

Petition to the Nevada Real Estate Commission for Adoption of a New Nevada Real Estate Licensing Regulation

Pursuant to NAC 645.875 (NRS 645.190) Petitions for Regulations; "Any Person May By Petition, Request The Commission To Adopt, File, Amend, Or Repeal Any Regulation".

Petition Authored by Anthony George Keep, Nevada Real Estate Credentials
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FILED

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PETITION

REAL ESTATE COMMISSION
BY 

"Regulation of Licensed Entities, Brokerages or Principal Licensees Who Have Been Subject to Eviction, Lease Desertion, Foreclosure or Business Insolvency Bankruptcy"

The purpose of this Petition is to pursue and encourage the creation a new regulation to assure that real estate brokerages or other licensed entities and/or their licensed principals who have developed histories of irresponsible financial management, chronic debt problems or poor organizational controls after they have been initially licensed, will be further regulated to help protect the public from fiduciary recklessness.

And to assure the public that reasonable skill and care with respect to financial and disclosure issues relating to these entities, brokerages and their principals will be fully disclosed when applying for licensing reinstatement. This regulation would not affect licensees who are not Company Owners, Brokers, Principals, Supervisors or Managing Officers.

1. This proposed regulatory section applies to any Real Estate Company Owner, Broker, Principal, Supervisor or Managing Officer of any Licensed Real Estate Company or Entity or Licensed Brokerage after the date that this regulation is adopted.
2. This section will also apply to any Real Estate Company Owner, Broker, Principal, Supervisor or Managing Officer of any Licensed Real Estate Brokerage, Company or Entity retroactively up to one (1) year prior to adoption of this Regulation if there has been a complaint, notification or whistleblower action filed against them with the Division.
3. Any Real Estate Company Owner, Broker, Principal, Supervisor or Managing Officer of any Licensed Brokerage, Real Estate Company or Entity that has been the subject of any of these following circumstances, must immediately report these circumstances to The Division and surrender their real estate licenses rendering them inactive:
 - (a) An eviction from their place of work for non-payment of rent;
 - (b) An unauthorized desertion of lease or tenancy obligations (colloquially known as "skipping out on rent");
 - (c) An eviction from their place of work in a foreclosure action if they were the foreclosed-upon party relinquishing the property.
 - (d) A bankruptcy resulting in real estate business insolvency.

4. Before any such Real Estate Company Owner, Broker, Principal or Managing Officer that has been thusly inactivated can be considered for reinstatement, (regardless of where or with whom the applicant(s) are re-licensed in the future), the applicant(s) must fulfill certain requirements under this section, and undergo an administrative assessment of the application for reinstatement.

Investigation of Financial Responsibility of Any Applicant(s) For Reinstatement

5. Before any applicant for reinstatement of a license that has been thusly inactivated will be considered for reinstatement, the Division shall consider the financial condition of the applicant(s) and require the applicant(s) to submit to the Division a completed comprehensive financial statement that is prepared on a form prescribed by the Division to include proof of the financial condition of the applicant(s) for reinstatement, concomitant to terms in NAC 645.120, (NRS 645.190, 645.400), the financial statements will include, but are not limited to, the following:
 - (a) A completed form 558;
 - (b) A notarized page two of form 558 (Affidavit);
 - (c) Most recent 6 months copies of applicant's business and personal checking accounts with amounts;
 - (b) Most recent 6 months copies of applicant's business and personal savings accounts with amounts;
 - (c) Most recent 6 months copies of applicant's business operating accounts & amounts;
 - (d) Most recent 6 months copies of applicant's business Trust accounts & amounts;
 - (e) Six months copies of other financial accounts under the control of the applicant(s).
 - (f) Copy of applicant's credit report at applicant's expense, dated the same day as the reinstatement application.
 - (g) Any such other financial information as may be requested by the Division.
6. The Division will investigate the financial responsibility of each applicant for reinstatement under the terms of this section.
7. If it is determined that an applicant is not financially viable, reinstatement may be denied.

Proof of Good Character of Any Applicant(s); Other Requirements for Reinstatements

8. The Administrator may require other proof of the honesty, truthfulness and good reputation of any applicant for reinstatement under this section, including the officers and directors of any corporation, or the members of any partnership or association making an application, before accepting an application for a reinstatement (NRS 645.400).
9. The Division shall require full written disclosures from any applicant(s) that are subject to any pending or impending lawsuits or collection actions related to any such evictions, desertions, foreclosures or bankruptcies.

10. The Division shall require full written disclosures from applicant(s) detailing verifiable and exact details of the circumstances that directly caused either a company eviction from a real estate workplace for non-payment of rent, a lease desertion, a company eviction in a foreclosure action, or a company bankruptcy resulting in insolvency.
11. The applicant(s) shall disclose the last address of the applicant(s) place of business, along with the name, address and contact information of the landlord, or his or her agent.
12. If the applicant(s) for reinstatement has/have been evicted or foreclosed upon, or deserted a lease but are not in a bankruptcy, they must demonstrate how they will be able to afford a new office location while concurrently paying back the money that is owed to the previous landlord or property owner.
13. Applicant(s) may be deemed financially responsible if the applicant can demonstrate:
 - a. Liquid assets or cash-on-hand sufficient to maintain an office for at least 180 days;
 - b. The applicant's cash-on-hand must be on deposit at least 90 days before date of the application;
 - c. Prove their continuing ability to repay their former landlords (unless the applicant(s) is/are in a bankruptcy and are covered by the Automatic Stay).
14. If the applicant(s) are being considered for reinstatement, The Division shall require a list of three (3) prospective locations, including the name and contact information of the landlord where the applicant's and their business entity may be considered for a new lease or occupancy.
15. Prior to any reinstatement, The Division will interview the applicant's prospective landlords to confirm the applicant(s) have given the new prospective landlords their full financials as well as references to confirm accurate tenancy or office occupancy histories.
16. A landlord interview is waived if the applicant(s) are moving in to a property they already own.
17. Penalties will be assessed to applicant(s) for getting new leases, or attempting/applying for new leases, without fully disclosing the conditions of previous tenancies to the prospective landlord.
18. Applicant(s) and their business entities must have a verified licensable business address prior to reinstatement.
19. Prior to reinstatement, applicant(s) must also complete Continuing Education courses for six hours of in-person or online training relating to Risk Management, Controlled Business Arrangements and Nevada Law.
20. The Division shall require a full three (3) year business plan delineating a future blue print for company success, complete with financials with viable debt-to-income ratios, and industry standard operational and marketing projections.
21. Any applicant(s) may not be considered for reinstatement unless the applicant(s) has submitted to the Division the information required by this section, and the Division has approved the financial condition and verified the disclosures of the applicant(s).
22. Any falsifications in disclosures on the applications will result in a fine and possible permanent revocation of licensing to be determined by The Division.
23. An Entity or Brokerage is not eligible for reinstatement by simply replacing a previous Broker or other previous Principals with another Broker or other different Principals.
24. Any such other relevant or pertinent information as may be requested by the Division.

25. Licenses remaining on inactive status for the holder's failure to comply with any parts or reasons within this section will remain inactive until application for reinstatement has been approved.
26. A non-refundable application fee for reinstatement under this section for each applicant(s) will be \$250.00, or as determined by The Division.
27. The Division shall determine whether the application is accepted or denied under this section within 21 business days from the date of receipt of the application(s).

Waivers and Appeals

28. No waivers of any financial requirements under items 5-7 will be considered.
29. Partial waivers of some non-financial requirements included in this section may be scrutinized and evaluated for circumstances beyond the control of the Principals involved such as the death of a key person, a natural disaster, building fire, earthquake, or other uncontrollable calamities.
30. Under the Nevada Governor's 2020 Covid Directives, Real Estate Businesses were classified as Essential Businesses and were not subjected to the same limitations that other service businesses navigated during the 2020 Covid events, and were allowed to continue to operate under certain restrictions, or encouraged to conduct real estate business in the booming online environment.
31. Any Real Estate Company Owner, Broker, Principal, Supervisor or Managing Officer of any Licensed Real Estate Company or Entity or Licensed Brokerage asking for any partial non-financial waiver under this section by simply citing an all-encompassing and loosely defined "hardship due to the 2020 Covid event" will be further scrutinized for verifiable proof of a claimed hardship pursuant to items 32-34 of this section.
32. Prospective waiver scrutiny's will examine applicant(s) direct causes of eviction, lease desertion, foreclosure or bankruptcy to identify any incongruities that could otherwise be classified as poor/substandard operational or organizational management issues as actual causes of these failures, rather than applicant(s) justifying them with simple rejoinders.
33. Examiners will seek proof of existing contracts that were cancelled, proof of vendors not paying their commitments, or other businesses deserting their financial obligations, etc.
34. Any such other proof as may be requested by the Division.
35. Anyone denied reinstatement under this section for lack of financial responsibility or any other reason under this section other than criminal activity, dishonesty or malfeasance, does not waive his or her right to appeal pursuant to NRS 645.440 & NRS 645.150.

Citations: [Real Estate Adv. Comm'n, § V part subsecs. 9 & 12, eff. 10-31-74; A and renumbered as subsecs. 12 & 13, 2-20-76] — (NAC A by Real Estate Comm'n, 8-21-81; 12-16-82; 4-27-84; 6-3-86; R111-01, 12-17-2001; R031-04, 11-30-2004). [Real Estate Adv. Comm'n, § III subsecs. 12 & 13, eff. 10-31-75] — (NAC A by Real Estate Comm'n, 8-21-81; A by Real Estate Div., 3-1-96; A by Real Estate Comm'n by R111-01, 12-17-2001; R031-04, 11-30-2004; R025-10, 12-16-2010) NAC 645.120 NAC, 645.150; NRS 645.190.; NRS 645.570; 645.400; NRS 645.350; NRS 645.285; NRS 645.330; NRS 645.440, NRS 645.580.

This Petition was submitted on 10-17-2022 by Anthony George Keep via email to: Shareece Bates and Kelly Valadez representing the Administration Section Manager, State of Nevada,
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