

SMALL BUSINESS IMPACT STATEMENT
CHANGES TO NAC 645
LCB File No. R199-22
AUGUST 13, 2024

1. LCB File No: R199-22 Changes to NAC 645 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 (Division) posted proposed changes to NAC 645 on the Division's website for the public to review and comment. The Division sent proposed changes to licensees, organizations, businesses, associations and interested parties related to this profession on November 14, 2022. Along with the proposed changes to NAC 645, a survey was posted for small businesses to complete regarding how the proposed changes will affect their business.

The Division received comments against the approval of courses taught in a hybrid format. Concern was expressed that although the material may be the same, the presentation is different and there is a disadvantage for the instructor and students. The recommendation was that courses be approved as either live-streaming or in person only.

The Division received some comments in support of the approval of courses taught in a hybrid format with proper monitoring. There were some further comments that with improved technology, hybrid learning can be effective. A further recommendation was made that classes of more than 25 students have a required class monitor so the instructor can focus on the lesson.

The Division received comments in support of the approval of classes with a dual designation.

The Division received comments in support of the proposed registration and certification process for instructors. To avoid potential redundancy, it was recommended that instructors be approved for specific topics and once certified, be able to teach any course under that topic by any provider.

The Division received comments in support of Division sponsored instructor workshops. It was strongly suggested that the workshops be held regularly in the North and the South. Other suggestions were to hold the instructor workshops in multiple formats, including virtually, in person, at multiple locations and at different times to increase participation and accessibility throughout the state. A final suggestion was made to charge a fee for the workshop.

The Division received comments suggesting an alternative process to the required instructor workshop, such as proof by the instructor of a specific number of hours taught within the preceding renewal period.

The Division received comments against the \$100.00 registration fee for instructors due to the impact on small businesses. A recommendation was made to lower the fee to lessen the financial impact.

Regarding the review of post-licensing curriculum, a recommendation was made for the Division and Real Estate Commission to establish a committee to review post-licensing curriculum every 2-3 years. Another recommendation was that the courses be targeted to the area in which they are taught to ensure that licensees have a full understanding of the area in which they practice.

The Division received comments suggesting there be two separate post-licensing courses, one for residential agents and one for commercial agents.

The Division received comments regarding the 15-day requirement to submit scheduled course information to the Division. The comments expressed concern that the timeframe may inhibit a sponsor's ability to accommodate members. Another concern was that an instructor may not have enough time to notify the Division in case of a last-minute change.

The Division received comments regarding the failures of post-licensing and the need to consider additional hours of pre-licensing to ensure sufficient content in targeted topics. Further comment was made to consider requiring post-licensing to be completed within a specific timeframe of the license issuance. Additional comments were made in support of this recommendation with a caution regarding the lack of availability of classes in rural areas potentially decreasing due to virtual courses.

The Division received support in the continuation and re-evaluation of post-licensing education. The recommendation was to have separate courses for seasoned licensees and new licensees.

The Division received a recommendation that post-licensing instructors gain an understanding of the Letter of Intent to help introduce the subject of commercial transactions to a broader audience.

The Division received a comment that 3 hours of general credit should be replaced with a mandatory 3-hour course on fair housing, specifically federal and state laws.

The Division received a recommendation that courses designated as general courses receive additional consideration so that licensees are encouraged to take courses that may be more directed.

Regarding the ability to advertise a course before approval by the Division, comments were received against the proposed language. Concern was expressed that approval times vary, and logistics may not allow for a sponsor or instructor to delay receipt of approval.

A comment was made to allow a course to be advertised as 'CE pending' in order to determine interest in a subject. A recommendation was made for a sponsor or instructor to separate the collection of monies from the advertising process.

The Division received comments in support of courses requiring approval prior to advertising.

The Division received a suggestion to increase the 3-day requirement to submit course attendance data to allow providers more time to gather information. A second suggestion was to increase the minimum passing percentage from 75% to 80% for internet courses.

A comment was also made expressing the difficulty providers may have difficulty submitting class schedules 3 months in advance, especially if the classes are not yet scheduled.

A recommendation was made that language be added to strengthen internet continuing education requirements.

The Division received a recommendation to further clarify the language of allowing commissioners to serve beyond their term due to a delay in a successor so that the language refers to the actual term.

The Small Business Impact Statement is available on the Division's website at www.red.nv.gov.

Interested persons may obtain a copy of the small business impact statement or submit statements of impact to:

Shareece Bates
Administration Section Manager
Nevada Real Estate Division
3300 W. Sahara Avenue, Suite 350
Las Vegas, NV 89102
PublicComments@red.nv.gov
(702) 486-4036

(b) The manner in which the small business analysis was conducted for LCB File No: R199-22.

The Real Estate Division (Division) evaluated all comments and small business impact surveys received. The Division made changes to the proposed regulation taking into consideration some of the suggestions and recommendations made by interested parties.

(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:

The definitions of Classroom and Live instruction are being expanded. There should be no adverse effect on small businesses as there is no additional cost to the business or a requirement to change their current practices. The regulations are also proposing a monitor be used for classes with more than 5 participants to assist with class monitoring. This may cause a change to how the small business ensures compliance and will require some changes to their current operations. For very small operators offering virtual classes of 5 to 10 students this change may increase the cost of the class offerings. However, most small businesses providing digital learning and hybrid teaching modes have class sizes over 20 students already have monitors to assist in class monitoring. The requirement to register instructors will increase the pool of eligible instructors for a sponsor to choose from. This allows the instructors to then teach courses offered by sponsors for Pre, Post and Continuing education. There should be little to no adverse effect on small businesses as there is no additional cost associated with business to register for instructor registration. The public should have no adverse effects from any of the changes to the definitions of Classroom and Live instruction, nor the monitoring requirements or instructor registration. The ability of the provider to have assistance during instruction of larger classes will allow the monitor to assist with technical issues and respond to questions, allowing the instructor to maintain order of the class.

(II) Beneficial effects:

The definition of Classroom is being expanded to include digital platforms and interactive media. The definition of Live instruction is also being expanded to include digital platforms and hybrid teaching modes. The changes to Classroom and Live instruction definitions will significantly benefit education sponsors as this allows them to take their existing courses and offer it in different live and classroom formats. Changes to the instructor registration enables the instructors to receive approved certification by the Division prior to submitted course applications. This will streamline the course approval process and reduce the paperwork submitted with each course approval for the sponsors. The public should benefit from the regulation because sponsors will be able to offer more classes in multiple platforms with their choice of registered instructors, increasing the opportunity for the public to attend courses, especially for those in rural parts of the state.

(2) Both direct and indirect effects.

(I) Direct effect:

Based on the changes to classroom and live instruction definitions, the Division anticipates a significant increase in courses submitted for approval and an increase in the number of courses offered in Pre, Post and Continuing education. Changes to the instructor registration will also increase the number of instructors applying to register

with the Division. This will allow a larger pool of qualified instructors for the sponsors to choose from, thereby increasing their ability to advertise and increasing revenue. A more flexible schedule may also attract more students with varied schedules. Less regulation on the sponsor to submit documentation within specific timeframes may also allow the sponsor more time to ensure accurate information is submitted to the Division.

(II) Indirect effect:

These proposed changes will potentially increase the different options for business to provide education to licensees. This should increase the number of businesses in the education space and also attract new business into the industry. An increase in different teaching formats may increase visibility and student participation from licensees throughout the state. A hybrid classroom may contribute to greater shared learning of practices between licensees in rural and urban areas of the state.

(d) A description of the methods that the Commission considered to reduce the impact of Changes to NAC 645 on small businesses and a statement whether the Real Estate Division actually used any part of those methods.

The Commission considered methods to reduce the impact of the proposed regulation on small businesses based on comments, survey results and statements received on, during and after the 30-day comment period and regulation workshop held on December 13, 2022. After review of the comments, reconsideration was given, and the instructor registration fee was removed. After review of comments, regulation was removed requiring sponsors to submit class schedules, which allows for more flexibility in scheduling and an appeal to a larger audience. The language allowing for increased time to submit class attendance will also help sponsors submit accurate information to the Division to avoid a delay in processing of student information. The regulation as proposed is meant to allow sponsors to streamline their business processes.

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

No additional estimated costs to the agency for enforcement of the proposed regulation.

(f) If Changes to NAC 645 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.

Language adding a registration fee for instructor registration and renewal was removed. No other fee increase was proposed.

(g) If Changes to NAC 645 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.

Changes to NAC 645 do not include any provisions that are duplicate or are more stringent than federal, state or local standards regulating the same activity.

(h) The reasons for the conclusions of the Real Estate Division regarding the impact of Changes to NAC on small businesses.

The Commission received nine written comments including two opinion statements by business owners during the 30-day public comment period. Small business impact statements were also made at the public workshop on December 13, 2022. Based on those comments, reconsideration was given, and the instructor registration fee was removed. After review of comments, regulation was removed requiring sponsors to submit class schedules, which allows for more flexibility in scheduling and an appeal to a larger audience. The language allowing for increased time to submit class attendance will also help sponsors submit accurate information to the Division to avoid a delay in processing of student information. The regulation as proposed is meant to give sponsors a little more control over their business and help streamline processes.

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 the public and that the information contained in this statement was prepared properly and is accurate. (NRS 233B.0608(3)).



Sharath Chandra, Administrator
Department of Business & Industry
Real Estate Division