

SMALL BUSINESS IMPACT STATEMENT
NAC 645
LCB File No. R097-14
March 16, 2015

1. LCB File No. R097-14 Small Business Impact Statement pursuant to NRS 233B.0608:

(a) A description of the manner in which comment was solicited from affected small business, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

The Real Estate Division posts proposed changes to NAC 645.806, NAC 645.695 and NAC 645.141 on the Division's website for the public to review and respond. The Real Estate Commission held a public meeting on March 25-26, 2014 in which there was an agenda item regarding discussion and decision concerning Commission's consideration of proposed regulation changes, additions and deletions to NAC 645. Division staff was present at this Commission meeting where public comment is allowed before Commission business and before adjournment. There were no comments from the public regarding the proposed regulation changes.

The Division will post the Legislative Counsel Bureau draft of the proposed regulation dated July 24, 2014 on its website and send copies of the draft to interested parties and organizations to solicit comment from affected small businesses.

Interested persons may obtain a copy of the summary of the Small Business Impact Statement on the Division's web site www.red.state.nv.us or by request to:

Teralyn Thompson, Administration Section Manager
Nevada Real Estate Division
2501 East Sahara Avenue, Suite 303
Las Vegas, NV 89104
tlthompson@red.state.nv.us

(b) The manner in which the small business analysis was conducted for LCB File No. R097-14.

The Division posted proposed changes to the regulation on its web site and the proposed changes were discussed at the Real Estate Commission meeting held March 25-26, 2014. No public comment was given at that time.

(c) The estimated economic effect of the proposed regulation on the small businesses

which it is to regulate, including, without limitation:

(1) Both adverse and beneficial effects:

(I) Adverse effects:

Changes to section 3 of the proposed regulation would change the validation of a cooperative certificate from twelve months to being valid for the single transaction identified on the application. This would require an out of state broker who intends on doing multiple transactions in Nevada to file multiple applications and pay application fees for each transaction instead of submitting one application and paying a single fee per year.

Changes to section 16 of the proposed regulation would amend the current regulation so that a course may not be taken for credit to meet the requirements for continuing education by a person who is approved to teach that course. This amendment would adversely affect licensees who are also instructors and feel that instructors should receive continuing education credit required to renew their license for being an instructor.

(II) Beneficial effects:

Changes to section 1 of the proposed regulation would allow a broker-salesperson who is acting as a manager of a principal or branch office, operated by a real estate broker, to submit to the Division a verified statement of the experience a licensee has gained while associated with the broker. This is beneficial for a salesperson that is applying to become a broker-salesperson and cannot get verification of experience from previous brokers for reasons such as the licensee and the broker did not part on good terms or the broker is deceased. This increases the ways in which the Division can verify experience when reviewing applications for license upgrades and reduces the burden on brokers and salespersons involved in the verification process.

Changes to section 15 of the proposed regulation would give the Division authority to approve continuing education courses and sets forth the appeal process to the Commission if the course is denied by the Division. This is beneficial to education sponsors because the current timeframe for approval by the Commission could be from three to five months. The Division approving continuing education courses would be more timely and efficient since the Commission usually makes their decision to approve or deny a course based on the Division's recommendations. The Real Estate Commission supports the proposed regulation because it would allow course instructors to offer courses to licensees in a more expedient manner.

(2) Both direct and indirect effects.

(I) Direct effect:

Changes to section 1 of the proposed regulation directly affects licensees who seek to apply for a broker-salesperson license yet have been delayed because of their inability to locate a previous broker to verify experience or the previous broker is deceased.

Changes to section 3 of the proposed regulation directly affect out of state brokers and Nevada brokers who apply for one cooperative certificate per year and conduct multiple transactions. Out of state brokers would incur additional fees and waiting for the application to be processed by the Division could possibly delay the transaction. Section 3(2) is amended to require the Nevada broker to report to the Division any changes to the address and license status of the Nevada broker and the out of state broker. Violation of this subsection could result in a revocation of the cooperative certificate.

Changes to section 10 of the proposed regulation directly affect sponsors of an approved course. Amendments to this section would allow the Administrator to withdraw approval of a course pursuant to student evaluations, an audit or investigation conducted by the Division. The current regulation only allows the Administrator to withdraw approval based only on an audit which limits the Division.

Changes to section 11 of the proposed regulation directly affect approved course sponsors conducting courses on updates to law and legislation. Law and legislation courses are only relevant for not more than two years. Sponsors for these courses would only be reapproved once by the Division requiring course sponsors to come before the Commission once every two years to have law and legislation courses approved.

Changes to section 15 of the proposed regulation would give the Division authority to approve continuing education courses and sets forth the appeal process for denial by the Division. This proposed change directly affects education sponsors because the current timeframe for approval by the Commission could be from three to five months. The Division approving continuing education would be more timely and efficient instead of the sponsor having to wait for the next scheduled Commission meeting for a decision.

Changes to section 16 of the proposed regulation would amend the current regulation so that a course may not be taken for credit to meet the requirements for continuing education by a person who is approved to teach

that course. This amendment directly affects licensees who are also instructors and feel that instructors should receive continuing education credit for instructing a course.

Changes to section 17 of the proposed regulation increases the amount of administrative fines for failure to submit mid-term education from \$100.00 to \$250.00, creates a new administrative fine of \$1,000.00 for sponsors to timely submit electronic rosters of continuing education course completion pursuant to NAC 645.455 and creates two new administrative fines of \$250.00 and \$1,000.00 for failure to submit trust account reconciliations pursuant to NAC 645.806. These changes affect all licensees under NRS 645 and continuing education course providers.

Changes to section 18 of the proposed regulation directly affect brokers. The amendments to this section clarifies when it is necessary for a broker to provide a trust reconciliation to the Division and what a broker must submit to the Division if a broker is not practicing property management.

(II) Indirect effect:

Changes to section 2 of the proposed regulation add additional reporting requirements of an out of state broker applying for a cooperative certificate in Nevada. The additional requirements include the identity of the client the applicant will be representing and the real property that will be the subject of the transaction.

(d) A description of the methods that the Real Estate Division considered to reduce the impact of LCB File No. R097-14 on small businesses and a statement whether the Real Estate Division actually used any part of those methods.

Sections 2 and 3 of LCB File No. R097-14 has an impact on small businesses in regards to changes to the cooperative certificate. This amendment would protect the public from brokers using cooperative certificates to set up franchise offices out of state to conduct brokerage business in other states. This amendment does not limit the broker but provides public protection and is a positive revenue generating change for the Division.

The impact from changes in section 1 can be reduced by a change in Division policy allowing instructors to received limited continuing education credit for their roles in teaching or creating course material.

(e) The estimated cost to the agency for enforcement of the proposed regulation.

No additional cost to the agency.

(f) If LCB File No. R097-14 provides a new fee or increases an existing fee, the total annual amount the Real Estate Division expects to collect and the manner in which the money will be used.

Section 17 of the proposed regulation increases the administrative fine for violations of NAC 645.4442 and NAC 645.448 from \$100.00 to \$250.00. In 2014, the Real Estate Division issued approximately 770 administrative fines due to violations of NAC 645.4442 and NAC 645.448.

The total annual amount that the Division expects to collect would be approximately \$192,500.00.

Section 17 of the proposed regulation adds a new administrative fine of \$1,000.00 for violations of NAC 645.455. January 2014 through November 2014 the Division received at least 22 incorrect certificates of completion provided to licensees from course sponsors violating NAC 645.455(4). The total annual amount the Division expects to collect would be at least \$22,000.00.

Administrative fines go into the State's General Fund.

(g) If LCB File No. R097-14 includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

LCB File No R097-14 does not duplicate any existing federal, state or local standards regulating the same activity.

(h) The reasons for the conclusions of the Real Estate Division regarding the impact of LCB File No. R097-14 on small businesses.

Staff from the Real Estate Division attended the Real Estate Commission public meeting, listened and observed the Commission's discussion regarding the proposed amendments. The final small business impact statement will reflect any further Commission and public comments.

I certify that, to the best of my knowledge or belief, the information contained in the Small Business Impact Statement for LCB File No. R097-14 was prepared properly and is accurate.

JOSEPH (JD) DECKER, Administrator
Department of Business & Industry
Real Estate Division

NRS 233B.0608(3) Statement

1. Identify the methods used by the agency in determining the impact of the proposed regulation on a small business.

The Real Estate Division posts proposed changes to NAC 645.806, NAC 645.695 and NAC 645.141 on the Division's website to for the public to review and respond. The Real Estate Commission held a public meeting on March 25-26, 2014 in which there was an agenda item regarding discussion and decision concerning Commission's consideration of proposed regulation changes, additions and deletions to NAC 645. Division staff is present at Commission meetings where public comment is received. There were no comments from the public regarding the proposed regulation changes.

The Division will post the Legislative Counsel Bureau draft of the proposed regulation dated July 24, 2014 on its website and send copies of the draft to interested parties and organizations to solicit comment from affected small businesses.

2. Identify the reasons for the conclusions of the agency concerning the impact of the proposed regulation on a small business.

Staff from the Real Estate Division attended the Real Estate Commission public meeting, listened and observed the Commission's discussion regarding the proposed amendments. The final small business impact statement will reflect any further Commission and public comments.

I certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement is accurate. (NRS 233B.0608(3))

JOSEPH (JD) DECKER, Administrator

Department of Business & Industry

Real Estate Division