurance policy for your personal property to be covered. Your personal belongings cover things like your computer, TV, and furniture. As is the case with a homeowners or renters personal property coverage, this coverage follows you around the world.

Liability

Your liability coverage provides protection in the event a claim is brought against you or a resident of your condo due to bodily injury or property damage. This includes settlement, defense, and court costs. Excluding your monetary limit and deviations within individual insurance companies, your liability coverage mirrors that of a homeowners or renters.

Loss of Use

In the event your condo is unlivable, loss of use coverage provides a monetary compensation for you to live elsewhere temporarily. The amount of compensation and duration of it is dependent on the coverage you set personally with your insurance company.

Loss Assessment

This coverage is unique to condo owners and works to help cover the master policy if their limits are exceeded by a claim. For example, if a fire causes multiple units to be damaged and the amount of the damage exceeds the coverage limit set in the master policy, your loss assessment steps up to assist in paying a portion of the fire damages.

Medical Payments to Others

This payment pays for medical coverage in the event someone injures themselves while on your property or injured by your activities. Unlike your liability coverage, this excludes anyone who is a resident of your condo. Hence, the medical payments “to others” aspect.



Landlord/Tenant and Evictions- New Laws

Tiffany Banks, General Counsel

Many of you are already aware of the significant changes to landlord/tenant law as of July 1, 2019. The way landlords and property managers in Nevada deal with evicting a tenant will be changed in a big way. SB 151 also has an impact on investors and how they do business in Nevada, or if they even want to continue to do so. We will touch on some of these changes below, what we know, what we don't know, but will keep you updated in the coming weeks as we learn more. Now that these laws are in effect, the question is, how will courts interpret these laws?

Serving Notices:

Notices must now be served by licensed professionals, including the sheriff or constable, agent of an attorney and licensed process server. Prior to this, landlords and property managers could serve an eviction notice themselves.

What does this mean? If you have been in the business of handling these notices yourselves, you will now need to hire someone. Does this mean a notice to terminate a lease, within the terms of the lease needs a professional? No, you can do that yourself. These are for notices under Chapter 40.

Cap on Late Fees:

Tenants who pay late can now only be charged a maximum of 5%, even if your current lease with the tenant requires more.

What does this mean? Courts will only allow the 5% and no more. Does this mean that you must amend current leases to reflect these changes? No. You may however send the tenant a letter notifying them of the changes to the law, and on your next renewal make modifications to the lease. Prior to this legislative session, a landlord could charge a reasonable late fee, sometimes a base late fee and per day. Now, that is capped at 5% of periodic rent. **Another article will be coming in the next few weeks as when it is determined how courts will determine what is included in "periodic rent." For now, if rent is \$1,000 a month and the late fee is \$50 then the amount you need them to pay to "stay in the property" is \$1,050.

Notice to Pay Rent or Quit:

The notice to pay rent or quit, previously 5 days, is now close of business on the 7th judicial day.

What does this mean?

Tenant's rent is due July 1st, which is a Wednesday.

Landlord serves notice on Thursday July 2nd to pay rent or quit.



This would mean that the tenant has until the close of business on Monday July 13th to pay the rent in its entirety. The landlord could then take court action on Tuesday July 14th; with an order from the Judge on July 15th. The notice of the order has to be posted within 24 hours. This would mean that if the sheriff/constable received the order to post at 4 pm on Wednesday July 15th, and posted it on Thursday July 16th at 4:00 pm, the tenant may not be removed until the following Monday July 20th. This is now 19 full calendar days from the first day notice is served.

As you can see, this is a significant change from noon on the fifth day. Nevada REALTORS® worked hard on this provision to minimize the impact of an increase to the number of days. The proposed timeframe in the original bill was 10 business days.

Conclusion:

These are just some of the changes to landlord/tenant laws. We will be updating you as we work through many of the same questions you have, so be sure and watch this eNews for additional guidance and FAQs in coming weeks. Please call the Legal Information Line at 800-748-6999 with your questions, and we will update those most frequently asked questions in future publications.

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Notification:

SB 151 Went Into Effect July 1, 2019

The Residential Lease Agreements have been updated to reflect legislative changes that have gone into effect July 1, 2019. Your revised Residential Lease Agreements are to be used effective immediately and can be found on Transaction Desk in the Residential Forms folder. Here are the changes that have gone into effect:

- Increases the pay or quit timeline from 5 full days to 7 judicial days - was 10 judicial days in the original bill;
- Requires the constable to post a notice for the tenant no earlier than 24 hours after the order;
- Increases the period of time in which the constable has to remove a tenant in default of rent from not later than 24 hours to no earlier than 24 hours after the posting of the notice but no later than 36 hours after - original language was changing from within 24 hours to no earlier than 48 hours;
- Removes the ability for conventional public housing (does not include section 8) to use the summary eviction process;
- Keeps the amount of time a person has after receiving a written notice to surrender real property or a mobile home to 3 days unless the property transferred in a residential sale, and clarifies that the new owner has the same rights, obligations and liabilities as the previous owner as do the tenant. (i.e. the lease stays with the land, not the owner) - the original language was changing the timeframe to 30 days and did not include provisions about leases;
- Allows the service of the notice by the agent of an attorney if an attorney has been retained by the owner to prosecute an eviction action;
- Excludes commercial real estate.

Should you have any questions regarding SB 151, you can contact the Agent Legal Information Line at 800-748-6999.

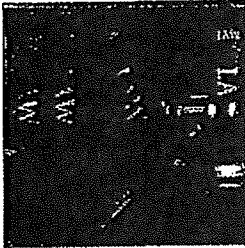
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Las Vegas Property Management Laws

November 7, 2011 By Heidi Rice



The laws for Nevada Residential Real Estate & Property Management are covered under the Nevada Revised Statutes Title 3, 10 & 54. The most relevant laws fall under Title 10 – Property Rights & Transactions.

However, all off these NRS statues are important: NRS116A, NRS116, NRS117, NRS 118A, NRS 118, NRS40, NRS645.

Listed below are the statues that relate most closely to Las Vegas Property Management and landlord/tenant laws.

NRS118A.010 – NRS118A.520 – Landlord & Tenant: Dwellings

NRS118.020 – NRS118.205 – Discrimination in Housing; Landlord & Tenant

NRS40.140 – Actions & Proceedings in Particular Cases Concerning Property

NRS40.2512 – NRS40.2516 – Actions & Proceedings in Particular Cases Concerning Property

NRS40.255 – NRS40.280 – Actions & Proceedings in Particular Cases Concerning Property

NRS645.310 – NRS645.322 – Real Estate Brokers

What are the Nevada Revised Statues?

The Nevada Revised Statutes are all the current codified laws of the State of Nevada. Nevada law consists of the Constitution of Nevada and Nevada Revised Statutes. The Nevada Supreme Court interprets the law and constitution of Nevada. This website page is *not* meant to give legal advice as Rice Real Estate is not a law firm. The information is provided for research help only. Rice Real Estate recommends contacting a law firm for any specific questions regarding Las Vegas Property Management Laws and/or interpreting NRS.

Rice Real Estate & Las Vegas Property Management

Rice Real Estate is a full service residential real estate brokerage offering worry-free rental property management in Las Vegas, Green Valley Ranch, Seven Hills, Silverado Ranch, Southern

Justia › US Law › US Codes and Statutes › Nevada Revised Statutes ›
2010 Nevada Revised Statutes › TITLE 10 PROPERTY RIGHTS AND TRANSACTIONS ›
Chapter 118 Discrimination in Housing; Landlord and Tenant › NRS 118.195 Notice to tenant
of landlord's belief that property has been abandoned; property deemed abandoned unless
disputed by tenant.

2010 Nevada Code

TITLE 10 PROPERTY RIGHTS AND TRANSACTIONS

Chapter 118 Discrimination in Housing; Landlord and Tenant

NRS 118.195 Notice to tenant of landlord's belief that property has been abandoned; property deemed abandoned unless disputed by tenant.

NRS 118.195 Notice to tenant of landlord's belief that property has been abandoned;
property deemed abandoned unless disputed by tenant.

1. If a landlord of real property reasonably believes that his or her tenant has abandoned the property, and the tenant is in default in the payment of rent, the landlord may serve the tenant with a written notice of the landlord's belief that the property has been abandoned. If the tenant fails, within 5 days after service of the notice by the landlord, to:

(a) Pay the rent due; and

(b) Provide the landlord with a written notice:

Nevada Rental Laws

Written by [Lucas Hall \(https://www.landlordology.com/author/lucashall/\)](https://www.landlordology.com/author/lucashall/) on November 19, 2012

This article summarizes some key Nevada

Landlord-Tenant laws applicable to residential rental units.

We've used the [Official State Statutes](#) and other online sources cited below to research this information and it should be a good starting point in learning about the law.

With that said, our summary is **not** intended to be exhaustive or a substitute for qualified legal advice. Laws and statutes are always subject to change, and may even vary from county to county or city to city.

You are responsible for performing your own research and complying with all laws applicable to your unique situation.

If you have legal questions or concerns, we recommend consulting with the appropriate government agencies and/or a qualified lawyer in your area. Your local or [state bar association \(http://www.nvbar.org/\)](http://www.nvbar.org/) may have a referral service that can help you find a lawyer with experience in landlord-tenant law.

Nevada has not adopted the [Uniform Residential Landlord & Tenant Act \(URLTA\) \(https://www.landlordology.com/summary-uniform-residential-landlord-and-tenant-act-urлта/\)](https://www.landlordology.com/summary-uniform-residential-landlord-and-tenant-act-urлта/).

This research and information is current as of November 15, 2012.

(1) Stating the tenant's intention not to abandon the property; and

(2) Setting forth an address at which the tenant may be served with legal process,

the property shall be deemed abandoned by the tenant and the rental agreement shall be deemed terminated. The property shall not be deemed abandoned if the tenant pays the rent due and provides the written notice within the prescribed time.

2. Real property shall not be deemed abandoned pursuant to this section if the tenant proves that at the time the landlord served notice:

(a) The tenant was not in default in the payment of rent; or

(b) It was not reasonable for the landlord to believe that the tenant had abandoned the real property. The fact that the landlord knew that the tenant left personal property on the real property does not, of itself, justify a finding that the landlord did not reasonably believe that the tenant had abandoned the real property.

3. The provisions of this section do not preclude a landlord or tenant from otherwise proving that real property has been abandoned.

(Added to NRS by 1991, 1040)

Disclaimer: These codes may not be the most recent version. Nevada may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

Official Rules and Regulations

- Title 10, Chapter 18 – Discrimination in Housing; Landlord and Tenant
(<http://www.leg.state.nv.us/NRS/NRS-118.html>)
- Title 10, Chapter 18A – Landlord and Tenant: Dwellings
(<http://www.leg.state.nv.us/NRS/NRS-118A.html>)
- Title 10, Chapter 18B – Landlord and Tenant: Manufactured Home Parks
(<http://www.leg.state.nv.us/NRS/NRS-118B.html>)
- Title 10, Chapter 18C – Landlord and Tenant: Commercial Premises
(<http://www.leg.state.nv.us/NRS/NRS-118C.html>)
- Title 3, Chapter 40 – Actions and Proceedings in Particular Cases Concerning Property (<http://www.leg.state.nv.us/NRS/NRS-040.html>)

Details

Security Deposit:

- Security Deposit Maximum: equal to 3 months of rent (NRS 118A.242(1)
(<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec242>))
- Security Deposit Interest: No Statute
- Separate Security Deposit Bank Account: No Statute
- Pet Deposits and Additional Fees: No Statute
- Non-Refundable Fees: Landlord must disclose and explain any non-refundable fees (which are allowed for cleaning) in the lease agreement. (NRS 118A.242(8)
(<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec242>))
- Deadline for Returning Security Deposit: 30 days after lease termination/Tenant moves out (NRS 118A.242(4)(5)
(<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec242>))
- Require Written Description / Itemized List of Damages and Charges: Yes (NRS 118A.242(4)(5) (<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec242>))
- Record Keeping of Deposit Withholdings: No Statute

Lease, Rent & Fees:

- Rent Increase Notice: 45 days or, in the case of any periodic tenancy or less than 1 month, 15 days in advance of the first rental payment to be increased ([NRS 118A.300 \(http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec300\)](http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec300))
- Late Fees: No Statute
- Prepaid Rent: No Statute
- Returned Check Fees: No Statute
- Tenant Allowed to Withhold Rent for Failure to Provide Essential Services (Water, Heat, etc.): Yes ([NRS 118.355 \(http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec355\)](http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec355))
- Tenant Allowed to Repair and Deduct Rent: Yes ([NRS 118.355 \(http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec355\)](http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec355))
- Landlord Allow to Recover Court and Attorney's Fees: No Statute
- Landlord Must Make a Reasonable Attempt to Mitigate Damages to Lessee, including an Attempt to Rerent: Yes ([NRS 118.175 \(http://www.leg.state.nv.us/NRS/NRS-118.html#NRS118Sec175\)](http://www.leg.state.nv.us/NRS/NRS-118.html#NRS118Sec175))
- Hold-over converts to Month-to-Month: Yes, unless tenant pays weekly, then it converts to Week-to-Week

Notices and Entry:

- Notice to Terminate a Lease – Yearly Lease: No Statute
- Notice to Terminate a Lease – Month-to-Month: 30 days ([NRS 40.251 \(http://www.leg.state.nv.us/NRS/NRS-040.html#NRS040Sec251\)](http://www.leg.state.nv.us/NRS/NRS-040.html#NRS040Sec251))
- Notice to Terminate a Lease – Week-to-week: 7 days ([NRS 40.251 \(http://www.leg.state.nv.us/NRS/NRS-040.html#NRS040Sec251\)](http://www.leg.state.nv.us/NRS/NRS-040.html#NRS040Sec251))
- Notice of date/time of Move-Out Inspection: No Statute
- Eviction Notice for Nonpayment: 5 days ([NRS 40.2512 \(http://www.leg.state.nv.us/NRS/NRS-040.html#NRS040Sec2512\)](http://www.leg.state.nv.us/NRS/NRS-040.html#NRS040Sec2512))
- Eviction Notice for Lease Violation: 5 days, but must fix the issue within the first 3 days or Landlord can file for eviction. ([NRS 40.2514 \(http://www.leg.state.nv.us/NRS/NRS-040.html#NRS040Sec2514\)](http://www.leg.state.nv.us/NRS/NRS-040.html#NRS040Sec2514), [NRS 40.2516 \(http://www.leg.state.nv.us/NRS/NRS-040.html#NRS040Sec2516\)](http://www.leg.state.nv.us/NRS/NRS-040.html#NRS040Sec2516))
- Required Notice before Entry: 24 hours ([NRS 118A.330](http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A330))

- <http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec330>)
- Entry Allowed with Notice for Maintenance and Repairs (non-emergency): 24 hours (NRS 118A.330 (<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec330>))
- Entry Allowed During Tenant's Extended Absence: No Statute
- Notice to Tenants for Pesticide Use: No Statute
- Emergency Entry Allowed without Notice: Yes (NRS 118A.330 (<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec330>))
- Lockouts Allowed: No (NRS 118A.390 (<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec390>))
- Utility Shut-offs Allowed: No (NRS 118A.390 (<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec390>))

Disclosures and Miscellaneous Rules:

- Tenant has the right to display the flag of the United States of America (NRS 118A.325 (<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec325>), NRS 118A.200 (<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec200>))
- Landlord must include verbiage in the lease that summarizes the rule NRS 202.470 – Maintaining or permitting nuisance: Penalty (<http://www.leg.state.nv.us/NRS/NRS-202.html#NRS202Sec470>) (NRS 118A.200 (<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec200>))
- Landlord must provide a completed move-in checklist stating the inventory and condition of the dwelling at the time the tenant takes possession. (NRS 118A.200 (<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec200>))
- Landlord must inform the Tenant in writing, if the property is subject to a pending foreclosure. (NRS 118A.200 (<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec200>))
- Landlord must explain, in the Lease, the conditions upon which the deposit will be refunded. (NRS 118A.200 (<http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118ASec200>))
- Other than normal wear, the premises will be returned in the same condition as when the tenancy began. (NRS 118A.174-0

- <http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A510>)
- Special Protections for Domestic Violence Victims: No Statute
- Examples of retaliation include filing an eviction lawsuit, terminating a tenancy, refuse to renew, increasing the rent, or decreasing services. ([NRS 118A.510 \(http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A510\)](http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A510))
- Retaliation is assumed if the Landlord takes such action after Tenant complains to the landlord about unsafe or illegal living conditions. ([NRS 118A.510 \(http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A510\)](http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A510))
- Retaliation is assumed if the Landlord takes such action after Tenant complains to a government agency, such as a building or health inspector, about unsafe or illegal living conditions. ([NRS 118A.510 \(http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A510\)](http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A510))
- Retaliation is assumed if the Landlord takes such action after a Tenant joins or organizing a tenant union, for the purpose of presenting his/her views. ([NRS 118A.510 \(http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A510\)](http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A510))
- Retaliation is assumed if the Landlord takes such action after Tenant exercises a legal right allowed by your state or local law. ([NRS 118A.510 \(http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A510\)](http://www.leg.state.nv.us/NRS/NRS-118A.html#NRS118A510))

Court Related:

- Small Claims Court Limits: \$7,500 statewide, but some cities are less, check with your local authority.
- Eviction Cases Allowed in Small Claims: No
- Nevada Small Claims Courts:
 - [Henderson Small Claims \(http://www.clarkcountynv.gov/depts/justicecourt/henderson/Pages/Small_C](http://www.clarkcountynv.gov/depts/justicecourt/henderson/Pages/Small_C)
 - [Clark County Small Claims \(Las Vegas Township\) \(http://www.clarkcountycourts.us/lvic/small-claims.html\)](http://www.clarkcountycourts.us/lvic/small-claims.html)
 - [Churchill County Small Claims \(New River Township\) \(http://www.churchillcounty.org/x.aspx?nid=356\)](http://www.churchillcounty.org/x.aspx?nid=356)

- Pahrump Justice Court (<https://www.pahrumpjusticecourt.com/forms.html>)
- Washoe County Small Claims (Reno)
(<http://www.washoecounty.us/sjc/index.php/smallclaims.htm>)
- Humboldt County Small Claims (Union Township)
(http://www.hcnv.us/justice/plaintiff_info.htm)
- Nevada Judiciary System (<http://www.nevadajudiciary.us/index.php>)
- Nevada Office of the Attorney General (<http://ag.state.nv.us/>)

Business Licenses:

- **Business License required:** No state-wide statute, but local cities and counties may have regulations and requirements. Check with your local governing authority.

Helpful Links

- Nevada Law Library (<http://lawlibrary.nevadajudiciary.us/index.php>)
- Nevada Division of Insurance (<http://www.doi.nv.gov/>)
- Nevada State Bar Association (<http://www.nvbar.org/>)
- U.S. Department of Housing and Urban Development – Nevada
(<http://portal.hud.gov/hudportal/HUD?src=/states/nevada>)
- Nevada Real Estate Division (<http://www.red.state.nv.us/>)
- Nevada Association of REALTORS® (<http://www.nvar.org/home.aspx>)
- Nevada Law Help (<http://nevadalawhelp.org/issues/housing>)
- Legal Aid of Southern Nevada (<http://www.lacsn.org/>)
- Washoe County Legal Services (<http://www.washoelegalservices.org/>)

How Many People Can Live In Your Rental?

By Zillow Rentals Team

If you're wondering whether you can limit the number of occupants living in your property, the answer is: sort of. Rules around occupancy rates and rental properties aren't always black and white. As a landlord, you need to abide by fair housing regulations and give all potential renters an equal chance to rent your property regardless of their membership in a protected class — including their familial status. At the same time, more occupants mean more wear and tear on your property. So, where do you draw the line? As a landlord, you can set a maximum occupancy for your unit, but it's best to consult an attorney to ensure that your policies are not discriminatory. Meanwhile, here are several factors to consider when determining occupancy standards for your property.

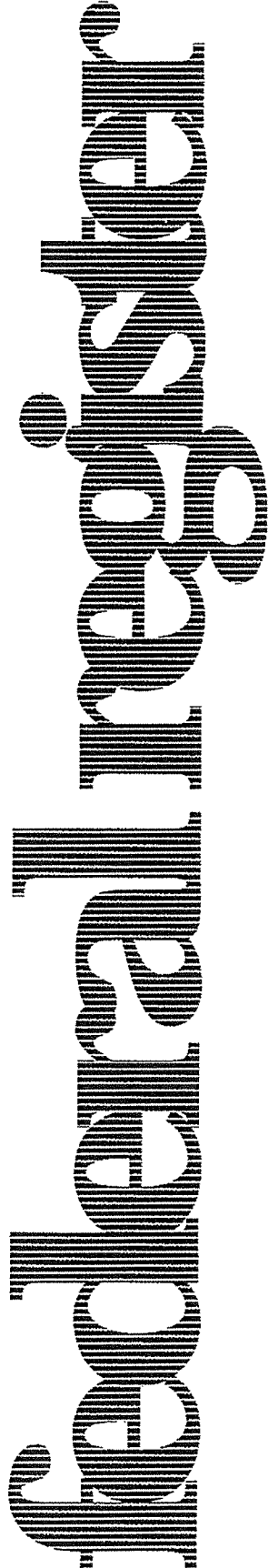
Number of bedrooms

In 1991, the Keating Memorandum sought to provide guidance for occupancy, stating that applying a standard of two people per bedroom is considered reasonable under the Fair Housing Act. But this is an occupancy standard, not a rule, and there can be several exceptions. If the bedrooms in your property are large, it's possible more than two people could comfortably occupy them.

Property size and layout

The number of square feet and the configuration of your property can help determine occupancy rates. One potential tenant might consider a study room or a den as a supplement to a one-bedroom apartment, while another might see it as an additional bedroom. The Building Officials and Code Administrators (BOCA) code uses square footage as a guideline for occupancy:

- 150 square feet for the first occupant
- 100 square feet for each additional resident
- Every room occupied for sleeping purposes by one occupant must contain at least 70 square feet of floor space or at least 50 square feet per person if occupied by more than one person



Tuesday
December 22, 1998

Part V

**Department of
Housing and Urban
Development**

Fair Housing Enforcement—Occupancy
Standards; Statement of Policy; Notice;
Republication

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR-4405-N-01]

**Fair Housing Enforcement—
Occupancy Standards; Notice of
Statement of Policy**

Note: This document, FR Doc. 98-33568, was originally published on December 18, 1998 at 63 FR 70256-70257. It is being republished to reproduce the camera copy of the appendix furnished by the agency.

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of Statement of Policy.

SUMMARY: This statement of policy advises the public of the factors that HUD will consider when evaluating a housing provider's occupancy policies to determine whether actions under the provider's policies may constitute discriminatory conduct under the Fair Housing Act on the basis of familial status (the presence of children in a family). Publication of this notice meets the requirements of the Quality Housing and Work Responsibility Act of 1998.

DATES: Effective date: December 18, 1998.

FOR FURTHER INFORMATION CONTACT: Sara Pratt, Director, Office of Investigations, Office of Fair Housing and Equal Opportunity, Room 5204, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708-2290 (not a toll-free number). For hearing- and speech-impaired persons, this telephone number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339 (toll-free).

SUPPLEMENTARY INFORMATION:

Statutory and Regulatory Background

Section 589 of the Quality Housing and Work Responsibility Act of 1998 (Pub. L. 105-276, 112 Stat. 2461, approved October 21, 1998, "QHWRA") requires HUD to publish a notice in the **Federal Register** that advises the public of the occupancy standards that HUD uses for enforcement purposes under the Fair Housing Act (42 U.S.C. 3601-3619). Section 589 requires HUD to publish this notice within 60 days of enactment of the QHWRA, and states that the notice will be effective upon publication. Specifically, section 589 states, in relevant part, that:

[T]he specific and unmodified standards provided in the March 20, 1991, Memorandum from the General Counsel of [HUD] to all Regional Counsel shall be the policy of [HUD] with respect to complaints of discrimination under the Fair Housing Act * * * on the basis of familial status which involve an occupancy standard established by a housing provider.

The Fair Housing Act prohibits discrimination in any aspect of the sale, rental, financing or advertising of dwellings on the basis of race, color, religion, national origin, sex or familial status (the presence of children in the family). The Fair Housing Act also provides that nothing in the Act "limits the applicability of any reasonable local, State or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling." The Fair Housing Act gave HUD responsibility for implementation and enforcement of the Act's requirements. The Fair Housing Act authorizes HUD to receive complaints alleging discrimination in violation of the Act, to

investigate these complaints, and to engage in efforts to resolve informally matters raised in the complaint. In cases where the complaint is not resolved, the Fair Housing Act authorizes HUD to make a determination of whether or not there is reasonable cause to believe that discrimination has occurred. HUD's regulations, implementing the Fair Housing Act (42 U.S.C. 3614) are found in 24 CFR part 100.

In 1991, HUD's General Counsel, Frank Keating, determined that some confusion existed because of the absence of more detailed guidance regarding what occupancy restrictions are reasonable under the Act. To address this confusion, General Counsel Keating issued internal guidance to HUD Regional Counsel on factors that they should consider when examining complaints filed with HUD under the Fair Housing Act, to determine whether or not there is reasonable cause to believe discrimination has occurred.

This Notice

Through this notice HUD implements section 589 of the QHWRA by adopting as its policy on occupancy standards, for purposes of enforcement actions under the Fair Housing Act, the standards provided in the Memorandum of General Counsel Frank Keating to Regional Counsel dated March 20, 1991, attached as Appendix A.

Authority: 42 U.S.C. 3535(d), 112 Stat. 2461.

Dated: December 14, 1998.

Eva M. Plaza,
*Assistant Secretary for Fair Housing and
Equal Opportunity.*

BILLING CODE 4210-28-P



U. S. Department of Housing and Urban Development
Washington, D.C. 20410-0500

APPENDIX A

March 20, 1991

OFFICE OF GENERAL COUNSEL

MEMORANDUM FOR: All Regional Counsel

FROM: *FK* Frank Keating, G

SUBJECT: Fair Housing Enforcement Policy: Occupancy Cases

On February 21, 1991, I issued a memorandum designed to facilitate your review of cases involving occupancy policies under the Fair Housing Act. The memorandum was based on my review of a significant number of such cases and was intended to constitute internal guidance to be used by Regional Counsel in reviewing cases involving occupancy restrictions. It was not intended to create a definitive test for whether a landlord or manager would be liable in a particular case, nor was it intended to establish occupancy policies or requirements for any particular type of housing.

However, in discussions within the Department, and with the Department of Justice and the public, it is clear that the February 21 memorandum has resulted in a significant misunderstanding of the Department's position on the question of occupancy policies which would be reasonable under the Fair Housing Act. In this respect, many people mistakenly viewed the February 21 memorandum as indicating that the Department was establishing an occupancy policy which it would consider reasonable in any fair housing case, rather than providing guidance to Regional Counsel on the evaluation of evidence in familial status cases which involve the use of an occupancy policy adopted by a housing provider.

For example, there is a HUD Handbook provision regarding the size of the unit needed for public housing tenants. See Handbook 7465.1 REV-2, Public Housing Occupancy Handbook: Admission, revised section 5-1 (issued February 12, 1991). While that Handbook provision states that HUD does not specify the number of persons who may live in public housing units of various sizes, it provides guidance about the factors public housing agencies may consider in establishing reasonable occupancy policies. Neither this memorandum nor the memorandum of February 21, 1991 overrides the guidance that Handbook provides about program requirements.

As you know, assuring Fair Housing for all is one of Secretary Kemp's top priorities. Prompt and vigorous enforcement of all the provisions of the Fair Housing Act, including the protections in the Act for families with children, is a critical responsibility of mine and every person in the Office of General Counsel. I expect Headquarters and Regional Office staff to continue their vigilant efforts to proceed to formal enforcement in all cases in which there is reasonable cause to believe that a discriminatory housing practice under the Act has occurred or is about to occur. This is particularly important in cases where occupancy restrictions are used to exclude families with children or to unreasonably limit the ability of families with children to obtain housing.

In order to assure that the Department's position in the area of occupancy policies is fully understood, I believe that it is imperative to articulate more fully the Department's position on reasonable occupancy policies and to describe the approach that the Department takes in its review of occupancy cases.

Specifically, the Department believes that an occupancy policy of two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act. The Department of Justice has advised us that this is the general policy it has incorporated in consent decrees and proposed orders, and such a general policy also is consistent with the guidance provided to housing providers in the HUD handbook referenced above. However, the reasonableness of any occupancy policy is rebuttable, and neither the February 21 memorandum nor this memorandum implies that the Department will determine compliance with the Fair Housing Act based solely on the number of people permitted in each bedroom. Indeed, as we stated in the final rule implementing the Fair Housing Amendments Act of 1988, the Department's position is as follows:

[T]here is nothing in the legislative history which indicates any intent on the part of Congress to provide for the development of a national occupancy code. . . .

On the other hand, there is no basis to conclude that Congress intended that an owner or manager of dwellings would be unable to restrict the number of occupants who could reside in a dwelling. Thus, the Department believes that in appropriate circumstances, owners and managers may develop and implement reasonable occupancy requirements based on factors such as the number and size of sleeping areas or bedrooms and the overall size of the dwelling unit. In this regard, it must be noted that, in connection with a complaint alleging discrimination on the basis of familial status, the Department will carefully examine any such

nongovernmental restriction to determine whether it operates unreasonably to limit or exclude families with children.

24 C.F.R. Chapter I, Subchapter A. Appendix I at 566-67 (1990).

Thus, in reviewing occupancy cases, HUD will consider the size and number of bedrooms and other special circumstances. The following principles and hypothetical examples should assist you in determining whether the size of the bedrooms or special circumstances would make an occupancy policy unreasonable.

Size of bedrooms and unit

Consider two theoretical situations in which a housing provider refused to permit a family of five to rent a two-bedroom dwelling based on a "two people per bedroom" policy. In the first, the complainants are a family of five who applied to rent an apartment with two large bedrooms and spacious living areas. In the second, the complainants are a family of five who applied to rent a mobile home space on which they planned to live in a small two-bedroom mobile home. Depending on the other facts, issuance of a charge might be warranted in the first situation, but not in the second.

The size of the bedrooms also can be a factor suggesting that a determination of no reasonable cause is appropriate. For example, if a mobile home is advertised as a "two-bedroom" home, but one bedroom is extremely small, depending on all the facts, it could be reasonable for the park manager to limit occupancy of the home to two people.

Age of children

The following hypotheticals involving two housing providers who refused to permit three people to share a bedroom illustrate this principle. In the first, the complainants are two adult parents who applied to rent a one-bedroom apartment with their infant child, and both the bedroom and the apartment were large. In the second, the complainants are a family of two adult parents and one teenager who applied to rent a one-bedroom apartment. Depending on the other facts, issuance of a charge might be warranted in the first hypothetical, but not in the second.

Configuration of unit

The following imaginary situations illustrate special circumstances involving unit configuration. Two condominium associations each reject a purchase by a family of two adults and three children based on a rule limiting sales to buyers who satisfy a "two people per bedroom" occupancy policy. The first association manages a building in which the family of the five sought to purchase a unit consisting of two bedrooms plus a den or

study. The second manages a building in which the family of five sought to purchase a two-bedroom unit which did not have a study or den. Depending on the other facts, a charge might be warranted in the first situation, but not in the second.

Other physical limitations of housing

In addition to physical considerations such as the size of each bedroom and the overall size and configuration of the dwelling, the Department will consider limiting factors identified by housing providers, such as the capacity of the septic, sewer, or other building systems.

State and local law

If a dwelling is governed by State or local governmental occupancy requirements, and the housing provider's occupancy policies reflect those requirements, HUD would consider the governmental requirements as a special circumstance tending to indicate that the housing provider's occupancy policies are reasonable.

Other relevant factors

Other relevant factors supporting a reasonable cause recommendation based on the conclusion that the occupancy policies are pretextual would include evidence that the housing provider has: (1) made discriminatory statements; (2) adopted discriminatory rules governing the use of common facilities; (3) taken other steps to discourage families with children from living in its housing; or (4) enforced its occupancy policies only against families with children. For example, the fact that a development was previously marketed as an "adults only" development would militate in favor of issuing a charge. This is an especially strong factor if there is other evidence suggesting that the occupancy policies are a pretext for excluding families with children.

An occupancy policy which limits the number of children per unit is less likely to be reasonable than one which limits the number of people per unit.

Special circumstances also may be found where the housing provider limits the total number of dwellings he or she is willing to rent to families with children. For example, assume a landlord owns a building of two-bedroom units, in which a policy of four people per unit is reasonable. If the landlord adopts a four person per unit policy, but refuses to rent to a family of two adults and two children because twenty of the thirty units already are occupied by families with children, a reasonable cause recommendation would be warranted.

If your review of the evidence indicates that these or other special circumstances are present, making application of a "two people per bedroom" policy unreasonably restrictive, you should prepare a reasonable cause determination. The Executive Summary should explain the special circumstances which support your recommendation.

[FR Doc. 98-33568 Filed 12-17-98; 8:45 am]

BILLING CODE BILLING CODE 4210-28-C



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

DIVISION OF CONSUMER AND
COMMUNITY AFFAIRS

CA 18-4

June 21, 2018

**TO THE OFFICERS AND MANAGERS IN CHARGE OF CONSUMER AFFAIRS
SECTIONS:**

Applicability to Community Banking Organizations: This guidance applies to all institutions supervised by the Federal Reserve, including those with total consolidated assets of \$10 billion or less.

SUBJECT: Restoration of the Protecting Tenants at Foreclosure Act

This letter provides background information about the recently restored Protecting Tenants at Foreclosure Act of 2009,¹ which became effective on June 23, 2018. The law protects tenants from immediate eviction by persons or entities that become owners of residential property through the foreclosure process, and extends additional protections for tenants with U.S. Department of Housing and Urban Development Section 8 vouchers. The law is self-executing; no federal agency has authority to issue regulations implementing the law or to interpret the law.

The fundamental purpose of the law is to ensure that tenants facing eviction from a foreclosed property have adequate time to find alternative housing. To that end, the law establishes a minimum time period that a tenant can remain in a foreclosed property before eviction. The law does not affect any state or local law that provides longer time periods or other additional protections for tenants.

Under the law, the immediate successor in interest at foreclosure must: (a) provide bona fide tenants with 90 days' notice prior to eviction; and, (b) allow bona fide tenants with leases to occupy property until the end of the lease term, except the lease can be terminated on 90 days' notice if the unit is sold to a purchaser who will occupy the property. A lease or tenancy is bona fide if the tenant is not the mortgagor or the parent, spouse, or child of the mortgagor, the lease or tenancy is the result of an arms-length transaction, and the lease or tenancy requires rent that is not substantially lower than fair market rent or that is reduced or subsidized due to a Federal, State, or local subsidy. The law does not cover tenants facing eviction in a non-foreclosed property, tenants with a fraudulent lease, tenants who enter in lease agreements after a

¹ Section 304 of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (Public Law 115-174) restored sections 701-703, and repealed section 704, of the Protecting Tenants at Foreclosure Act of 2009 (Title VII of the Helping Families Save Their Homes Act of 2009, Public Law 111-22), which expired on December 31, 2014. Section 704 contained the Protecting Tenants at Foreclosure Act of 2009's sunset provisions; the restored act does not include an expiration date.

foreclosure sale, or homeowners in foreclosure. Additionally, the law does not affect the requirements of any State or local law that provides for longer time periods or extends additional protections to tenants.

Consumer compliance examiners will employ risk-focused consumer compliance supervision principles to determine if they should include a review of compliance with the Protecting Tenants at Foreclosure Act in an examination. If compliance with this law is included in the examination scope, examiners will use the attached examination procedures to evaluate an institution's awareness of the law, its compliance efforts, and its responsiveness to addressing implementation deficiencies.²

Reserve Banks are asked to distribute this letter to supervised institutions in their districts, consumer compliance examiners, and other appropriate supervisory staff. If you have any questions, please contact Amal Patel, Senior Supervisory Consumer Financial Services Analyst, at (202) 912-7879, or Tim Robertson, Manager, at (202) 452-2565. In addition, questions may be sent via the Board's public website.³

Sincerely,

Carol A. Evans
Associate Director

Attachment:

- Federal Reserve Consumer Compliance Examination Procedures for the "Protecting Tenants at Foreclosure Act"

Cross-reference:

- SR 12-5/CA-12-3 "Policy Statement on Rental of Residential Other Real Estate Owned (OREO) Properties" (April 5, 2012)

Supersedes:

- CA 15-4 "Expiration of the Protecting Tenants at Foreclosure Act" (June 10, 2015)

² These are the same examination procedures that consumer compliance examiners used previously to conduct Protecting Tenants at Foreclosure Act of 2009 reviews.

³ See <http://www.federalreserve.gov/apps/contactus/feedback.aspx>.

FHED Notice: FHED-2020-01

HUD No. 20-013
HUD Public Affairs
(202) 708-0685

FOR RELEASE
Tuesday
January 28, 2020

HUD ISSUES GUIDANCE ON REASONABLE ACCOMMODATIONS UNDER THE FAIR HOUSING ACT RELATING TO ASSISTANCE ANIMALS

WASHINGTON - The U.S. Department of Housing and Urban Development (HUD) today announced the publication of guidance clarifying how housing providers can comply with the Fair Housing Act when assessing a person's request to have an animal in housing to provide assistance because of a disability.

The Fair Housing Act prohibits discrimination in housing against individuals who have disabilities that affect a major life activity. The Act requires housing providers to permit a change or exception to a rule, policy, practice, or service that may be necessary to provide people with disabilities that affect a major life activity an equal opportunity to use and enjoy their home. In most circumstances, a refusal to make such a change or exception, known as a reasonable accommodation, is unlawful. A common reasonable accommodation is an exception to a no pet policy. A person with a disability that affects a major life activity may require the assistance of an animal that does work, performs tasks, or provides therapeutic emotional support because of the disability. Housing providers may confirm, if it is not apparent, whether the requested accommodation is needed because of a disability that affects a major life activity and is a reasonable request.

This new Assistance Animal Notice will help housing providers in this process by offering a step-by-step set of best practices for complying with the Act when assessing accommodation requests involving animals and information that a person may need to provide about his or her disability-related need for the requested accommodation, including supporting information from a health care professional. [Read the Notice.](#)

"Countless Americans rely on assistance animals to fill a void, providing individuals with disabilities with the means to have a home that supports their quality of life," stated Secretary Ben Carson. "In my many discussions with housing providers and residents impacted by the need for assistance, I recognized the necessity for further clarity regarding support animals to provide peace of mind to individuals with disabilities while also taking in account the concerns of housing providers. Today's announcement responds to the ambiguity surrounding proper documentation for assistance animals with clarity and compassion to provide an equal opportunity for a person living with a disability to use and enjoy their home."

"For decades, HUD has recognized the rights of individuals with disabilities to keep an assistance animal in the home where it is a reasonable accommodation,"

said Anna María Farías, HUD's Assistant Secretary for Fair Housing and Equal Opportunity. "Housing is unique, and a person with a disability that affects a major life activity might need an animal that provides support in ways that is not readily apparent to housing providers. For example, veterans or senior citizens may need the assistance or therapeutic support of an animal to help them cope with the symptoms of a disability that affects a major life activity. This guidance will help housing providers to recognize the important way assistance animals can improve the lives of persons with disabilities and to meet their obligation to grant such accommodations."

HUD General Counsel Paul Compton added, "With the Assistance Animals Notice, both housing providers and individuals with disabilities will better understand their rights and obligations under the Fair Housing Act regarding assistance animals, particularly emotional support animals. For housing providers, this is a tool that can be used to help them lawfully navigate various sets of sometimes complex circumstances to ensure that reasonable accommodations are provided where required so that persons with a disability-related need for an assistance animal have an equal opportunity to use and enjoy their housing. The guidance will help ensure that these important legal rights are asserted only in appropriate circumstances."

Additionally, this new Assistance Animal Notice provides information on the types of animals that typically may be appropriate and best practices for when the requested animal is one that is not traditionally kept in the home. It also provides information for both housing providers and persons with disabilities regarding the reliability of documentation of a disability or disability-related need for an animal that is obtained from third parties, including internet-based services offering animal certifications or registrations for purchase.

Because they apply to more types of facilities than housing, the laws applicable to public accommodations and government funded facilities, including Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, while sometimes overlapping with the Fair Housing Act, have different, and sometimes narrower, requirements. Similarly, public transportation and common carriers, such as airlines, are also subject to different rules. The Assistance Animal Notice does not address those circumstances.

Persons who believe they have experienced housing discrimination may file a complaint of discrimination by contacting HUD's Office of Fair Housing and Equal Opportunity at (800) 669-9777 or visiting [How to File a Complaint](#) on HUD's website.

HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000

OFFICE OF FAIR HOUSING
AND EQUAL OPPORTUNITY

SPECIAL ATTENTION OF:

HUD Regional and Field Office Directors of
Public and Indian Housing (PIH); Housing;
Community Planning and Development
(CPD); Fair Housing and Equal Opportunity;
and Regional Counsel; CPD, PIH, and
Housing Program Providers

FHEO Notice: **FHEO-2020-01**
Issued: January 28, 2020
Expires: Effective until Amended,
Superseded, or Rescinded.

Subject: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act

- Purpose:** This notice explains certain obligations of housing providers under the Fair Housing Act (FHA) with respect to animals that individuals with disabilities may request as reasonable accommodations. There are two types of assistance animals: (1) service animals, and (2) other trained or untrained animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this guidance as a "support animal"). Persons with disabilities may request a reasonable accommodation for service animals and other types of assistance animals, including support animals, under the FHA. This guidance provides housing providers with a set of best practices for complying with the FHA when assessing requests for reasonable accommodations to keep animals in housing, including the information that a housing provider may need to know from a health care professional about an individual's need for an assistance animal in housing. This guidance replaces HUD's prior guidance, FHEO-2013-01, on housing providers' obligations regarding service animals and assistance animals. In particular, this guidance provides a set of best practices regarding the type and amount of documentation a housing provider may ask an individual with a disability to provide in support of an accommodation request for a support animal, including documentation of a disability (that is, physical or mental impairments that substantially limit at least one major life activity) or a disability-related need for a support animal when the disability or disability-related need for the animal is non-obvious and not known to the housing provider. By providing greater clarity through this guidance, HUD seeks to provide housing providers with a tool they may use to reduce burdens that they may face when they are uncertain about the type and amount of documentation they may need and may be permitted to request when an individual seeks to keep a support animal in housing. Housing providers may be subject to the requirements of several civil rights laws, including but not limited to the FHA, Section 504 of the Rehabilitation Act (Section 504), and the Americans with Disabilities Act (ADA). This guidance does not address how HUD will process complaints against housing providers under Section 504 or the ADA.

2. **Applicability:** This notice applies to all housing providers covered by the FHA.¹
3. **Organization:** There are two sections to this notice. The first, “Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act,” recommends a set of best practices for complying with the FHA when assessing accommodation requests involving animals to assist housing providers and help them avoid violations of the FHA. The second section to this notice, “Guidance on Documenting an Individual’s Need for Assistance Animals in Housing,” provides guidance on information that an individual seeking a reasonable accommodation for an assistance animal may need to provide to a housing provider about his or her disability-related need for the requested accommodation, including supporting information from a health care professional.

Questions regarding this notice may be directed to the HUD Office of Fair Housing and Equal Opportunity, Office of the Deputy Assistant Secretary for Enforcement and Programs, or your local HUD Office of Fair Housing and Equal Opportunity.

Anna María Farías, Assistant Secretary for
Fair Housing and Equal Opportunity

¹ The Fair Housing Act covers virtually all types of housing, including privately owned housing and federally assisted housing, with a few limited exceptions.

Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act²

The Fair Housing Act (FHA) makes it unlawful for a housing provider³ to refuse to make a reasonable accommodation that a person with a disability may need in order to have equal opportunity to enjoy and use a dwelling.⁴ One common request housing providers receive is for a reasonable accommodation to providers' pet or no animal policies so that individuals with disabilities are permitted to use assistance animals in housing,⁵ including public and common use areas.

Assistance animals are not pets. They are animals that do work, perform tasks, assist, and/or provide therapeutic emotional support for individuals with disabilities.⁶ There are two types of assistance animals: (1) service animals, and (2) other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities (referred to in this guidance as a "support animal").⁷ An animal that does not qualify as a service animal or other type of assistance animal is a pet for purposes of the FHA and may be treated as a pet for purposes of the lease and the housing provider's rules and policies. A housing provider may exclude or charge a fee or deposit for pets in its discretion and subject to local law but not for service animals or other assistance animals.⁸

² This document is an integral part of U.S. Department of Housing and Urban Development Office of Fair Housing and Equal Opportunity Notice FHEO-2020-01, dated January 28, 2020 (sometimes referred to as the "Assistance Animal Notice").

³ The term "housing provider" refers to any person or entity engaging in conduct covered by the FHA. Courts have applied the FHA to individuals, corporations, partnerships, associations, property owners, housing managers, homeowners and condominium associations, cooperatives, lenders, insurers, real estate agents, brokerage services, state and local governments, colleges and universities, as well as others involved in the provision of housing, residential lending, and other real estate-related services.

⁴ 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204. Unless otherwise specified, all citations refer to those authorities effective as of the date of the publication of this guidance.

⁵ For purposes of this guidance, the term "housing" refers to all housing covered by the Fair Housing Act, including apartments, condominiums, cooperatives, single family homes, nursing homes, assisted living facilities, group homes, domestic violence shelters, emergency shelters, homeless shelters, dormitories, and other types of housing covered by the FHA.

⁶ See 24 C.F.R. § 5.303(a).

⁷ Under the FHA, a disability is a physical or mental impairment that substantially limits one or more major life activities. See 24 C.F.R. § 100.201.

⁸ See Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act ("Joint Statement"), Q and A 11 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>; *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011). HUD views the Joint Statement as well-reasoned guidance on some of the topics addressed in this guidance. The Joint Statement, available to the public since 2004, has been cited from time to time by courts. See, e.g., *Bhogaita v. Altamonte Heights Condo. Ass'n*, 765 F.3d 1277, 1286 (11th Cir. 2014); *Sinisgallo*

As of the date of the issuance of this guidance, FHA complaints concerning denial of reasonable accommodations and disability access comprise almost 60% of all FHA complaints and those involving requests for reasonable accommodations for assistance animals are significantly increasing. In fact, such complaints are one of the most common types of fair housing complaints that HUD receives. In addition, most HUD charges of discrimination against a housing provider following a full investigation involve the denial of a reasonable accommodation to a person who has a physical or mental disability that the housing provider cannot readily observe.⁹

HUD is providing this guidance to help housing providers distinguish between a person with a non-obvious disability who has a legitimate need for an assistance animal and a person without a disability who simply wants to have a pet or avoid the costs and limitations imposed by housing providers' pet policies, such as pet fees or deposits. The guidance may also help persons with a disability who request a reasonable accommodation to use an assistance animal in housing.

While most requests for reasonable accommodations involve one animal, requests sometimes involve more than one animal (for example, a person has a disability-related need for both animals, or two people living together each have a disability-related need for a separate assistance animal). The decision-making process in this guidance can be used for all requests for exceptions or modifications to housing providers' rules, policies, practices, and/or procedures so persons with disabilities can have assistance animals in the housing where they reside.

This guidance is provided as a tool for housing providers and persons with a disability to use at their discretion and provides a set of best practices for addressing requests for reasonable accommodations to keep animals in housing where individuals with disabilities reside or seek to reside. It should be read together with HUD's regulations prohibiting discrimination under the FHA¹⁰ —with which housing providers must comply— and the HUD/Department of Justice (DOJ) Joint Statement on Reasonable Accommodation under the Fair Housing Act, available at <https://www.hud.gov/sites/documents/huddojstatement.pdf>. A housing provider may also be subject to the Americans with Disabilities Act (ADA) and therefore should also refer to DOJ's regulations implementing Title II and Title III of the ADA at 28 C.F.R. parts 35 and 36, and DOJ's guidance on service animals, *Frequently Asked Questions about Service Animals and the ADA* at https://www.ada.gov/regs2010/service_animal_qa.html and *ADA Requirements: Service Animals* at https://www.ada.gov/service_animals_2010.htm. This guidance replaces HUD's prior guidance on housing providers' obligations regarding service animals and assistance animals.¹¹ Housing

v. Town of Islip Hous. Auth., 865 F. Supp. 2d 307, 336-42 (E.D.N.Y. 2012). However, HUD does not intend to imply that the Joint Statement is independently binding statutory or regulatory authority. HUD understands it to be subject to applicable limitations on the use of guidance. See "Treatment as a Guidance Document" on p.5 for a citation of authorities on permissible use of guidance.

⁹ See, e.g., *HUD v. Castillo Condominium Ass'n*, No. 12-M-034-FH-9, 2014 HUD ALJ LEXIS 2 (HUD Sec'y, October 02, 2014) aff'd, 821 F.3d 92 (1st Cir. 2016); *HUD v. Riverbay*, No. 11-F-052-FH-18, 2012 HUD ALJ LEXIS 15 (HUD ALJ, May 07, 2012), aff'd, 2012 ALJ LEXIS 19 (HUD Sec'y June 06, 2012).

¹⁰ 24 C.F.R. Part 100.

¹¹ FHEO-2013-01.

providers should not reassess requests for reasonable accommodations that were granted prior to the issuance of this guidance in compliance with the FHA.

Treatment as a Guidance Document

As a guidance document, this document does not expand or alter housing providers' obligations under the Fair Housing Act or HUD's implementing regulations. It should be construed consistently with Executive Order 13891 of October 9, 2019 entitled "Promoting the Rule of Law Through Improved Agency Guidance Documents," Executive Order 13892 of October 9, 2019 entitled "Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication," the Office of Management and Budget Memorandum M-20-02 entitled "Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents,'" the Department of Justice Memorandum of January 25, 2018 entitled "Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases," and the Department of Justice Memorandum of November 16, 2017 entitled "Prohibition on Improper Guidance Documents."

Part I: Service Animals

The FHA requires housing providers to modify or make exceptions to policies governing animals when it may be necessary to permit persons with disabilities to utilize animals.¹² Because HUD interprets the FHA to require access for individuals who use service animals, housing providers should initially follow the analysis that DOJ has determined is used for assessing whether an animal is a service animal under the ADA.¹³ The Department of Justice's ADA regulations generally require state and local governments and public accommodations to permit the use of service animals by an individual with a disability.¹⁴ For support animals and other assistance animals that may be necessary in housing, although the ADA does not provide for access, housing providers must comply with the FHA, which does provide for access.¹⁵

¹² 42 U.S.C. § 3604(f)(3)(B); 24 C.F.R. § 100.204. See also Pet Ownership for the Elderly and Persons with Disabilities – Final Rule, 73 Fed. Reg. 63833 (Oct. 27, 2008).

¹³ 24 C.F.R. § 100.204(b).

¹⁴ 28 C.F.R. §§ 35.136(g); 36.302(c)(7).

¹⁵ Specifically, under the Fair Housing Act, housing providers are obligated to permit, as a reasonable accommodation, the use of animals that work, provide assistance, or perform tasks that benefit persons with disabilities, or provide emotional support to alleviate a symptom or effect of a disability. Separate regulations govern airlines and other common carriers, which are outside the scope of this guidance.

What is a service animal?

Under the ADA, “*service animal* means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual's disability.”¹⁶

As a best practice, housing providers may use the following questions to help them determine if an animal is a service animal under the ADA:¹⁷

1. Is the animal a dog?
 - If “yes,” proceed to the next question.
 - If “no,” the animal is not a service animal but may be another type of assistance animal for which a reasonable accommodation is needed.¹⁸ Proceed to Part II below.
2. Is it readily apparent that the dog is trained to do work or perform tasks for the benefit of an individual with a disability?
 - If “yes,” further inquiries are unnecessary and inappropriate because the animal is a service animal.¹⁹
 - If “no,” proceed to the next question.

It is *readily apparent* when the dog is observed:

- guiding an individual who is blind or has low vision
- pulling a wheelchair
- providing assistance with stability or balance to an individual with an observable mobility disability²⁰

3. It is advisable for the housing provider to limit its inquiries to the following two questions:
 - The housing provider may ask in substance: (1) “Is the animal required because of a

¹⁶ 28 C.F.R. §§ 35.104; 36.104 (emphasis added).

¹⁷ 28 C.F.R. §§ 35.136; 36.302(c).

¹⁸ Although a miniature horse is not a service animal, DOJ has determined that the same type of analysis is applied to determine whether a miniature horse should be provided access, although additional considerations, beyond the scope of this guidance, apply. See 28 C.F.R. §§ 35.136(i); 36.302(c)(9).

¹⁹ 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

²⁰ 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

disability?” and (2) “What work or task has the animal been trained to perform?”²¹ Do not ask about the nature or extent of the person’s disability, and do not ask for documentation. A housing provider, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.

- If the answer to question (1) is “yes” and work or a task is identified in response to question (2), grant the requested accommodation, if otherwise reasonable, because the animal qualifies as a service animal.
- If the answer to either question is “no” or “none,” the animal does not qualify as a service animal under federal law but may be a support animal or other type of assistance animal that needs to be accommodated. HUD offers guidance to housing providers on this in Part II.

Performing “work or tasks” means that the dog is trained to take a specific action when needed to assist the person with a disability.

- If the individual identifies at least one action the dog is trained to take which is helpful to the disability other than emotional support, the dog should be considered a service animal and permitted in housing, including public and common use areas. Housing providers should not make further inquiries.
- If no specific work or task is identified, the dog should not be considered a service animal but may be another type of animal for which a reasonable accommodation may be required. Emotional support, comfort, well-being, and companionship are not a specific work or task for purposes of analysis under the ADA.

For more information, refer to the ADA rules and service animal guidance on DOJ’s ADA Home Page at www.ada.gov²² or call the ADA Information Line at 1-800-514-0301.

Part II: Analysis of reasonable accommodation requests under the Fair Housing Act for assistance animals other than service animals

A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with a disability to have equal opportunity to use and enjoy a dwelling, including public and common use spaces.

Remember: While it is not necessary to submit a written request or to use the words “reasonable accommodation,” “assistance animal,” or any other special words to request a reasonable accommodation under the FHA, persons making a request are encouraged to do so in order to avoid

²¹ 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

²² See *Frequently Asked Questions About Service Animals and the ADA* at https://www.ada.gov/regs2010/service_animal_qa.html; *ADA Requirements: Service Animals* at https://www.ada.gov/service_animals_2010.htm.

miscommunication.²³ Persons with disabilities may also want to keep a copy of their reasonable accommodation requests and supporting documentation in case there is a later dispute about when or whether a reasonable accommodation request was made. Likewise, housing providers may find it helpful to have a consistently maintained list of reasonable accommodation requests.²⁴

A resident may request a reasonable accommodation either before or after acquiring the assistance animal.²⁵ An accommodation also may be requested after a housing provider seeks to terminate the resident's lease or tenancy because of the animal's presence, although such timing may create an inference against good faith on the part of the person seeking a reasonable accommodation. However, under the FHA, a person with a disability may make a reasonable accommodation request at any time, and the housing provider must consider the reasonable accommodation request even if the resident made the request after bringing the animal into the housing.²⁶

As a best practice, housing providers may use the following questions to help them make a decision when the animal does not meet the definition of service animal.²⁷

4. Has the individual requested a reasonable accommodation — that is, asked to get or keep an animal in connection with a physical or mental impairment or disability?

Note: The request for a reasonable accommodation with respect to an assistance animal may be oral or written. It may be made by others on behalf of the individual, including a person legally residing in the unit with the requesting individual or a legal guardian or authorized representative.²⁸

- If “yes,” proceed to Part III.
- If “no,” the housing provider is not required to grant a reasonable accommodation that has not been requested.

Part III: Criteria for assessing whether to grant the requested accommodation

As a best practice, housing providers may use the following questions to help them assess whether

²³ See Joint Statement, Q and A 12 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

²⁴ See Joint Statement, Q and A 13 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

²⁵ See Joint Statement, Q and A 12 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

²⁶ See 24 C.F.R. § 100.204(a).

²⁷ See *Janush v. Charities Hous. Dev. Corp.*, 169 F.Supp.2d 1133, 1136-37 (N.D. Cal., 2000) (rejecting an argument that a definition of “service dog” should be read into the Fair Housing Act to create a rule that accommodation of animals other than service dogs is per se unreasonable, instead finding that “the law imposes on defendants the obligation to consider each request individually and to grant requests that are reasonable.”).

²⁸ See Joint Statement, Q and A 12 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

to grant the requested accommodation.

5. Does the person have an observable disability or does the housing provider (or agent making the determination for the housing provider) already have information giving them reason to believe that the person has a disability?
 - If “yes,” skip to question #7 to determine if there is a connection between the person’s disability and the animal.
 - If “no,” continue to the next question.

Observable and Non-Observable Disabilities

Under the FHA, a disability is a physical or mental impairment that substantially limits one or more major life activities. While some impairments may seem invisible, others can be readily observed. Observable impairments include blindness or low vision, deafness or being hard of hearing, mobility limitations, and other types of impairments with observable symptoms or effects, such as intellectual impairments (including some types of autism), neurological impairments (*e.g.*, stroke, Parkinson’s disease, cerebral palsy, epilepsy, or brain injury), mental illness, or other diseases or conditions that affect major life activities or bodily functions.²⁹ Observable impairments generally tend to be obvious and would not be reasonably attributable to non-medical causes by a lay person.

Certain impairments, however, especially including impairments that may form the basis for a request for an emotional support animal, may not be observable. In those instances, a housing provider may request information regarding both the disability and the disability-related need for the animal. Housing providers are not entitled to know an individual’s diagnosis.

6. Has the person requesting the accommodation provided information that reasonably supports that the person seeking the accommodation has a disability?³⁰
 - If “yes,” proceed to question #7. A housing provider, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.
 - If “no,” the housing provider is not required to grant the accommodation unless this information is provided but may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so.³¹ To assist the person requesting the

²⁹ See 24 C.F.R. § 100.201.

³⁰ See Joint Statement, Q and A 17 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

³¹ This would not permit the housing provider to require any independent evaluation or diagnosis specifically obtained for the housing provider or for the housing provider to engage in its own direct

accommodation to understand what information the housing provider is seeking, the housing provider is encouraged to direct the requester to the Guidance on Documenting an Individual's Need for Assistance Animals in Housing. Referring the requester to that Guidance will also help ensure that the housing provider receives the disability-related information that is actually needed to make a reasonable accommodation decision.

Information About Disability May Include . . .

- A determination of disability from a federal, state, or local government agency.
- Receipt of disability benefits or services (Social Security Disability Income (SSDI), Medicare or Supplemental Security Income (SSI) for a person under age 65, veterans' disability benefits, services from a vocational rehabilitation agency, or disability benefits or services from another federal, state, or local agency.
- Eligibility for housing assistance or a housing voucher received because of disability.
- Information confirming disability from a health care professional – *e.g.*, physician, optometrist, psychiatrist, psychologist, physician's assistant, nurse practitioner, or nurse.

Note that a determination that an individual does not qualify as having a disability for purposes of a benefit or other program does not necessarily mean the individual does not have a disability for purposes of the FHA, Section 504, or the ADA.³²

Disability Determination

Note that under DOJ's regulations implementing the ADA Amendments Act of 2008, which HUD considers instructive when determining whether a person has a disability under the FHA, some types of impairments will, in virtually all cases, be found to impose a substantial limitation on a major life activity resulting in a determination of a disability.³³ Examples include deafness, blindness, intellectual disabilities, partially or completely missing limbs or mobility impairments requiring the use of a wheelchair, autism, cancer, cerebral palsy, diabetes, epilepsy, muscular dystrophy, multiple sclerosis, Human Immunodeficiency Virus (HIV) infection, major depressive disorder, bipolar disorder, post-traumatic stress disorder, traumatic brain injury, obsessive compulsive disorder, and schizophrenia.³⁴ This does not mean that other conditions are not disabilities. It simply means that in virtually all cases these conditions will be covered as disabilities. While housing providers will be unable to observe or identify some of these impairments, individuals with disabilities sometimes voluntarily provide more details about their disability than the housing provider actually needs to make decisions on accommodation requests. When this information is provided, housing providers should consider it.

evaluation. See Joint Statement, Q and A 17-18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

³² See Joint Statement, Q and A 18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

³³ See 28 C.F.R. §§ 35.108(d)(2); 36.105(d)(2).

³⁴ See 28 C.F.R. §§ 35.108(d)(2)(iii); 36.105(d)(2)(iii).

Documentation from the Internet

Some websites sell certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee. Under the Fair Housing Act, a housing provider may request reliable documentation when an individual requesting a reasonable accommodation has a disability and disability-related need for an accommodation that are not obvious or otherwise known.³⁵ In HUD's experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.

By contrast, many legitimate, licensed health care professionals deliver services remotely, including over the internet. One reliable form of documentation is a note from a person's health care professional that confirms a person's disability and/or need for an animal when the provider has personal knowledge of the individual.

7. Has the person requesting the accommodation provided information which reasonably supports that the animal does work, performs tasks, provides assistance, and/or provides therapeutic emotional support with respect to the individual's disability?³⁶
- If "yes," proceed to Part IV. A housing provider, at its discretion, may make the truth and accuracy of information provided during the process part of the representations made by the tenant under a lease or similar housing agreement to the extent that the lease or agreement requires the truth and accuracy of other material information.
 - If "no," the housing provider is not required to grant the accommodation unless this information is provided but may not deny the accommodation on the grounds that the person requesting the accommodation has not provided this information until the requester has been provided a reasonable opportunity to do so. To assist the person requesting the accommodation to understand what information the housing provider is seeking, the housing provider is encouraged to direct the requester to the Guidance on Documenting an Individual's Need for Assistance Animals in Housing. Referring the requester to that Guidance will also help ensure that the housing provider receives the disability-related information that is actually needed to make a reasonable accommodation decision.

³⁵ See Joint Statement, Q and A 18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddoistatement.pdf>.

³⁶ See *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011) (determining that, in housing, a broader variety of assistance animals may be necessary as a reasonable accommodation, regardless of specific training).

**Information Confirming Disability-Related Need
for an Assistance Animal. . .**

- Reasonably supporting information often consists of information from a licensed health care professional – *e.g.*, physician, optometrist, psychiatrist, psychologist, physician’s assistant, nurse practitioner, or nurse – general to the condition but specific as to the individual with a disability and the assistance or therapeutic emotional support provided by the animal.
- A relationship or connection between the disability and the need for the assistance animal must be provided. This is particularly the case where the disability is non-observable, and/or the animal provides therapeutic emotional support.
- For non-observable disabilities and animals that provide therapeutic emotional support, a housing provider may ask for information that is consistent with that identified in the Guidance on Documenting an Individual’s Need for Assistance Animals in Housing (*see Questions 6 and 7) in order to conduct an individualized assessment of whether it must provide the accommodation under the Fair Housing Act. The lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation.

Part IV: Type of Animal

8. Is the animal commonly kept in households?

- If “yes,” the reasonable accommodation should be provided under the FHA unless the general exceptions described below exist.³⁷
- If “no,” a reasonable accommodation need not be provided, but note the very rare circumstances described below.

Animals commonly kept in households. If the animal is a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, then the reasonable accommodation should be granted because the requestor has provided information confirming that there is a disability-related need for the animal.³⁸ For purposes of this assessment, reptiles (other than turtles), barnyard animals, monkeys, kangaroos, and other non-domesticated animals are not considered common household animals.

Unique animals. If the individual is requesting to keep a unique type of animal that is not commonly kept in households as described above, then the requestor has the substantial burden of demonstrating a disability-related therapeutic need for the specific animal or the specific type of animal. The individual is encouraged to submit documentation from a health care professional confirming the need for this animal, which includes information of the type set out in the Guidance on Documenting an Individual’s Need for Assistance Animals in Housing. While this guidance

³⁷ See, *e.g.*, *Majors v. Hous. Auth. of the Cnty. of DeKalb Georgia*, 652 F.2d 454, 457 (5th Cir. 1981) (enforcing a “no pets” rule against an individual with a disability who needs an animal as a reasonable accommodation effectively deprives the individual of the benefits of the housing).

³⁸ See 24 C.F.R. § 100.204(a).

does not establish any type of new documentary threshold, the lack of such documentation in many cases may be reasonable grounds for denying a requested accommodation. If the housing provider enforces a “no pets” policy or a policy prohibiting the type of animal the individual seeks to have, the housing provider may take reasonable steps to enforce the policy if the requester obtains the animal before submitting reliable documentation from a health care provider that reasonably supports the requestor’s disability-related need for the animal. As a best practice, the housing provider should make a determination promptly, generally within 10 days of receiving documentation.³⁹

Reasonable accommodations may be necessary when the need for a unique animal involves unique circumstances ...

Examples:

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
 - Allergies prevent the person from using a dog; or
 - Without the animal, the symptoms or effects of the person’s disability will be significantly increased.
- The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

Example: A Unique Type of Support Animal

An individually trained capuchin monkey performs tasks for a person with paralysis caused by a spinal cord injury. The monkey has been trained to retrieve a bottle of water from the refrigerator, unscrew the cap, insert a straw, and place the bottle in a holder so the individual can get a drink of water. The monkey is also trained to switch lights on and off and retrieve requested items from inside cabinets. The individual has a disability-related need for this specific type of animal because the monkey can use its hands to perform manual tasks that a service dog cannot perform.

Part V: General Considerations

- The FHA does not require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.⁴⁰ A housing provider may, therefore, refuse a reasonable accommodation for an assistance animal if the specific animal poses a direct threat that cannot be eliminated or reduced to an acceptable level through actions the individual takes to maintain or control the animal (e.g., keeping the

³⁹ See Joint Statement, Q and A 15 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

⁴⁰ See 24 C.F.R. § 100.202(d).

animal in a secure enclosure).⁴¹

- A reasonable accommodation may include a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or co-op rule.⁴²
- A housing provider may not charge a fee for processing a reasonable accommodation request.⁴³
- Pet rules do not apply to service animals and support animals. Thus, housing providers may not limit the breed or size of a dog used as a service animal or support animal just because of the size or breed⁴⁴ but can, as noted, limit based on specific issues with the animal's conduct because it poses a direct threat or a fundamental alteration.⁴⁵
- A housing provider may not charge a deposit, fee, or surcharge for an assistance animal. A housing provider, however, may charge a tenant for damage an assistance animal causes if it is the provider's usual practice to charge for damage caused by tenants (or deduct it from the standard security deposits imposed on all tenants).
- A person with a disability is responsible for feeding, maintaining, providing veterinary care, and controlling his or her assistance animal. The individual may do this on his or her own or with the assistance of family, friends, volunteers, or service providers.
- Individuals with disabilities and housing providers may reference the best practices provided in this guidance in making and responding to reasonable accommodation requests within the scope of this guidance for as long as it remains in effect. HUD strongly encourages individuals with disabilities and housing providers to give careful attention to this guidance when making reasonable accommodation requests and decisions relating to animals.
- Failure to adhere to this guidance does not necessarily constitute a violation by housing providers of the FHA or regulations promulgated thereunder.⁴⁶
- Before denying a reasonable accommodation request due to lack of information confirming an individual's disability or disability-related need for an animal, the housing provider is encouraged to engage in a good-faith dialogue with the requestor called the "interactive process."⁴⁷ The housing provider may not insist on specific types of evidence if the information which is provided or actually known to the housing provider meets the requirements of this guidance (except as provided above). Disclosure of details about the diagnosis or severity of a disability or medical records or a medical examination cannot be required.

⁴¹ See Joint Statement Q and A 4 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

⁴² See *Warren v. Delvista Towers Condo. Ass'n*, 49 F. Supp. 3d 1082 (S.D. Fla. 2014).

⁴³ See Joint Statement, Q and A 11 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>; *Fair Hous. of the Dakotas, Inc. v. Goldmark Prop. Mgmt.*, 778 F. Supp. 2d 1028 (D.N.D. 2011).

⁴⁴ See, e.g., *Bhogaita v. Altamonte Heights Condo. Ass'n*, 765 F.3d 1277 (11th Cir. 2014) (reasonable accommodation to a housing provider's rule that all dogs must be under 25 pounds).

⁴⁵ See 24 C.F.R. § 100.202(d); Joint Statement, Q and A's 5 & 7 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

⁴⁶ See "Treatment as a Guidance Document" on p.5 for a citation of authorities on permissible use of guidance.

⁴⁷ See Joint Statement, Q and A 7 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

If a reasonable accommodation request, provided under the framework of this guidance, is denied because it would impose a fundamental alteration to the nature of the provider's operations or impose an undue financial and administrative burden, the housing provider should engage in the interactive process to discuss whether an alternative accommodation may be effective in meeting the individual's disability-related needs.⁴⁸

⁴⁸ For guidance on what constitutes a fundamental alteration or an undue financial and administrative burden, refer to the HUD/DOJ Joint Statement on Reasonable Accommodation under the Fair Housing Act, available at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

Guidance on Documenting an Individual's Need for Assistance Animals in Housing

This section provides best practices for documenting an individual's need for assistance animals in housing. It offers a summary of information that a housing provider may need to know from a health care professional about an individual's need for an assistance animal in housing. It is intended to help individuals with disabilities explain to their health care professionals the type of information that housing providers may need to help them make sometimes difficult legal decisions under fair housing laws. It also will help an individual with a disability and their health care provider understand what information may be needed to support an accommodation request when the disability or disability-related need for an accommodation is not readily observable or known by the housing provider. Housing providers may not require a health care professional to use a specific form (including this document), to provide notarized statements, to make statements under penalty of perjury, or to provide an individual's diagnosis or other detailed information about a person's physical or mental impairments.⁴⁹ Housing providers and the U.S. Department of Housing and Urban Development rely on professionals to provide accurate information to the best of their personal knowledge, consistent with their professional obligations. This document only provides assistance on the type of information that may be needed under the Fair Housing Act (FHA). The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Further, this document does not create any obligation to provide health-care information and does not authorize or solicit the collection of any information not otherwise permitted by the FHA.⁵⁰

The Appendix to this Guide answers some commonly asked questions about terms and issues below. An understanding of the terms and issues is helpful to providing this information.

When providing this information, health care professionals should use personal knowledge of their patient/client – *i.e.*, the knowledge used to diagnose, advise, counsel, treat, or provide health care or other disability-related services to their patient/client. **Information relating to an individual's disability and health conditions must be kept confidential and cannot be shared with other**

⁴⁹ See Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (“Joint Statement”), Q and A’s 13, 16-18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

⁵⁰ This guidance does not expand on the obligations under the FHA or HUD’s regulations and should be construed consistently with Executive Order 13891 of October 9, 2019 entitled “Promoting the Rule of Law Through Improved Agency Guidance Documents,” Executive Order 13892 of October 9, 2019 entitled “Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication,” the Department of Justice Memorandum of January 25, 2018 entitled “Limiting Use of Agency Guidance Documents in Affirmative Civil Enforcement Cases,” and the Department of Justice Memorandum of November 16, 2017 entitled “Prohibition on Improper Guidance Documents.”

persons unless the information is needed for evaluating whether to grant or deny a reasonable accommodation request or unless disclosure is required by law.⁵¹

As a best practice, documentation contemplated in certain circumstances by the Assistance Animals Guidance is recommended to include the following general information:

- The patient's name,
- Whether the health care professional has a professional relationship with that patient/client involving the provision of health care or disability-related services, and
- The type of animal(s) for which the reasonable accommodation is sought (i.e., dog, cat, bird, rabbit, hamster, gerbil, other rodent, fish, turtle, other specified type of domesticated animal, or other specified unique animal).⁵²

Disability-related information. A disability for purposes of fair housing laws exists when a person has a physical or mental impairment that substantially limits one or more major life activities.⁵³ Addiction caused by current, illegal use of a controlled substance does not qualify as a disability.⁵⁴ As a best practice, it is recommended that individuals seeking reasonable accommodations for support animals ask health care professionals to provide information related to the following:

- Whether the patient has a physical or mental impairment,
- Whether the patient's impairment(s) substantially limit at least one major life activity or major bodily function, and
- Whether the patient needs the animal(s) (because it does work, provides assistance, or performs at least one task that benefits the patient because of his or her disability, or because it provides therapeutic emotional support to alleviate a symptom or effect of the disability of the patient/client, and not merely as a pet).

Additionally, if the animal is not a dog, cat, small bird, rabbit, hamster, gerbil, other rodent, fish, turtle, or other small, domesticated animal that is traditionally kept in the home for pleasure rather than for commercial purposes, it may be helpful for patients to ask health care professionals to provide the following additional information:

- The date of the last consultation with the patient,
- Any unique circumstances justifying the patient's need for the particular animal (if already owned or identified by the individual) or particular type of animal(s), and
- Whether the health care professional has reliable information about this specific animal or

⁵¹ See Joint Statement, Q and A 18 (May 17, 2004), at <https://www.hud.gov/sites/documents/huddojstatement.pdf>.

⁵² See, e.g., *Janush v. Charities Housing Development Corporation*, 169 F.Supp.2d 1133, 1136-37 (N.D. Cal. 2000) (rejecting an argument that a definition of "service dog" should be read into the Fair Housing Act to create a rule that accommodation of animals other than service dogs is per se unreasonable, finding that "the law imposes on defendants the obligation to consider each request individually and to grant requests that are reasonable.").

⁵³ 24 C.F.R. § 100.201.

⁵⁴ 24 C.F.R. § 100.201.

whether they specifically recommended this type of animal.

It is also recommended that the health care professional sign and date any documentation provided and provide contact information and any professional licensing information.

What are assistance animals?

Assistance animals do work, perform tasks, provide assistance, or provide emotional support for a person with a physical or mental impairment that substantially limits at least one major life activity or bodily function.⁵⁵

What are physical or mental impairments?

Physical or mental impairments include: any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

Any mental or psychological disorder, such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disability; or

Diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.⁵⁶

What are major life activities or major bodily functions?

They are: seeing, hearing, walking, breathing, performing manual tasks, caring for one's self, learning, speaking, and working.⁵⁷

Other impairments – based on specific facts in individual cases – may also substantially limit at least one major life activity or bodily function.⁵⁸

What are Some Examples of Work, Tasks, Assistance, and Emotional Support?

⁵⁵ See 24 C.F.R. §§ 5.303; 960.705.

⁵⁶ See 24 C.F.R. § 100.201.

⁵⁷ See 24 C.F.R. § 100.201(b).

⁵⁸ See 24 C.F.R. § 100.201.

Some examples of work and tasks that are commonly performed by service dogs include⁵⁹:

- Assisting individuals who are blind or have low vision with navigation and other tasks,
- Alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
- Providing non-violent protection or rescue work,
- Pulling a wheelchair,
- Alerting a person with epilepsy to an upcoming seizure and assisting the individual during the seizure,
- Alerting individuals to the presence of allergens,
- Retrieving the telephone or summoning emergency assistance, or
- Providing physical support and assistance with balance and stability to individuals with mobility disabilities.

Some other examples of work, tasks or other types of assistance provided by animals include:⁶⁰

- Helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors,
- Reminding a person with mental illness to take prescribed medication,
- Alerting a person with diabetes when blood sugar is high or low,
- Taking an action to calm a person with post-traumatic stress disorder (PTSD) during an anxiety attack,
- Assisting the person in dealing with disability-related stress or pain,
- Assisting a person with mental illness to leave the isolation of home or to interact with others,
- Enabling a person to deal with the symptoms or effects of major depression by providing a reason to live, or
- Providing emotional support that alleviates at least one identified symptom or effect of a physical or mental impairment.

What are examples of a patient's need for a unique animal or unique circumstances?⁶¹

- The animal is individually trained to do work or perform tasks that cannot be performed by a dog.
- Information from a health care professional confirms that:
 - Allergies prevent the person from using a dog, or
 - Without the animal, the symptoms or effects of the person's disability will be significantly increased.
- The individual seeks a reasonable accommodation to a land use and zoning law, Homeowners Association (HOA) rule, or condominium or co-op rule.
- The individual seeks to keep the animal outdoors at a house with a fenced yard where the animal can be appropriately maintained.

⁵⁹ See 28 C.F.R. §§ 35.136(f); 36.302(c)(6).

⁶⁰ See, e.g., *Majors v. Housing Authority of the County of DeKalb Georgia*, 652 F.2d 454, 457 (5th Cir. 1981); *Jamush*, 169 F.Supp.2d at 1136-37.

⁶¹ See, e.g., *Anderson v. City of Blue Ash*, 798 F.3d 338, 360-63 (6th Cir. 2015) (seeking a reasonable accommodation to keep a miniature horse as an assistance animal).



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-2000

OFFICE OF FAIR HOUSING
AND EQUAL OPPORTUNITY

SPECIAL ATTENTION OF:

HUD Regional and Field Office Directors
of Public and Indian Housing (PIH); Housing;
Community Planning and Development (CPD), Fair
Housing and Equal Opportunity; and Regional Counsel;
CPD, PIH and Housing Program Providers

FHEO Notice: FHEO-2013-01
Issued: April 25, 2013
Expires: Effective until
Amended, Superseded, or
Rescinded

Subject: Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs

- 1. Purpose:** This notice explains certain obligations of housing providers under the Fair Housing Act (FHAct), Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Americans with Disabilities Act (ADA) with respect to animals that provide assistance to individuals with disabilities. The Department of Justice's (DOJ) amendments to its regulations¹ for Titles II and III of the ADA limit the definition of "service animal" under the ADA to include only dogs, and further define "service animal" to exclude emotional support animals. This definition, however, does not limit housing providers' obligations to make reasonable accommodations for assistance animals under the FHAct or Section 504. Persons with disabilities may request a reasonable accommodation for any assistance animal, including an emotional support animal, under both the FHAct and Section 504. In situations where the ADA and the FHAct/Section 504 apply simultaneously (e.g., a public housing agency, sales or leasing offices, or housing associated with a university or other place of education), housing providers must meet their obligations under both the reasonable accommodation standard of the FHAct/Section 504 and the service animal provisions of the ADA.
- 2. Applicability:** This notice applies to all housing providers covered by the FHAct, Section 504, and/or the ADA².

¹ Nondiscrimination on the Basis of Disability in State and Local Government Services, Final Rule, 75 Fed. Reg. 56164 (Sept. 15, 2010) (codified at 28 C.F.R. part 35); Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, Final Rule, 75 Fed. Reg. 56236 (Sept. 15, 2010) (codified at 28 C.F.R. part 36).

² Title II of the ADA applies to public entities, including public entities that provide housing, e.g., public housing agencies and state and local government provided housing, including housing at state universities and other places of education. In the housing context, Title III of the ADA applies to public accommodations, such as rental offices, shelters, some types of multifamily housing, assisted living facilities and housing at places of public education. Section 504 covers housing providers that receive federal financial assistance from the U.S. Department of Housing and Urban Development (HUD). The Fair Housing Act covers virtually all types of housing, including privately-owned housing and federally assisted housing, with a few limited exceptions.

3. **Organization:** Section I of this notice explains housing providers' obligations under the FHAct and Section 504 to provide reasonable accommodations to persons with disabilities³ with assistance animals. Section II explains DOJ's revised definition of "service animal" under the ADA. Section III explains housing providers' obligations when multiple nondiscrimination laws apply.

Section I: Reasonable Accommodations for Assistance Animals under the FHAct and Section 504

The FHAct and the U.S. Department of Housing and Urban Development's (HUD) implementing regulations prohibit discrimination because of disability and apply regardless of the presence of Federal financial assistance. Section 504 and HUD's Section 504 regulations apply a similar prohibition on disability discrimination to all recipients of financial assistance from HUD. The reasonable accommodation provisions of both laws must be considered in situations where persons with disabilities use (or seek to use) assistance animals⁴ in housing where the provider forbids residents from having pets or otherwise imposes restrictions or conditions relating to pets and other animals.

An assistance animal is not a pet. It is an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including but not limited to, guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. For purposes of reasonable accommodation requests, neither the FHAct nor Section 504 requires an assistance animal to be individually trained or certified.⁵ While dogs are the most common type of assistance animal, other animals can also be assistance animals.

Housing providers are to evaluate a request for a reasonable accommodation to possess an assistance animal in a dwelling using the general principles applicable to all reasonable accommodation requests. After receiving such a request, the housing provider must consider the following:

³ Reasonable accommodations under the FHAct and Section 504 apply to tenants and applicants with disabilities, family members with disabilities, and other persons with disabilities associated with tenants and applicants. 24 CFR §§ 100.202; 100.204; 24 C.F.R. §§ 8.11, 8.20, 8.21, 8.24, 8.33, and case law interpreting Section 504.

⁴ Assistance animals are sometimes referred to as "service animals," "assistive animals," "support animals," or "therapy animals." To avoid confusion with the revised ADA "service animal" definition discussed in Section II of this notice, or any other standard, we use the term "assistance animal" to ensure that housing providers have a clear understanding of their obligations under the FHAct and Section 504.

⁵ For a more detailed discussion on assistance animals and the issue of training, see the preamble to HUD's final rule, Pet Ownership for the Elderly and Persons With Disabilities, 73 Fed. Reg. 63834.63835 (October 27, 2008).

- (1) Does the person seeking to use and live with the animal have a disability – *i.e.*, a physical or mental impairment that substantially limits one or more major life activities?
- (2) Does the person making the request have a disability-related need for an assistance animal? In other words, does the animal work, provide assistance, perform tasks or services for the benefit of a person with a disability, or provide emotional support that alleviates one or more of the identified symptoms or effects of a person's existing disability?

If the answer to question (1) or (2) is “no,” then the FHAct and Section 504 do not require a modification to a provider’s “no pets” policy, and the reasonable accommodation request may be denied.

Where the answers to questions (1) and (2) are “yes,” the FHAct and Section 504 require the housing provider to modify or provide an exception to a “no pets” rule or policy to permit a person with a disability to live with and use an assistance animal(s) in all areas of the premises where persons are normally allowed to go, unless doing so would impose an undue financial and administrative burden or would fundamentally alter the nature of the housing provider’s services. The request may also be denied if: (1) the specific assistance animal in question poses a direct threat to the health or safety of others that cannot be reduced or eliminated by another reasonable accommodation, or (2) the specific assistance animal in question would cause substantial physical damage to the property of others that cannot be reduced or eliminated by another reasonable accommodation. Breed, size, and weight limitations may not be applied to an assistance animal. A determination that an assistance animal poses a direct threat of harm to others or would cause substantial physical damage to the property of others must be based on an individualized assessment that relies on objective evidence about the specific animal’s actual conduct – not on mere speculation or fear about the types of harm or damage an animal may cause and not on evidence about harm or damage that other animals have caused. Conditions and restrictions that housing providers apply to pets may not be applied to assistance animals. For example, while housing providers may require applicants or residents to pay a pet deposit, they may not require applicants and residents to pay a deposit for an assistance animal.⁶

A housing provider may not deny a reasonable accommodation request because he or she is uncertain whether or not the person seeking the accommodation has a disability or a disability-related need for an assistance animal. Housing providers may ask individuals who have disabilities that are not readily apparent or known to the provider to submit reliable documentation of a disability and their disability-related need for an assistance animal. If the disability is readily apparent or known but the disability-related need for the assistance animal is not, the housing provider may ask the individual to provide documentation of the disability-related need for an assistance animal. For example, the housing provider may ask persons who are seeking a reasonable accommodation for an assistance animal that provides emotional

⁶ A housing provider may require a tenant to cover the costs of repairs for damage the animal causes to the tenant’s dwelling unit or the common areas, reasonable wear and tear excepted, if it is the provider’s practice to assess tenants for any damage they cause to the premises. For more information on reasonable accommodations, see the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *Reasonable Accommodations Under the Fair Housing Act*, <http://www.hud.gov/offices/lheo/library/huddojstatement.pdf>.

support to provide documentation from a physician, psychiatrist, social worker, or other mental health professional that the animal provides emotional support that alleviates one or more of the identified symptoms or effects of an existing disability. Such documentation is sufficient if it establishes that an individual has a disability and that the animal in question will provide some type of disability-related assistance or emotional support.

However, a housing provider may not ask a tenant or applicant to provide documentation showing the disability or disability-related need for an assistance animal if the disability or disability-related need is readily apparent or already known to the provider. For example, persons who are blind or have low vision may not be asked to provide documentation of their disability or their disability-related need for a guide dog. A housing provider also may not ask an applicant or tenant to provide access to medical records or medical providers or provide detailed or extensive information or documentation of a person's physical or mental impairments. Like all reasonable accommodation requests, the determination of whether a person has a disability-related need for an assistance animal involves an individualized assessment. A request for a reasonable accommodation may not be unreasonably denied, or conditioned on payment of a fee or deposit or other terms and conditions applied to applicants or residents with pets, and a response may not be unreasonably delayed. Persons with disabilities who believe a request for a reasonable accommodation has been improperly denied may file a complaint with HUD.⁷

Section II: The ADA Definition of "Service Animal"

In addition to their reasonable accommodation obligations under the FHAct and Section 504, housing providers may also have separate obligations under the ADA. DOJ's revised ADA regulations define "service animal" narrowly as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. The revised regulations specify that "the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition."⁸ Thus, trained dogs are the only species of animal that may qualify as service animals under the ADA (there is a separate provision regarding trained miniature horses⁹), and emotional support animals are expressly precluded from qualifying as service animals under the ADA.

The ADA definition of "service animal" applies to state and local government programs, services activities, and facilities and to public accommodations, such as leasing offices, social service center establishments, universities, and other places of education. Because the ADA requirements relating to service animals are different from the requirements relating to assistance animals under the FHAct and Section 504, an individual's use of a service animal in an ADA-covered facility must not be handled as a request for a reasonable accommodation under the FHAct or Section 504. Rather, in ADA-covered facilities, an animal need only meet the definition of "service animal" to be allowed into a covered facility.

⁷ Ibid.

⁸ 28 C.F.R. § 35.104; 28 C.F.R. § 36.104.

⁹ 28 C.F.R. § 35.136(i); 28 C.F.R. § 36.302(c)(9).

To determine if an animal is a service animal, a covered entity shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A covered entity may ask: (1) Is this a service animal that is required because of a disability? and (2) What work or tasks has the animal been trained to perform? A covered entity shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal. These are the only two inquiries that an ADA-covered facility may make even when an individual's disability and the work or tasks performed by the service animal are not readily apparent (*e.g.*, individual with a seizure disability using a seizure alert service animal, individual with a psychiatric disability using psychiatric service animal, individual with an autism-related disability using an autism service animal).

A covered entity may not make the two permissible inquiries set out above when it is readily apparent that the animal is trained to do work or perform tasks for an individual with a disability (*e.g.*, the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability). The animal may not be denied access to the ADA-covered facility unless: (1) the animal is out of control and its handler does not take effective action to control it; (2) the animal is not housebroken (*i.e.*, trained so that, absent illness or accident, the animal controls its waste elimination); or (3) the animal poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices and procedures.¹⁰ A determination that a service animal poses a direct threat must be based on an individualized assessment of the specific service animal's actual conduct – not on fears, stereotypes, or generalizations. The service animal must be permitted to accompany the individual with a disability to all areas of the facility where members of the public are normally allowed to go.¹¹

Section III. Applying Multiple Laws

Certain entities will be subject to both the service animal requirements of the ADA and the reasonable accommodation provisions of the FHAct and/or Section 504. These entities include, but are not limited to, public housing agencies and some places of public accommodation, such as rental offices, shelters, residential homes, some types of multifamily housing, assisted living facilities, and housing at places of education. Covered entities must ensure compliance with all relevant civil rights laws. As noted above, compliance with the FHAct and Section 504 does not ensure compliance with the ADA. Similarly, compliance with the ADA's regulations does not ensure compliance with the FHAct or Section 504. The preambles to DOJ's 2010 Title II and Title III ADA regulations state that public entities or public accommodations that operate housing facilities "may not use the ADA definition [of "service animal"] as a justification for reducing their FHAct obligations."¹²

¹⁰ 28 C.F.R. § 35.136; 28 C.F.R. § 36.302(c).

¹¹ For more information on ADA requirements relating to service animals, visit DOJ's website at www.ada.gov.

¹² 75 Fed. Reg. at 56166, 56240 (Sept. 15, 2010).

The revised ADA regulations also do not change the reasonable accommodation analysis under the FHAct or Section 504. The preambles to the 2010 ADA regulations specifically note that under the FHAct, “an individual with a disability may have the right to have an animal other than a dog in his or her home if the animal qualifies as a ‘reasonable accommodation’ that is necessary to afford the individual equal opportunity to use and enjoy a dwelling, assuming that the use of the animal does not pose a direct threat.”¹³ In addition, the preambles state that emotional support animals that do not qualify as service animals under the ADA may “nevertheless qualify as permitted reasonable accommodations for persons with disabilities under the FHAct.”¹⁴ While the preambles expressly mention only the FHAct, the same analysis applies to Section 504.

In cases where all three statutes apply, to avoid possible ADA violations the housing provider should apply the ADA service animal test first. This is because the covered entity may ask only whether the animal is a service animal that is required because of a disability, and if so, what work or tasks the animal has been trained to perform. If the animal meets the test for “service animal,” the animal must be permitted to accompany the individual with a disability to all areas of the facility where persons are normally allowed to go, unless (1) the animal is out of control and its handler does not take effective action to control it; (2) the animal is not housebroken (i.e., trained so that, absent illness or accident, the animal controls its waste elimination); or (3) the animal poses a direct threat to the health or safety of others that cannot be eliminated or reduced to an acceptable level by a reasonable modification to other policies, practices and procedures.¹⁵

If the animal does not meet the ADA service animal test, then the housing provider must evaluate the request in accordance with the guidance provided in Section I of this notice.

It is the housing provider’s responsibility to know the applicable laws and comply with each of them.

Section IV. Conclusion

The definition of “service animal” contained in ADA regulations does not limit housing providers’ obligations to grant reasonable accommodation requests for assistance animals in housing under either the FHAct or Section 504. Under these laws, rules, policies, or practices must be modified to permit the use of an assistance animal as a reasonable accommodation in housing when its use may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling and/or the common areas of a dwelling, or may be necessary to allow a qualified individual with a disability to participate in, or benefit from, any housing program or activity receiving financial assistance from HUD.

¹³ 75 Fed. Reg. at 56194, 56268.

¹⁴ 75 Fed. Reg. at 56166, 56240.

¹⁵ 28 C.F.R. § 35.136; 28 C.F.R. § 36.302(c).

Questions regarding this notice may be directed to the HUD Office of Fair Housing and Equal Opportunity, Office of the Deputy Assistant Secretary for Enforcement and Programs, telephone 202-619-8046.



John Trasviña, Assistant Secretary for
Fair Housing and Equal Opportunity

**DIFFERENCES BETWEEN NEVADA STATE FAIR HOUSING LAWS
AND FEDERAL FAIR HOUSING LAWS (4/1/2018)**

* **NEVADA FAIR HOUSING (NRS 118) = (.110)** A party who has been injured or thinks he/she may be injured by a fair housing violation may file a COMPLAINT with the Nevada Equal Rights Commission. **(.120)** Anyone may file an ACTION in District Court to enforce discrimination in real estate related activities (appraisals, lending, etc.) within one year after the occurrence or termination of an alleged violation. Nevada's Fair Housing laws do not specify penalties associated with Fair Housing violations, they direct victims of fair housing violations where to seek redress

* **FEDERAL FAIR HOUSING (SEC.810{42 U.S.C. 3610})** requires a victim of a Fair Housing Violation to: **(1)** file a complaint with the Secretary (of the Department of Housing and Urban Development - HUD) not later than one year after occurrence of the alleged violation. The Secretary, on the Secretary's own initiative, may also file a complaint. Upon such complaint being filed the Secretary shall serve the aggrieved party with an acknowledgement of the complaint being filed advising the party of the time limits and the choice of forums provided under this title. Within 10 days of the filing the Secretary shall served the respondent a notice identifying the alleged violation with the respondent's rights and obligations, and a copy of the complaint. The respondent has 10 days to file and answer to the complaint. Prior to the complaint being filed or dismissed, the Secretary will attempt conciliation which may result in appropriate relief to the aggrieved party, including monetary relief. If the respondent breaches the conciliation agreement the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed mandating compliance. Within 20 days of the complaint being filed any person to the complaint may elect to have a hearing on the charge before an Administrative Law Judge, in lieu of conciliation.....**OR.....(2)** (An aggrieved person may commence a civil action in an appropriate United States District Court or State Court not more than two years after the occurrence or termination of a violation. **(NOTE:; HUD does not try violations of Federal Fair Housing Laws, HUD conducts investigations and attempts resolve the issues as described in (1) above).....****(3)** Penalties imposed by an Administrative Law Judge are: up to \$11,000 for the first offense, \$22,750 for a second offense within 5 years, and \$55,000 for the third offense within seven years. Fines for actions brought by the Attorney General on behalf of the Secretary are first offense \$55,000, with the second offense being \$110,000.

NEVADA FAIR HOUSING*PROTECTED STATUS*FEDERAL FAIR HOUSING

RACE.....	RACE
COLOR.....	COLOR
NATIONAL ORIGINE.....	NATIONAL ORGINE
SEX.....	SEX
FAMILIAL STATUS.....	FAMILIAL STATUS
HANDICAPPED.....	HANDICAPPED
ANCESTRY.....	
GENDER IDENTIFICATION.....	
SEXUAL ORIENTTION.....	

**Equal Credit Opportunity Act: Same as Federal Fair Housing plus Age (40 to 70 yrs)
Public Assistance, Marital Status, Child Support & Alimony, but not handicapped**

NRS to Know

NRS 205

NRS 205.0813 Housebreaking; penalty.

1. A person who forcibly enters an uninhabited or vacant dwelling, knows or has reason to believe that such entry is without permission of the owner of the dwelling or an authorized representative of the owner and has the intent to take up residence or provide a residency to another therein is guilty of housebreaking.

2. A person is presumed to know that an entry described in subsection 1 is without the permission of the owner of the dwelling or an authorized representative of the owner unless the person provides a written rental agreement that:

(a) Is notarized or is signed by an authorized agent of the owner who at the time of signing holds a permit to engage in property management pursuant to chapter 645 of NRS; and

(b) Includes the current address and telephone number of the owner or his or her authorized representative.

3. A person convicted of housebreaking is guilty of:

(a) For a first offense, a gross misdemeanor; and

(b) For a second and any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

4. A person convicted of housebreaking and who has previously been convicted three or more times of housebreaking must not be released on probation or granted a suspension of sentence.

5. As used in this section, "forcibly enters" means an entry involving:

(a) Any act of physical force resulting in damage to the structure; or

(b) The changing or manipulation of a lock to gain access.

(Added to NRS by 2015, 3136; A 2017, 2157)

NRS 205.0817 Unlawful occupancy; penalty.

1. A person who takes up residence in an uninhabited or vacant dwelling and knows or has reason to believe that such residency is without permission of the owner of the dwelling or an authorized representative of the owner is guilty of unlawful occupancy.

2. A person is presumed to know that the residency described in subsection 1 is without the permission of the owner of the dwelling or an authorized representative of the owner unless the person provides a written rental agreement that:

(a) Is notarized or is signed by an authorized agent of the owner who at the time of signing holds a permit to engage in property management pursuant to chapter 645 of NRS; and

(b) Includes the current address and telephone number of the owner or his or her authorized representative.

3. A person convicted of unlawful occupancy is guilty of a gross misdemeanor. A person convicted of unlawful occupancy and who has been convicted three or more times of unlawful occupancy is guilty of a category D felony and shall be punished as provided in NRS 193.130.

4. A person who is accused of unlawful occupancy pursuant to subsection 1 and has previously been convicted two times of housebreaking, unlawful occupancy or any lesser included or related offense, or any combination thereof, arising from the same set of facts is presumed to have obtained residency of the dwelling with the knowledge that:

(a) Any asserted lease is invalid; and

(b) Neither the owner nor an authorized representative of the owner permitted the residency.

(Added to NRS by 2015, 3137; A 2017, 2158)

NRS 33

NRS 33.018 Acts which constitute domestic violence; exceptions.

1. Domestic violence occurs when a person commits one of the following acts against or upon the person's spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person's minor child or any other person who has been appointed the custodian or legal guardian for the person's minor child:

- (a) A battery.
- (b) An assault.
- (c) Coercion pursuant to NRS 207.190.
- (d) A sexual assault.
- (e) A knowing, purposeful or reckless course of conduct intended to harass the other person. Such conduct may include, but is not limited to:

- (1) Stalking.
- (2) Arson.
- (3) Trespassing.
- (4) Larceny.
- (5) Destruction of private property.
- (6) Carrying a concealed weapon without a permit.
- (7) Injuring or killing an animal.
- (8) Burglary.
- (9) An invasion of the home.

- (f) A false imprisonment.
- (g) Pandering.

2. The provisions of this section do not apply to:

- (a) Siblings, except those siblings who are in a custodial or guardianship relationship with each other; or
- (b) Cousins, except those cousins who are in a custodial or guardianship relationship with each other.

3. As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

(Added to NRS by 1985, 2283; A 1995, 902; 1997, 1808; 2007, 82, 1275; 2017, 3179; 2019, 1805)

What does the \$225 setup fee include?

- Property Inspection
- Property evaluation to determine condition & needed repairs
- Digital photos from property evaluation
- Property Manager reviewing property evaluation report (10 pages)
- Downloading and printing digital photos from property history report
- Entering all owner & property information into databases (includes home warranty, insurance and homeowners association information)
- Logging in and keeping record of all keys, transmitters, pool keys, HOA keys, HOA Rules & Regulations
- Collecting security deposit & rent
- Arranging move-in for tenants
- Updating all Company databases (inputting new tenant information)
- Updating all accounting information (inputting new rental amounts)
- Property Manager reviewing tenant Move-in evaluation report (10 pages)
- Scheduling 6-month drive-by evaluation

A **Pass Through** is an increase in operating expenses over the base year amount that is billed to the tenant as additional rent. A Triple Net lease is a lease requiring the tenant to pay, in addition to a fixed rental, the expenses of the property leases such as taxes, insurance, maintenance, utilities, cleaning etc.



Congress Permanently Authorizes the Protecting Tenants at Foreclosure Act

May 29, 2018

President Trump signed into law a permanent extension of the “Protecting Tenants at Foreclosure Act” (PTFA) on May 24. The PTFA was included in a larger deregulation bill (S. 2155) passed by the House on May 22. The PTFA, which expired at the end of 2014, enables renters whose homes were in foreclosure to remain in their homes for at least 90 days or for the term of their lease, whichever is greater. Senator Richard Blumenthal (D-CT) and Representative Keith Ellison (D-MN) had earlier introduced legislation (S. 325/HR 915) to permanently extend the PTFA. Making the PTFA permanent has long been an NLIHC policy priority.

The PTFA, enacted in 2009, was the only federal protection for renters living in foreclosed properties. During the financial crisis, inappropriate lending, falling home prices, and high unemployment led to a high number of foreclosures across the U.S. The impact of these foreclosures was not limited to homeowners, however; renters lose their homes every day when the owner of the home they are renting goes into foreclosure. Unlike homeowners who have some indication that a foreclosure is coming, renters are often caught entirely off guard.

The PTFA provides most renters with the right to at least to 90 days' notice before being required to move after a foreclosure. Before the permanent extension, renters, who often have no idea that their landlords are behind on mortgage payments, could be evicted with just a few days' notice in most states.

Under PTFA, tenants with Section 8 housing choice voucher assistance have additional protections allowing them to retain their Section 8 lease and requiring the successor-in-interest to assume the housing assistance payment contract associated with that lease.

The PTFA applies to all foreclosures on all residential properties; traditional one-unit single family homes are covered, as are multi-unit properties. The law applies in cases of both judicial and nonjudicial foreclosures. Tenants with lease rights of any kind, including month-to-month leases or leases terminable at will, are protected as long as the tenancy is in effect as of the date of transfer of title at foreclosure.

The PTFA applies in all states but does not override more protective state laws.

For more information about the PTFA, see: <https://bit.ly/2L55LbE>
(<https://bit.ly/2L55LbE>)

*Contrary to the claim in this article that "The PTFA applies to all foreclosures on all residential properties, et. al.", SEC. 702 of this law specifically states "(a) In General- In the case of any foreclosure on a federally-related mortgage loan on any dwelling or residential property....."

As, I assume, there are state chartered financial institutions mortgaging residential properties, the purchasers of those properties need to be advised if the mortgage was issued by a state or federally financial institution:

State: Tenant must be given a 60 notice et.el. (per NRS 40.255.2). Purchaser has no obligation ro reside in the property. Rights of section 8 tenants should be investigated.

Federal: purchaser may evict the tenant, excluding section 8 tenants, only if the purchaser intends to occupy the premise ^{and} his/her primary residence. Section 8 leases go with the property and may not be altered by the Purchaser.....Cliff

Public Law 111-22, (May 20, 2009)
TITLE VII--PROTECTING TENANTS AT FORECLOSURE ACT (PTFA)¹

C. 701. SHORT TITLE.

This title may be cited as the 'Protecting Tenants at Foreclosure Act of 2009'.

SEC. 702. EFFECT OF FORECLOSURE ON PREEXISTING TENANCY.

(a) In General- In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to--

(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the effective date of such notice; and

(2) the rights of any bona fide tenant--

- (A) under any bona fide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or
- (B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1),

except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

(b) Bona Fide Lease or Tenancy- For purposes of this section, a lease or tenancy shall be considered bona fide only if--

- (1) the mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;
- (2) the lease or tenancy was the result of an arms-length transaction; and
- (3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State, or local subsidy.

Definition- For purposes of this section, the term 'federally-related mortgage loan' has the same meaning as in section 2602 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602). For purposes of this section, the date of a notice of foreclosure shall be deemed to be the date on which complete title to a property is transferred to a successor entity or person as a result of an order of a court or pursuant to provisions in a mortgage, deed of trust, or security deed.

SEC. 703. EFFECT OF FORECLOSURE ON SECTION 8 TENANCIES.

Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended--

(1) by inserting before the semicolon in subparagraph (C) the following: 'and in the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of the lease vacating the property prior to sale shall not constitute other good cause, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the owner--

- (i) will occupy the unit as a primary residence; and
- (ii) has provided the tenant a notice to vacate at least 90 days before the effective date of such notice.'; and

(2) by inserting at the end of subparagraph (F) the following: 'In the case of any foreclosure on any federally-related mortgage loan (as that term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602)) or on any residential real property in which a recipient of assistance under this subsection resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subparagraph (C) shall not shall not affect any State or local law that provides longer time periods or other additional protections for tenants.'

SEC. 704. SUNSET.

This title, and any amendments made by this title are repealed, and the requirements under this title shall terminate, on December 31, 2014.

Property Management Accounting Software

Property management accounting software offers several features that typical accounting systems do not. In addition to financial reporting and payroll, these programs will integrate industry-specific information about vacancies, units, tenants and property maintenance into the real estate software.

The more robust accounting tools also manage company information related to property listings, track referrals and link electronic documents to sales.

Property managers are required to perform some specific types of accounting processes, such as holding and tracking security deposits and common area maintenance costs.

A property-management-specific accounting system is designed to assist managers with their unique responsibilities, such as:

Collecting rent on a monthly basis

Tracking expenses for maintenance, improvements and supplies

Budgeting and forecasting using real-time information

Reporting features

Common Features of Property Management Accounting Software

Track rents & payments

Categorize receipts based on the specific real estate category, such as rents, utilities, subleases or late fees.

Online payment portal

Some property accounting systems include an online portal for tenants to pay rent.

Bank reconciliation

Accounting systems typically offer a variety of report and chart types to view data by month or year.

Business growth & development

Automatically calculate annual rent increases, property appreciation and depreciation

Ability to analyze rents based on current market rates.

Common area management

Calculate charges and costs associated with common areas, tracking maintenance, policies and usage

The automation of accounting processes is an obvious benefit of property accounting software, and others increase convenience in common tasks.

With an online payment portal, you don't have to wait for mailed checks to arrive. Tenants can pay rent online anytime, with cards or cash, which goes directly into your account.

Calculate rent increases easier. Software can help analyze local housing market conditions to calculate how much you can charge for rent while staying competitive.

A native mobile app or the ability to access the system through a mobile web browser.

On-premise. An on-premise accounting system would be installed locally on the computer you use at your office. This type of deployment keeps your accounting data close-at-hand. These deployments typically require a larger upfront cost.

Cloud-based. Alternatively, a cloud-based system is installed on the software vendor's servers and delivered to you via the Internet. This can be a more secure option, as your accounting data is saved "in the cloud" and won't be lost should your local computer be destroyed or lost. Additionally, a cloud-based deployment is often a cheaper investment upfront, with fewer hardware requirements and a monthly subscription fee.

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