



Open House

A quarterly newsletter from the Nevada Real Estate Division

Department of Business & Industry

August 2009 (Summer Issue)

2009 Legislative Session Ends with New Bills Impacting Real Estate

By Safia Anwari, Education and Information Officer

The Mission of the Real Estate Division Education Fund:

To ensure awareness of relevant laws and practices by all licensees through proactive education and information efforts.

The 2009 session of the State legislature ended in June, leaving the Division and the industry to take stock of the bills that made it into the law, including the impact or likely effects of the changes on the practice and practitioners of real estate. Some of the amendments that most directly affect licensees and transactions are summarized below.

Doubling the Real Estate License Period

The licensure period and the associated application fees for original and renewal real estate licenses will double commencing July 2011. This is a Senate Bill (SB) 230 revision to NRS 645.490 and it applies to the salesman, broker-salesman, broker, and corporate broker licensing credentials, the branch office license and the penalty for late filing of renewals. The first renewal of original licenses issued by the Division on or after July 1, 2011 has been extended from 12 to 24 months and the subsequent license renewal period will be 48 months. The fees for the original and renewal applications for each credential or license type will be:

Fees from July 1, 2011	Original	Renewal	Late Renewal Penalty
Salesman	\$170	\$280	\$140
Broker-Salesman, Broker, Corporate Broker	\$210	\$360	\$180
Each branch office	\$240	\$220	N/A
Education Research & Recovery Fund	\$40 (unchanged)	\$80	N/A

Broker's Price Opinion (BPO)

The passage of SB 184 has legislated the recommendations of the BPO Task Force that was created by the Real Estate Commission and the Nevada Association of Realtors in 2008 to conduct an in-depth study of how broker price opinions were being prepared and used in the marketplace; who was requesting them; the existing laws governing BPOs; and the payment, if any, to licensees. The bill creates a new section in NRS 645 that defines and specifies the minimum required contents of a BPO. It sets forth the limitations on the use of a BPO, and the circumstances under which a licensee may provide, and collect a fee for, a BPO. It further identifies the BPO client, the purpose for which the opinion will be prepared, and the conditions, if any, that will apply to the use of the opinion. So, for example, an opinion may be prepared for an existing or potential lien holder but the lien holder's BPO may not be used in lieu of an appraisal to determine the approval of a

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Open House

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Articles by outside experts express the authors' viewpoints and should not be mistaken for official policy of the Real Estate Division. They are included because they address relevant issues that may be of interest to Nevada licensees.

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From the Desk of the Deputy Administrator



Online License Renewal Coming to a Computer Near You!



The Real Estate Division will begin accepting license renewals through our website at <http://www.red.state.nv.us/> in the fourth quarter of 2009. In phase one, we will support renewals of Salesman, Broker, Broker-Salesman and Branch Office license renewals as well as Business Broker permits and Property Management permits. This process will also allow licensees to

update their contact and address information and to pay license fees by credit card or electronic check.

Be on the lookout for NRED's mailing to remind you that a license is due for renewal, as it will include log-on instructions and information about User ID and Password assignments. These instructions will guide you to set up a user account so that the above licenses can be renewed online.

Initially, licensees will have to mail education certificates to NRED in order to substantiate that continuing education requirements have been satisfied and to complete the renewal process. In later phases, the education providers will make course completion information available to NRED electronically so this mail step can also be eliminated. Future online phases are also planned to accommodate all NRED license renewals, search and update functions to put service at your fingertips! ◀

- Steve Aldinger
Deputy Administrator

DIVISION STAFF UPDATE

NEW HIRES:

Criselda (Cris) Carmona, a former Consumer Affairs Division employee, has joined the Real Estate Division as the new Assistant to the Administrator in the Las Vegas office.

TRANSFERS:

Former Assistant to the Administrator, **Kathy Hamilton**, has accepted a position as Compliance Investigator in the Common-Interest Communities program in the Las Vegas office.

2009 Legislative Session

(continued from front page)

mortgage loan. The bill establishes other statutory requirements such as the use of electronic signature for an opinion which is submitted electronically; the disclaimer that the BPO is not an appraisal of the market value of the property for which the services of a licensed or certified appraiser must be obtained; that the opinion shall include the name of the supervising broker of the licensee preparing the BPO; and that the broker shall be responsible for all the licensee's activities relating to the BPO. This act became law on July 1, 2009.

Improper Influence Regarding Appraisals

The issue of independent judgment in the appraisal process is addressed by AB 287, which has added a new violation to NRS 645.635 and a new section to NRS 645C (which governs Appraisers) prohibiting any party with an interest in a real estate transaction involving an appraisal, to improperly influence or attempt to improperly influence through coercion, extortion or bribery, the development, reporting, result or review of the appraisal. Effective July 2009, the NRS 645C provision applies to real estate brokers and salesmen, mortgage brokers and agents, as well as appraisers and mortgage bankers. This means that real estate licensees who contravene the new NRS 645C provision (section 4, AB 287) will be in violation of NRS 645.635 and subject to disciplinary action by the Real Estate Commission.

CIC Resale Package

The NRS 116.4109 provision that the unit's owner in a common-interest community or his authorized agent must furnish a resale package to the purchaser has been revised by SB 253. Effective October 1, 2009, the resale package shall be provided at the expense of the unit's owner and it shall include an additional disclosure regarding any transfer fees, transaction fees or any other fees associated with the resale of a unit."

What Every Licensee Should Know 2010

A more detailed discussion of the foregoing and other legislative amendments will be available in the Division's law update course for continuing education credits entitled, "What Every Licensee Should Know 2010" or WELSK 2010. The 6-hour content will include disciplinary action case studies as heard and decided by the Real Estate Commission. Licensees who attend and complete the course will receive 6 CE credits in "Law and Legislation" and "Ethics" designations. Classroom offerings of the course will commence in September to be taught by the Division's contracted sponsors, the Greater Las Vegas Association of REALTORS®, the Reno/Sparks Association of REALTORS® and Pioneer School of Real Estate in Carson City. The schedule of offerings will be posted online as a separate WELSK 2010 calendar at http://www.red.state.nv.us/realestate/calendars/welsk_2010.pdf. ◀

*** Discontinuation of Newsletter Mailing to Inactive Licensees ***

The Open House newsletter will no longer be sent by USPS mail to "inactive" licensees. The Division has made this decision in an attempt to cut the costs incurred over the past year from nearly 3,000 returned copies per issue.

The newsletter is mailed to licensees at their personal PO Box or residential addresses provided to the Division. When a licensee changes residences or moves out of state and fails to provide a forwarding address to the USPS or to notify the Division, the undeliverable newsletter is sent back to the Division at a cost of First Class postage for each returned copy.

A search in the Division's licensee database has shown that most of the recipients of the undeliverable newsletters are in "inactive" status.

The newsletter will continue to be available on the Division's website at www.red.state.nv.us under "Publications" to download and read or print.



Disciplinary Actions/Stipulations



ACTIONS/DECISIONS

By Teresa Rice
Publications Writer

Real Estate Commission actions are not published in this newsletter until the 30-day period allowed for filing for Judicial Review has passed. If a stay on discipline is issued by the Court, the matter is not published until final outcome of the Review. A Respondent's license is automatically suspended for failure to comply with a Commission Order, and the Division may institute debt collection proceedings to recover fines and costs. We do not publish names of persons whose license applications are denied.

ALLEGATIONS/STIPULATIONS

Stipulations occur when both the Respondent and Division have agreed to conditions reviewed and accepted by both sides. A stipulation may or may not be an admission of guilt. Stipulations are presented to the Commission for review and acceptance.

JANUARY 2009

Dorothea Bowens Unlicensed	Action: Unlicensed property management activity.	Decision: Must pay costs totaling \$1,034.03.
Patricia Burton Unlicensed	Action: Unlicensed property management activity.	Decision: Must pay costs totaling \$1,034.03.
Benedict Prasad Broker—27625	Action: Failure to confirm, in writing, status a principal and licensee; making a false promise to influence or persuade; guaranteeing future profit; engaging in gross negligence or incompetent conduct.	Decision: Must pay costs totaling \$48,128. His license has been revoked. May apply for salesperson license after one year.
James Archibald Salesperson—37715	Allegation: Acted negligently by representing to the 5 different buyers in Azure Manor that the undeveloped property would probably be a park when, in fact, it was zoned for commercial development after the properties were purchased.	Stipulation: Agreed to pay a \$5,000 fine and attend 18 hours of CE in Ethics.
Norman Franz Broker/Salesperson— 28182	Allegation: Forged signatures of buyers on SRPD and Mold Disclosure Waiver forms (which indicated water damage) and failed to provide buyers with copies of these forms.	Stipulation: Agreed to pay \$10,000 fine; license suspended for 5 years.
Jeffrey Hines Broker—46933	Action: Failure to file an answer to complaint made against him, failure to appear at hearing.	Decision: Must pay costs totaling \$5,954.50 and complete 15 hours of CE in Ethics and Contracts.



Disciplinary Actions/Stipulations



JANUARY 2009 (cont'd)

<p>Katherine Paultler Gray Salesperson—44186</p>	<p>Allegation: Acted negligently by representing to the 5 different buyers in Azure Manor that the undeveloped property would probably be a park when, in fact, it was zoned for commercial development after the properties were purchased.</p>	<p>Stipulation: Agreed to pay a \$5,000 fine and attend 18 hours of CE in Ethics.</p>
<p>Gilbert Fuentes Salesperson—12714</p>	<p>Action: Placed ad for sale of property in MLS, with intention of flipping the property, without obtaining written consent of owner to list or sell the property.</p>	<p>Decision: License suspended for 2 years; must pay costs totaling \$16,228 and attend 18 hours of CE in Ethics, Contracts and Agency.</p>
<p>Diana Liu Salesperson—49188</p>	<p>Action: Inflated sales price on purchase agreement to include payment to a living trust.</p>	<p>Decision: Must pay a fine of \$25,000 and complete the 30-hour post-licensing program.</p>

APRIL 2009

<p>Craig Christian Broker—17616</p>	<p>Action: Due to the respondent's failure to appear at a noticed hearing, the State has met its burdens regarding the factual allegations in violations of law alleged in the complaints against him.</p>	<p>Decision: License revoked; must pay costs totaling \$61,205.22.</p>
<p>Robert Rozzen Salesperson—42761</p>	<p>Action: Gross negligence.</p>	<p>Decision: License revoked; must pay a \$15,000 fine.</p>
<p>Shane Cascio Salesperson—33600</p>	<p>Action: Criminal case against him alleging that he committed the crime of drawing and passing a check without sufficient funds in bank with intent to defraud.</p>	<p>Decision: License revoked; must pay costs totaling \$13,060.45.</p>
<p>Darci Curry Salesperson—40375</p>	<p>Allegation: Displayed negligence when knowing that the sum of \$160,000 was being transferred to a company for property management services when the company did not hold a PM permit.</p>	<p>Stipulation: Agreed to pay a fine of \$4,000; must complete 9 hours of Ethics and 7 hours of Contracts courses.</p>
<p>John Miller Salesperson—35491</p>	<p>Action: Respondent pled guilty to and was adjudged guilty of Attempted Grand Larceny, a category D felony.</p>	<p>Decision: License revoked; must pay costs totaling \$11,321.16.</p>
<p>Daunshari Wong-Culotta Broker—15620 CORP Salesperson—52931</p>	<p>Allegation: Offered commission on real estate transaction to non-licensee; Forgery; Attempted fraudulent activity; Unpermitted property management; engaging in deceitful conduct.</p>	<p>Stipulation: License downgraded from Broker to Salesperson for 2 years; must pay a \$16,000 fine and complete 60 hours of CE.</p>

A Closer Look at ERRF

By Safia Anwari, Education and Information Officer

The Education, Research and Recovery Fund (ERRF) was established by statute in 1967. NRS 645.842. With every application for a real estate broker, broker-salesman and salesman's license, a fee for ERRF must be paid in addition to the original or renewal fee. ERRF is a special revenue fund which means that when the fee is deposited in the State Treasury it is credited to the Fund to be used only for the purposes specified in NRS 645. The current fee at original or renewal application is \$40, but with the doubling of the licensure period from July 2011 the ERRF fee at renewal will double to \$80.

Renewal of Real Estate License	
Note 1	Includes \$40.00 ERRF Fee
Note 2	Include additional \$40.00 for renewal
Note 3	Licensees applying for renewal after n

Application for Renewal of Real Estate License

The Recovery Fund

The primary purpose of ERRF is to maintain the Recovery Fund at a balance of \$300,000. NRS 645.482. This fund may be available in restricted circumstances to cover the liability of a licensee arising out of a settlement claim or final judgment rendered by a court of competent jurisdiction on grounds of fraud, misrepresentation, or deceit in a real estate transaction. The victim of the licensee may petition the court for an order directing the payment of the unpaid claim or judgment from the fund. If the Administrator challenges the claim, the judgment debtor/victim may defend it on his own behalf. The cap for payment of damages is \$25,000 per judgment and liability per licensee (whether LLC, partnership, association, corporation, or a natural person, or both) is restricted to \$100,000 maximum. In the event a debtor is paid out of the fund, the agent's license is automatically suspended and he may not be reinstated, nor have another license issued under Chapter 645 unless and until the Recovery Fund is repaid in full with interest. (NRS 645.844)

Education and Research

Funds remaining after the Recovery Fund is replenished to a balance of \$300,000 at the end of the State's fiscal year (July 1 to June 30) are approved by the Real Estate Commission for use by the Administrator towards real estate education and research. The education and research mission of ERRF is:

To ensure awareness of relevant laws and practices by all licensees through proactive education and information efforts.

The Division accomplishes its ERRF mission through various projects approved by the Commission. These include a number of publications; the legislative update course, What Every Licensee Should Know; the instructor development workshop; and the continuing education audit program.

Publication – The Residential Disclosure Guide

Since 2006, the Division has prepared and distributed to licensees and the public the Residential Disclosure Guide which provides relevant information about the federal, state and local disclosures requirements in residential real estate transactions. Since its original publication, the disclosure guide has undergone two revisions. The education and research budget is approved annually by the Commission to meet the printing costs of the booklet. Up to 5 copies per licensee may be obtained in person at the Division. The booklet is also downloadable at www.red.state.nv.us, the Division's website. The current revision updating the booklet to include the 2009 legislative changes is pending Commission approval in September, after which it will be published as the second reprint.

Publication – The Nevada Law and Reference Guide

In late 2008 the Division published its first textbook on Nevada real estate law: *The Nevada Law and Reference Guide*. It is an educational resource for education providers and it may be used as a resource by licensees on the specific issues or topics addressed. While printed copies of the book were provided to sponsors of pre-licensing and post-licensing sponsors, it is available online for the use in continuing education and as a reference source. The Guide was authorized by the Commission as a project of the education and research fund. It, too, is due for an update and reprint.

What Every Licensee Should Know (WELSK)

This is the Division's 6-hour CE course consisting mainly of legislative updates. Depending on how much new legislation is passed by the Nevada Legislature that affects real estate, the WELSK course may also include ethics or other mandatory content. The course is updated annually to include new regulations, if any, adopted by the Commission after the legislative session ends every 2

...ERRF *(continued from previous page)*

years to include only new laws. It is the new law content that qualifies WELSK (and other courses approved by the Commission) for the mandatory "Law and Legislative" (LL) designation. WELSK is offered under contract by sponsors in northern and southern Nevada. The sponsors are required to teach the course only in a live classroom setting and to charge the licensee an attendance fee of not more than \$25.00 for the 6-hour class. A shortfall in the sponsor's fee revenue as a result of charging the lower-than-normal fee for a full day session is covered by the ERRF, which supports the program.

ERRF MISSION:
To ensure awareness of relevant laws and practices by all licensees through proactive education and information efforts.

Instructor/Course Development Workshop

In an effort to enhance the quality of the education that licensees receive, the Division offers training to real estate educators. The training class is a one-time annual event in northern and southern Nevada. Once the topic or subject area of the training is identified and approved by the Administrator, the trainer is usually selected from individuals who are qualified and recognized for their skills and competence in the area of instruction sought to be offered. Funding is allocated within the education and research budget for the project and it is offered at no cost to the educators.

The Education Audit Program

The objective of the audit program is to comprehensively review approved post-licensing and continuing education courses to make several determinations about the individual courses under review. A course may be audited for one or more reasons including ratings and comments in student evaluations, Commission request, or licensee complaints to the Division, or by random selection since there does not have to be "cause" to audit. Auditors examine and report on whether the content being presented is the one approved by the Commission; whether the materials and the presentation aid the licensees in understanding the subject being taught; the ability and competence of the instructor to teach; the resources used to enhance the learning process; and the functionality of the delivery methods of distance education courses, among other things, in order to make a determination of the value and effectiveness of the course to licensees. Like the instructor development program, the intent of the audit program is also to promote the Division's ongoing efforts to improve the quality of education being provided to licensees. Experienced licensees who have been appointed to the Real Estate Advisory Review Committee by the Commission volunteer their time to audit courses. Only the course fee and mileage, if any, is reimbursed to the auditors.

The projects discussed here are current and have been continuously underwritten by ERRF for several years. However, new projects may be added or existing ones removed by the Commission upon the request of the Administrator as the need arises and fits what is legislatively authorized. ◀

EDUCATION CORNER

*By Safia Anwari
Education & Information Officer*



Did you know...?

- ◆ Regulation NAC 645.444 gives students of live and distance education a chance to evaluate the content, instructors, technology, and other aspects of the courses they take for real estate licensing credits. The Division actively enforces the requirement for schools to distribute the Division-prescribed evaluation forms in all post-licensing and CE offerings. Completion of the forms is not mandatory but it is an option the Division encourages you, the licensee, to exercise to have your say about the education you receive. Clear and objective assessments provide the Division with useful information about approved courses so you are urged to not waste this opportunity with comments of a "personal" nature. Schools are required to assign someone other than the instructor to collect the completed evaluation reports.
- ◆ No more than 6 CE credits per licensee are allowed during a licensing period for attending a Commission meeting. (NAC 645.467) Credits are obtainable in two designations: Ethics or Broker Management. A minimum 3 hours of attendance is required to earn credits. Brokers and broker-salesmen who attend the meeting for 6 hours may choose to take 3 credits in each designation. Salespersons who attend for 6 hours will get 6 credits in Ethics only of which the 3 additional ethics credits can flow to "general" credits for license renewal.

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Real Estate Statistics as of AUGUST 2009

	BROKERS		BROKER/ SALESPERSON		SALESPERSON		TOTAL	
	Active	Inactive	Active	Inactive	Active	Inactive	Active	Inactive
Unknown	92	53	95	81	785	242	972	376
Carson City	48	34	42	24	142	61	232	119
Churchill	14	15	7	3	51	12	72	30
Clark	1741	535	219	563	13095	2924	17034	4022
Douglas	87	21	75	26	299	92	461	139
Elko	31	7	21	10	59	22	111	39
Esmeralda	0	0	0	0	1	0	1	0
Eureka	1	1	0	0	0	0	1	1
Humboldt	5	4	5	4	17	1	27	9
Lander	3	1	1	0	5	0	9	1
Lincoln	2	0	1	0	3	1	6	1
Lyon	30	14	24	12	134	54	188	80
Mineral	1	0	1	0	4	1	6	1
Nye	46	12	32	14	156	38	234	64
Out Of State	239	47	186	75	388	235	813	357
Pershing	2	0	0	1	4	0	6	1
Storey	2	0	2	0	7	4	11	4
Washoe	419	246	405	145	1901	426	2725	817
White Pine	2	0	3	2	6	3	11	5
Total	2765	990	309	960	17057	4116	22920	6066