

1 **BEFORE THE REAL ESTATE COMMISSION**

2 **STATE OF NEVADA**

3 SHARATH CHANDRA, Administrator,
4 REAL ESTATE DIVISION,
5 DEPARTMENT OF BUSINESS AND
6 INDUSTRY, STATE OF NEVADA,

7 Petitioner,

8 vs.

9 IYAD W. HADDAD
(License No. b.0036691.INDV),

10 Respondent.

CASE NO.: 2022-133

**RESPONDENT IYAD W. HADDAD'S
PETITION FOR RECONSIDERATION
PURSUANT TO NRS 233B.130(4).**

FILED

JAN 05 2024

REAL ESTATE COMMISSION

BY *Kelsey Valadez*

11 Respondent Iyad W. Haddad ("Mr. Haddad"), by and through his attorneys at LIPSON
12 NEILSON P.C., hereby submits this Petition for Reconsideration pursuant to NRS 233B.130(4)
13 ("Petition"). The Petition is made and based upon the pleadings and papers on file herein, the
14 attached Memorandum of Points and Authorities, and any oral argument that The Real Estate
15 Commission ("Commission") may entertain at a hearing on the Petition.

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I. INTRODUCTION**

18 This matter arises from allegations raised against Haddad by the State of Nevada,
19 Department of Business and Industry, Real Estate Division ("the Division") in connection with a
20 grievance submitted by a tenant of a rental property located at 5495 Everglade Street, Las
21 Vegas, Nevada 89142 (hereinafter referred to as "The Property"). The tenant complained
22 about the condition of the Property and alleged that Saticoy Bay LLC failed to provide promised
23 services in a timely manner. This is the type and nature of complaint, a landlord-tenant dispute,
24 should have been immediately dismissed for lack of jurisdiction. As will be seen below, the
25 Nevada Revised Statutes provide no authority for the Division to pursue such matters and
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1 efforts to change that fact during legislative session were categorically rejected.¹ Not to be
2 deterred, the Division still pursued this matter as if it had jurisdiction to do so, and argued that
3 Mr. Haddad was somehow liable for the allegations as pled by the tenant against Saticoy Bay
4 LLC under Nevada Revised Statutes Chapter 645 – Real Estate Brokers and Salespersons,
5 despite the fact that NRS 645.0445 **specifically excludes** these types of claims. Long story
6 short, the Division and Commission exerted authority they do not possess based on statutes
7 that do not exist. This case must be dismissed. It is Mr. Hadadd’s intent to file a Petition for
8 Judicial Review pursuant to NRS 233B.130, but it is our hope that the Commission will
9 reconsider its decision and make that step unnecessary.

10 **II. RELEVANT PROCEDURAL HISTORY**

11 On March 1, 2022, Paul Allan Reeves submitted a grievance with the Division that
12 contained complaints about the condition of his rental unit. He claimed his landlord, Saticoy Bay
13 LLC, had failed to meet its obligations under the lease.

14 On March 2, 2022, only one day later, the Division sent a letter to Mr. Haddad (who is
15 not the owner of the property) demanding he respond to the grievance. The Division’s letter did
16 not explain what statutory authority it was relying on to maintain such an investigation, or why
17 the investigation was being opened as to Mr. Hadadd personally in connection with his broker’s
18 license.

19 On March 16, 2022, Mr. Hadadd’s counsel, Mr. Bohn, promptly responded to the letter of
20 investigation objecting to the investigation, pointing out the obvious, which was that Mr. Hadadd
21 was not named in the grievance, and questioning why the Division would pursue this matter.
22 Mr. Bohn also provided proof that the tenant’s matter had already been resolved in civil court.

23 On August 23, 2022, the Division issued a Notice of Violation and Administrative Fine to
24 Mr. Haddad. Mr. Hadadd appealed the Notice of Violation giving the Division yet another
25 opportunity to address their mistake and dismiss this action. The Division failed to do so and
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27 ¹ See 2023 Bill Text NV A.B. 327 attached hereto as Exhibit 1. This bill was introduced on March 17,
28 2023 and was an act relating to real property; providing for the permitting and regulation of landlord
property managers by the Division. THIS BILL FAILED.

1 instead doubled down by commencing disciplinary charges against Mr. Haddad and seeking a
2 formal hearing before the Real Estate Commission.

3 A hearing was held November 8-9, 2023. Despite a lack of statutory authority to do so,
4 the Commission still found in favor of the Division by a 3-2 vote ruling that Mr. Hadadd violated
5 NRS 645.633(1)(h) pursuant to NAC 645.605(1) by failing to provide a habitable unit, pursuant
6 to NRS 118A.290. The Commission subsequently issued a written Order setting forth the basis
7 of their decision. This conclusion is erroneous on its face as will be seen below.

8 **III. LEGAL ARGUMENT**

9
10 **A. NRS 645.0445 Specifically Excludes Applicability Regarding Typical Landlord
Tenant Disputes.**

11 NRS 645.0445(1) states in part as follows:

12 **NRS 645.0445 Applicability of chapter.**

13 1. The provisions of this chapter do not apply to, and the terms "real estate
broker" and "real estate salesperson" do not include, any:

14 (a) Owner or lessor of property, or any regular employee of such a person,
15 who performs any of the acts mentioned in NRS
16 645.030, 645.040, 645.230 and 645.260, with respect to the property in the
17 regular course of or as an incident to the management of or investment in the
18 property. For the purposes of this subsection, "management" means activities
19 which tend to preserve or increase the income from the property by preserving
20 the physical desirability of the property or maintaining high standards of service
21 to tenants. The term does not include sales activities.

22 In this case, the grievant filed a claim with the Division complaining about his landlord's
23 handling of the property pure and simple. The owner of the property was Saticoy Bay LLC.
24 While the grievant claimed that such grievances were widespread, he did not provide any
25 evidence in that regard. This was a pure landlord-tenant dispute between the grievant and the
26 owner of the property, Saticoy Bay, LLC. Such claims are not the purview of the Division under
27 NRS 645.
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1 **B. NRS 645.633(1)(h) Does Not Incorporate or Codify NRS 118A.290 in a Manner**
2 **that Would Allow for the Conclusions of Law Reached by the Panel.**

3 NRS 645.633 states as follows:

4 Additional grounds for disciplinary action: Improper trade practices; violations of
5 certain orders, agreements, laws and regulations; criminal offenses; other
6 unprofessional and improper conduct; reciprocal discipline; violations relating to
7 property management; log of complaints.

8 1. The Commission may take action pursuant to NRS 645.630 against any
9 person subject to that section who is guilty of any of the following acts:

10 (a) Willfully using any trade name, service mark or insigne of membership in
11 any real estate organization of which the licensee is not a member, without the
12 legal right to do so.

13 (b) Violating any order of the Commission, any agreement with the Division,
14 any of the provisions of this chapter, chapter
15 116, 119, 119A, 119B, 645A or 645C of NRS or any regulation adopted pursuant
16 thereto.

17 (c) Paying a commission, compensation or a finder's fee to any person for
18 performing the services of a broker, broker-salesperson or salesperson who has
19 not secured a license pursuant to this chapter. This subsection does not apply to
20 payments to a broker who is licensed in his or her state of residence.

21 (d) A conviction of, or the entry of a plea of guilty, guilty but mentally ill or
22 nolo contendere to:

23 (1) A felony relating to the practice of the licensee, property manager or
24 owner-developer; or

25 (2) Any crime involving fraud, deceit, misrepresentation or moral
26 turpitude.

27 (e) Guaranteeing, or having authorized or permitted any person to guarantee,
28 future profits which may result from the resale of real property.

(f) Failure to include a fixed date of expiration in any written brokerage
agreement or failure to leave a copy of such a brokerage agreement or any
property management agreement with the client.

(g) Accepting, giving or charging any undisclosed commission, rebate or
direct profit on expenditures made for a client.

**(h) Gross negligence or incompetence in performing any act for which
the person is required to hold a license pursuant to this chapter, chapter
119, 119A or 119B of NRS.**

(i) Any other conduct which constitutes deceitful, fraudulent or dishonest
dealing.

(j) Any conduct which took place before the person became licensed which
was in fact unknown to the Division and which would have been grounds for
denial of a license had the Division been aware of the conduct.

(k) Knowingly permitting any person whose license has been revoked or
suspended to act as a real estate broker, broker-salesperson or salesperson,
with or on behalf of the licensee.

(l) Recording or causing to be recorded a claim pursuant to the provisions
of NRS 645.8701 to 645.8811, inclusive, that is determined by a district court to
be frivolous and made without reasonable cause pursuant to NRS 645.8791.
[emphasis added.]

1
2 In the Findings of Fact, Conclusions of Law and Order ("FFCL"), it states under
3 "Conclusions of Law" ²that:

4 RESPONDENT violated NRS 645.633(l)(h) pursuant to NAC 645.605(1) on
5 three (3) separate occasions by failing to do his utmost to protect the public
6 against fraud, misrepresentation or unethical practices related to real estate
when he:

7 a. failed to provide a habitable unit, pursuant to NRS 118A.290, with
8 an operational hot water heater for his tenant at 5495 Everglade St., Las
Vegas, NV 89142 for approximately 5 (five) months;

9 b. failed to follow his Property Management Agreement as written, in
10 that he did not execute contracts for utilities and services to ensure that
Natural Gas would be available for the tenant at the time the 5495
Everglade property was marketed for lease; and

11 c. failed to provide a habitable unit, pursuant to NRS 118A.290,
12 by ensuring that all electrical outlets, wiring and electrical equipment were
13 maintained in good working order at the 5495 Everglade property at the time it
was leased.

14 The Conclusions of Law clearly rely on NRS 118A.290 to reach the determination that
15 Mr. Hadadd violated NRS 645.633(1)(h). However, as can be seen above, the Nevada
16 Revised Statutes do not incorporate Chapter 118 under NRS 645.633(1)(h). Furthermore,
17 Chapter 118 is not codified anywhere in Chapter 645. The two chapters, and more
18 specifically, these two statutes were never intended by the legislature to be interpreted or
19 utilized in conjunction with each other.

20 In *Pawlik v. Shyang-Fenn Deng*, 134 Nev. 83 (2018), the Nevada Supreme Court held
21 in pertinent part:

22 When the language of a statute is clear on its face, this court will not go
23 beyond the statute's plain language." *J.E. Dunn Nw., Inc. v. Corus Constr.*
24 *Venture, LLC*, 127 Nev. 72, 79, 249 P.3d 501, 505 (2011) (internal
25 quotations and alterations omitted). However, if the statutory language is
26 subject to two or more reasonable interpretations, the statute is ambiguous,
and we then look beyond the statute to the legislative history and interpret
the statute in a reasonable manner "in light of the policy and the spirit of

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28 ² FFCL p. 5, ¶18, L1-14

1 the law." *Id.* (internal quotations omitted); see *Pankopf*, 124 Nev. at 46, 175
2 P.3d at 912.

3 Here, the Commission errs on both counts in that both the statute language and
4 the legislative history are clear and unambiguous. As such, the Commission's
5 conclusions are based on flawed statutory application and must be dismissed.

6 **C. The Nevada Legislative Branch Has Clearly Rejected the Division's Quest to**
7 **Oversee These Types of Complaints by Rejecting A.B. 327.**

8 The Nevada Legislature has clearly rejected the Division's quest to expand their oversight
9 to regulation to landlord property management. A.B. 327 was introduced to the Nevada
10 Legislature on March 17, 2023. The bill attempted to get the Nevada State Legislature to
11 revise NRS Chapter 645 to expand the authority of the Division to oversee, investigate and
12 prosecute claims exactly like the one filed against Saticoy Bay, LLC. THIS BILL WAS
13 REJECTED. The Legislature sent a clear message that the Division should not be vested with
14 such authority. Instead of heeding the legislature's directives, the Division tried to create a
15 non-existent work-around that was unfortunately rubber-stamped in error by the Commission.
16 Mr. Hadadd was not in any manner utilizing his broker's license with respect to any of the
17 events that occurred.

18 **D. The Findings of Fact and Conclusions of Law are both incorrect in**
19 **substantive part and demonstrate a Bias Against Hadadd by Holding**
20 **Him Personally Responsible for Claims Never Made Against Him.**

21 The Commission is holding Mr. Haddad *de facto* responsible for the
22 responsibilities of the property management company based on multiple erroneous
23 findings of fact. For example, Findings Three and Fifteen are contrary and
24 inconsistent with judicial findings made in the Justice Court action which resolved the
25 claim relating to the tenant in question. The Findings of Fact in question presumes
26 that it was the landlord's responsibility to have gas turned on, maintain service, and
27 that the tenant lacked hot water for five months. The evidence in the record did not
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1 support these findings.³ Finding of Fact Fifteen similarly and incorrectly presumes that
2 coordinating with Southwest Gas for service was Mr. Hadadd's personal responsibility.
3 These Findings were specifically relied upon to support the Conclusions of Law.

4 Finding Eight is inconsistent and contrary to the express terms of the Property
5 Management Agreement.⁴ Saticoy Bay LLC is the owner of the Property, which was
6 managed by Turnkey Property Solutions through the broker license of Mr. Nathan
7 Vidrine. Mr. Hadadd, as the owners' representative, was not managing the property,
8 but merely facilitating the utilities where necessary to ensure the landscaping was
9 maintained and there could be transition between tenants. Gas service was not
10 maintained between tenants for safety reasons.

11 Finding Ten is also incorrect. All repairs were completed prior to move in. The
12 tenant acknowledged all of these in the phone call that was played for the
13 Commission. Additionally, email chains were submitted provided that repairs were
14 approved and work completed by the move-in date.⁵

15 **E. The Fines Charged Exceeded the Allowable Amount Under Statute.**

16 Mr. Hadadd was charged with a single violation of NRS 645.633(1)(h), but was
17 fined \$15,000. However, NRS 645.990(2) limits fines under statute to \$5,000 per
18 offense. The Conclusions of Law attempt to turn the one violation of NRS
19 645.633(1)(h) into three separate offenses by claiming sub-parts of the same violation.
20 This is not allowed for under the statute. While we dispute any violation is
21 appropriate, the fines could not exceed \$5,000 total.
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24 ³ See Testimony of Nathan Vadrine and Justice Court Order. More specific cites will be provided upon
25 receipt of the transcript.

26 ⁴ See Testimony of Nathan Vidrine and Property Management Agreement. More specific references will
be provided upon receipt of the transcript of proceedings.

27 ⁵ See *Testimony* of Nathan Vidrine and exhibits submitted by Respondents. More specific references will
28 be provided upon receipt of the transcript of proceedings.

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1 **IV. CONCLUSION**

2 Mr. Hadadd respectfully requests that the Committee reconsider this decision and dismiss
3 the case. We understand that the Committee serves an important function by protecting the
4 general public from the abuses seen during the last housing crisis, and respect the work done in
5 that function. However, this case does not fall under that purview, and has resulted in the
6 Commission issuing discipline without any authority or statutory authority to do so. We ask that
7 the Committee reconsider their conclusions and undo a wrong that has been done to Mr.
8 Hadadd.

9 Dated this 5th day of January 2023.

10 LIPSON NEILSON P.C.

11 By: /s/ Janeen V. Isaacson
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CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of January 2024, service of the foregoing
RESPONDENT IYAD W. HADDAD'S PETITION FOR RECONSIDERATION
PURSUANT TO NRS 233B.130(4). was made via electronic mail addressed to the
following parties:

<p>Maria Gallo Commission Coordinator Shareece N. Bates Administration Section Manager Nevada Real Estate Division 3300 W. Sahara Avenue, Suite 350 Las Vegas, Nevada 89102 mgallo@red.nv.gov sbates@red.nv.gov</p>	<p>Phil W. Su, Esq. Senior Deputy Attorney General 555 East Washington Ave. Las Vegas, Nevada 89101 psu@ag.nv.gov <i>Attorneys for Real Estate Division</i></p>
<p>Mickey F. Bohn, Esq. Law Offices of Michael F. Bohn 2260 Corporate Circle Suite 480 Las Vegas, NV 89074 mbohn@bohnlawfirm.com <i>Attorney for Respondent</i></p>	

/s/ Michele Stones
An Employee of LIPSON NEILSON P.C.

EXHIBIT 1

2023 Bill Text NV A.B. 327

Introduced, March 17, 2023

Reporter

2023 Bill Text NV A.B. 327

Notice

Added: Text highlighted in green

Deleted: ~~Red text with a strikethrough~~

THE STATE OF NEVADA BILL TEXT > NEVADA 82ND REGULAR SESSION > ASSEMBLY BILL 327

Progress



FAILED

[Legislative Outlook in detail](#)

Introduced

Passed 1st
Committee

Passed 1st
Chamber

Passed 2nd
Committee

Passed 2nd
Chamber

Enacted



Synopsis

AN ACT relating to real property; providing for the permitting and regulation of landlord property managers by the Real Estate Division of the Department of Business and Industry; setting forth requirements for a landlord property manager to obtain a permit to engage in property management; providing a penalty; and providing other matters properly relating thereto.

Digest

DIGEST:

Legislative Counsel's Digest:

Existing law provides for the licensure and regulation of real estate brokers, real estate broker-salespersons and real estate salespersons and for the permitting and regulation of property managers by the Real Estate Division of the Department of Business and Industry. (Chapter 645 of NRS) With certain exceptions, existing law prohibits a person from acting as a property manager in this State unless the person has obtained from the Division a license as a real estate broker, real estate broker-salesperson or real estate salesperson and a permit to engage in property management. ([NRS 645.230](#))

Existing law defines "property management" to mean, in general, the physical, administrative or financial maintenance and management of real property for valuable consideration pursuant to a property management agreement. ([NRS 645.019](#)) Section 6 of this bill revises that definition to include the performance of such activities when engaged in by a person in the regular course of providing four or more dwelling units located on real property owned by the person for occupancy by others. Section 3 of this bill designates a person who provides four or more dwelling units located on real property owned by the person for occupancy by others and who engages in property management with respect to those properties as a "landlord property manager." Section 8 of this bill prohibits a person from acting as a landlord property manager unless the person has obtained from the Division a permit to engage in property management.

Existing law authorizes only a person who is licensed as a real estate broker, real estate broker-salesperson or real estate salesperson to apply for and be issued a permit to engage in property management. ([NRS 645.6052](#)) Section 10 of this bill authorizes a person who provides four or more dwelling units located on real property owned by the person for occupancy by others to apply for and be issued a permit to engage in property management. Section 10 requires such a person who wishes to obtain a permit to engage in property management to file and maintain a surety bond and meet certain other requirements.

Under existing law, an owner or lessor of property who engages in property management or conducts certain activities with respect to the property in the regular course of or as an incident to the management of or investment in the property is exempt from the provisions of existing law governing property managers and other persons regulated by the Division. ([NRS 645.0445](#)) Section 7 of this bill excludes landlord property managers from that exemption.

Sections 9, 11-15 and 17-20 of this bill add references to a landlord property manager and a permit to engage in property management to certain provisions of existing law governing property managers and other persons licensed by the Division and licenses issued by the Division so that landlord property managers are treated the same as property managers and licensees for certain purposes, including, without limitation, for the purposes of certain investigations and the imposition of certain disciplinary action.

Existing law authorizes the Commission to take certain disciplinary action against a person who holds a permit to engage in property management and who takes certain action in connection with a property for which the person has obtained a property management agreement. ([NRS 645.633](#)) Section 16 of this bill specifies that such provisions apply only to a licensed real estate broker, real estate broker-salesperson or real estate salesperson who holds a permit to engage in property management.

Existing law exempts from the provisions of existing law providing for the registration and regulation of asset management companies and the permitting and regulation of asset managers a person or broker who has a current permit to engage in property management. ([NRS 645H.160](#)) Section 20 of this bill specifies that the exemption applies only to a licensed real estate broker, real estate broker-salesperson or real estate salesperson who holds a permit to engage in property management.

Sections 2-4 of this bill define words and terms for the purposes of this bill. Section 5 of this bill makes a conforming change to indicate the proper placement of sections 2-4 in the Nevada Revised Statutes.

Text

*THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT
AS FOLLOWS:*

Section 1. Chapter 645 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. "DWELLING UNIT" HAS THE MEANING ASCRIBED TO IT IN NRS 118A.080.

Sec. 3. "LANDLORD PROPERTY MANAGER" MEANS A PERSON WHO PROVIDES FOUR OR MORE DWELLING UNITS LOCATED ON REAL PROPERTY OWNED BY THE PERSON FOR OCCUPANCY BY OTHERS PURSUANT TO RENTAL AGREEMENTS AND WHO IS ENGAGED IN PROPERTY MANAGEMENT WITH RESPECT TO THOSE PROPERTIES.

Sec. 4. "RENTAL AGREEMENT" HAS THE MEANING ASCRIBED TO IT IN NRS 118A.160.

Sec. 5. NRS 645.0005 is hereby amended to read as follows:

645.0005

As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645.001 to 645.042, inclusive, AND SECTIONS 2, 3 AND 4 OF THIS ACT have the meanings ascribed to them in those sections.

Sec. 6. NRS 645.019 is hereby amended to read as follows:

645.019

"Property management" means the physical, administrative or financial maintenance and management of real property, or the supervision of such activities ~~for~~, EITHER:

1.

FOR a fee, commission or other compensation or valuable consideration, pursuant to a property management agreement ~~—~~; OR

2.

BY A PERSON WHO ENGAGES IN SUCH ACTIVITIES IN THE REGULAR COURSE OF PROVIDING FOUR OR MORE DWELLING UNITS LOCATED ON REAL PROPERTY OWNED BY THE PERSON FOR OCCUPANCY BY OTHERS PURSUANT TO RENTAL AGREEMENTS.

Sec. 7. NRS 645.0445 is hereby amended to read as follows:

645.0445

1.

The provisions of this chapter do not apply to, and the terms "real estate broker" and "real estate salesperson" do not include, any:

(a)

Owner or lessor of property ~~—~~ WHO IS NOT A LANDLORD PROPERTY MANAGER, or any regular employee of such a person, who performs any of the acts mentioned in NRS 645.030, 645.040, 645.230 and 645.260, with respect to the property in the regular course of or as an incident to the management of or investment in the property. For the purposes of this subsection, "management" means activities which tend to preserve or increase the income from the property by preserving the physical desirability of the property or maintaining high standards of service to tenants. The term does not include sales activities.

(b)

Employee of a real estate broker while engaged in the collection of rent for or on behalf of the broker.

(c)

2023 Bill Text NV A.B. 327

Person while performing the duties of a property manager for a property, if the person maintains an office on the property and does not engage in property management with regard to any other property.

(d)

Person while performing the duties of a property manager for a common-interest community governed by the provisions of chapter 116 of NRS, an association of a condominium hotel governed by the provisions of chapter 116B of NRS, a condominium project governed by the provisions of chapter 117 of NRS, a time share governed by the provisions of chapter 119A of NRS, or a planned unit development governed by the provisions of chapter 278A of NRS, if the person is a member in good standing of, and, if applicable, holds a current certificate, registration or other similar form of recognition from, a nationally recognized organization or association for persons managing such properties that has been approved by the Real Estate Division by regulation.

(e)

Person while performing the duties of a property manager for property used for residential housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government.

2.

The provisions of this chapter do not apply to:

(a)

Any bank, thrift company, credit union, trust company, savings and loan association or savings bank or any mortgage or farm loan association licensed under the laws of this State or of the United States, with reference to property it has acquired for development, for the convenient transaction of its business, or as a result of foreclosure of property encumbered in good faith as security for a loan or other obligation it has originated or holds.

(b)

A corporation which, through its regular officers who receive no special compensation for it, performs any of those acts with reference to the property of the corporation.

(c)

The services rendered by an attorney at law in the performance of his or her duties as an attorney at law.

(d)

A receiver, trustee in bankruptcy, administrator or executor, or any other person doing any of the acts specified in NRS 645.030 under the jurisdiction of any court.

(e)

A trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof.

(f)

The purchase, sale or locating of mining claims or options thereon or interests therein.

(g)

The State of Nevada or a political subdivision thereof.

Sec. 8. NRS 645.230 is hereby amended to read as follows:

645.230

1.

2023 Bill Text NV A.B. 327

It is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as, a:

- (a) Real estate broker, real estate broker-salesperson or real estate salesperson within the State of Nevada without first obtaining the appropriate license from the Real Estate Division as provided for in this chapter;
- (b) Property manager within the State of Nevada without first obtaining from the Real Estate Division as provided for in this chapter a license as a real estate broker, real estate broker-salesperson or real estate salesperson and a permit to engage in property management;
- (c) Designated property manager within the State of Nevada without complying with the provisions of NRS 645.6055;
- (d) LANDLORD PROPERTY MANAGER WITHIN THE STATE OF NEVADA WITHOUT FIRST OBTAINING FROM THE REAL ESTATE DIVISION AS PROVIDED FOR IN THIS CHAPTER A PERMIT TO ENGAGE IN PROPERTY MANAGEMENT;
- (E) Business broker within the State of Nevada without first obtaining from the Real Estate Division as provided for in this chapter a license as a real estate broker, real estate broker-salesperson or real estate salesperson and a permit to engage in business as a business broker issued pursuant to the provisions of NRS 645.863; or
- (e) (F) Designated business broker within the State of Nevada without complying with the provisions of NRS 645.867.

2.

The Real Estate Division may prefer a complaint for a violation of this section before any court of competent jurisdiction and may assist in presenting the law or facts upon any trial for a violation of this section.

3.

The district attorney of each county shall prosecute all violations of this section in their respective counties in which violations occur, unless prosecuted by the Attorney General. Upon the request of the Administrator, the Attorney General shall prosecute any violation of this section in lieu of the district attorney.

Sec. 9. NRS 645.358 is hereby amended to read as follows:

645.358

1.

In addition to any other requirements set forth in this chapter:

- (a) A natural person who applies for the issuance of a license as a real estate broker, broker-salesperson or salesperson OR A PERMIT TO ENGAGE IN PROPERTY MANAGEMENT shall include the social security number of the applicant in the application submitted to the Division.
- (b)

2023 Bill Text NV A.B. 327

A natural person who applies for the issuance or renewal of a license as a real estate broker, broker-salesperson or salesperson **OR A PERMIT TO ENGAGE IN PROPERTY MANAGEMENT** shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2.

The Division shall include the statement required pursuant to subsection 1 in:

(a)

The application or any other forms that must be submitted for the issuance or renewal of the license ~~÷~~ **OR PERMIT**; or

(b)

A separate form prescribed by the Division.

3.

A license as a real estate broker, broker-salesperson or salesperson **OR A PERMIT TO ENGAGE IN PROPERTY MANAGEMENT** may not be issued or renewed by the Division if the applicant is a natural person who:

(a)

Fails to submit the statement required pursuant to subsection 1; or

(b)

Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4.

If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 10. NRS 645.6052 is hereby amended to read as follows:

645.6052

1.

A person who is licensed pursuant to this chapter as a real estate broker, real estate broker-salesperson or real estate salesperson may apply to the Real Estate Division for a permit to engage in property management.

2.

A PERSON WHO PROVIDES FOUR OR MORE DWELLING UNITS LOCATED ON REAL PROPERTY OWNED BY THE PERSON FOR OCCUPANCY BY OTHERS PURSUANT TO RENTAL AGREEMENTS MAY APPLY TO THE REAL ESTATE DIVISION FOR A PERMIT TO ENGAGE IN PROPERTY MANAGEMENT WITH RESPECT TO THOSE PROPERTIES.

3.

An applicant for a permit must:

(a)

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Furnish proof satisfactory to the Division that the applicant has successfully completed at least 24 classroom hours of instruction in property management; and

- (b) Comply with all other requirements established by the Commission for the issuance of a permit.

3. 4.

IN ADDITION TO THE REQUIREMENTS PRESCRIBED IN SUBSECTION 3, AN APPLICANT FOR A PERMIT TO ENGAGE IN PROPERTY MANAGEMENT PURSUANT TO SUBSECTION 2 MUST FILE WITH THE APPLICATION, AND THEREAFTER MAINTAIN IN FORCE WHILE SO PERMITTED, A SURETY BOND. THE SURETY BOND MUST BE:

- (A) IN AN AMOUNT SET FORTH BY THE COMMISSION BY REGULATION;
- (B) A STANDARD FORM AND APPROVED BY THE DIRECTOR AS TO THE TERMS AND CONDITIONS; AND
- (C) CONDITIONED SO THAT THE PRINCIPAL WILL COMPLY WITH THE PROVISIONS OF THIS CHAPTER AND THE RULES AND REGULATIONS ADOPTED BY THE COMMISSION.

5.

A permit ISSUED TO AN APPLICANT DESCRIBED IN SUBSECTION 1 expires, and may be renewed, at the same time as the license of the holder of the permit.

6.

A PERMIT ISSUED TO AN APPLICANT DESCRIBED IN SUBSECTION 2 EXPIRES 1 YEAR AFTER IT IS ISSUED AND MAY BE RENEWED IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE COMMISSION.

4. 7.

An applicant for the renewal of a permit must:

- (a) ~~Furnish~~ IN THE CASE OF A REAL ESTATE BROKER, REAL ESTATE BROKER-SALESPERSON OR REAL ESTATE SALES PERSON, FURNISH proof satisfactory to the Division that the applicant has successfully completed at least 3 of the hours of the continuing education required for the renewal of his or her license pursuant to the regulations adopted by the Commission pursuant to NRS 645.575 in an approved educational course, seminar or conference concerning property management; and
- (b) Comply with all other requirements established by the Commission for the renewal of a permit.

5. 8.

The Commission may adopt such regulations as it determines are necessary to carry out the provisions of this section. The regulations may, without limitation:

- (a) Establish additional requirements for the issuance or renewal of a permit.
- (b)

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Establish fees for the issuance and renewal of a permit and fees to pay the costs of:

- (1) Any examination for a permit, including any costs which are necessary for the administration of such an examination.
- (2) Any investigation of an applicant's background.
- (c) Set forth standards of education for the approval of a course of instruction to qualify an applicant for a permit.

Sec. 11. NRS 645.6058 is hereby amended to read as follows:

645.6058

- 1. Except as otherwise provided in subsection 3, all fees, penalties and fines received by the Division pursuant to the provisions of NRS 645.6052 to 645.6058, inclusive, must be deposited with the State Treasurer for credit to the Division. The money must be used by the Division for the administration of the provisions of NRS 645.6052 to 645.6058, inclusive.
- 2. The Division may delegate to a hearing officer or panel its authority to take any disciplinary action against property managers ~~—~~ OR LANDLORD PROPERTY MANAGERS, impose and collect fines pursuant to the disciplinary action and deposit the money with the State Treasurer for credit to the Division.
- 3. If a hearing officer or panel is not authorized to take disciplinary action pursuant to subsection 2, the Division shall deposit the money collected from the imposition of penalties and fines collected from property managers AND LANDLORD PROPERTY MANAGERS with the State Treasurer for credit to the State General Fund. The Division may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the costs of an investigation, or both.

Sec. 12. NRS 645.610 is hereby amended to read as follows:

645.610

The Administrator may investigate the actions of any real estate broker, broker-salesperson, salesperson, LANDLORD PROPERTY MANAGER, owner-developer or any person who acts in any such capacity within this State.

Sec. 13. NRS 645.615 is hereby amended to read as follows:

645.615

- 1. A licensee, property manager , LANDLORD PROPERTY MANAGER or owner-developer shall notify the Division in writing if he or she is convicted of, or enters a plea of guilty, guilty but mentally ill or nolo contendere to:
 - (a) A felony relating to the practice of the licensee, property manager , LANDLORD PROPERTY MANAGER or owner-developer; or
 - (b) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

2.

A licensee, property manager , LANDLORD PROPERTY MANAGER or owner-developer shall submit the notification required by subsection 1:

(a)

Not more than 10 days after the conviction or entry of the plea of guilty, guilty but mentally ill or nolo contendere; and

(b)

When submitting an application to renew a license, permit or registration issued pursuant to this chapter.

Sec. 14. NRS 645.620 is hereby amended to read as follows:

645.620

The Division shall maintain in each district office a public docket or other record in which it shall record from time to time as made:

1.

The rulings or decisions upon all complaints filed with that district office.

2.

All investigations instituted by that district office in the first instance, upon or in connection with which any hearing has been held, or in which the PERMITTEE OR licensee charged has made no defense.

3.

Denials of applications made to that district office for examination , PERMITTING or licensing.

Sec. 15. NRS 645.630 is hereby amended to read as follows:

645.630

1.

The Commission may require a licensee, property manager , LANDLORD PROPERTY MANAGER or owner-developer to pay an administrative fine of not more than \$10,000 for each violation he or she commits or suspend, revoke, deny the renewal of or place conditions upon his or her license, permit or registration, or impose any combination of those actions, at any time if the licensee, property manager , LANDLORD PROPERTY MANAGER or owner-developer has, by false or fraudulent representation, obtained a license, permit or registration, or , FOR A LICENSEE, PROPERTY MANAGER OR OWNER-DEVELOPER, the licensee, property manager or owner-developer, whether or not acting as such, is found guilty of:

(a)

Making any material misrepresentation.

(b)

Making any false promises of a character likely to influence, persuade or induce.

(c)

Accepting a commission or valuable consideration as a real estate broker-salesperson or salesperson for the performance of any of the acts specified in this chapter or chapter 119 or 119A of NRS from any person except the licensed real estate broker with whom he or she is associated or the owner-developer by whom he or she is employed.

(d)

Representing or attempting to represent a real estate broker other than the broker with whom he or she is associated, without the express knowledge and consent of the broker with whom he or she is associated.

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- (e) Failing to maintain, for review and audit by the Division, each brokerage agreement and property management agreement governed by the provisions of this chapter and entered into by the licensee.
- (f) Failing, within a reasonable time, to account for or to remit any money which comes into his or her possession and which belongs to others.
- (g) If he or she is required to maintain a trust account:
 - (1) Failing to balance the trust account at least monthly; and
 - (2) Failing to submit to the Division an annual accounting of the trust account as required in NRS 645.310.
- (h) Commingling the money or other property of his or her clients with his or her own or converting the money of others to his or her own use.
- (i) In the case of a broker-salesperson or salesperson, failing to place in the custody of his or her licensed broker or owner-developer, as soon as possible, any deposit or other money or consideration entrusted to him or her by any person dealing with him or her as the representative of his or her licensed broker.
- (j) Accepting other than cash as earnest money unless that fact is communicated to the owner before his or her acceptance of the offer to purchase and that fact is shown in the receipt for the earnest money.
- (k) Upon acceptance of an agreement, in the case of a broker, failing to deposit any check or cash received as earnest money before the end of the next banking day unless otherwise provided in the purchase agreement.
- (l) Inducing any party to a brokerage agreement, property management agreement, agreement of sale or lease to break it in order to substitute a new brokerage agreement, property management agreement, agreement of sale or lease with the same or another party if the inducement to make the substitution is offered to secure personal gain to the licensee or owner-developer.

2.

An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 16. NRS 645.633 is hereby amended to read as follows:

645.633

1.

The Commission may take action pursuant to

NRS 645.630 against any person subject to that section who is guilty of any of the following acts:

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- (a) Willfully using any trade name, service mark or insigne of membership in any real estate organization of which the licensee is not a member, without the legal right to do so.
- (b) Violating any order of the Commission, any agreement with the Division, any of the provisions of this chapter, chapter 116, 119, 119A, 119B, 645A or 645C of NRS or any regulation adopted pursuant thereto.
- (c) Paying a commission, compensation or a finder's fee to any person for performing the services of a broker, broker-salesperson or salesperson who has not secured a license pursuant to this chapter. This subsection does not apply to payments to a broker who is licensed in his or her state of residence.
- (d) A conviction of, or the entry of a plea of guilty, guilty but mentally ill or nolo contendere to:
 - (1) A felony relating to the practice of the licensee, property manager or owner-developer; or
 - (2) Any crime involving fraud, deceit, misrepresentation or moral turpitude.
- (e) Guaranteeing, or having authorized or permitted any person to guarantee, future profits which may result from the resale of real property.
- (f) Failure to include a fixed date of expiration in any written brokerage agreement or failure to leave a copy of such a brokerage agreement or any property management agreement with the client.
- (g) Accepting, giving or charging any undisclosed commission, rebate or direct profit on expenditures made for a client.
- (h) Gross negligence or incompetence in performing any act for which the person is required to hold a license pursuant to this chapter, chapter 119, 119A or 119B of NRS.
- (i) Any other conduct which constitutes deceitful, fraudulent or dishonest dealing.
- (j) Any conduct which took place before the person became licensed which was in fact unknown to the Division and which would have been grounds for denial of a license had the Division been aware of the conduct.
- (k) Knowingly permitting any person whose license has been revoked or suspended to act as a real estate broker, broker-salesperson or salesperson, with or on behalf of the licensee.
- (l) Recording or causing to be recorded a claim pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, that is determined by a district court to be frivolous and made without reasonable cause pursuant to NRS 645.8791.

2.

The Commission may take action pursuant to NRS 645.630 against a person who is subject to that section for the suspension or revocation of a real estate broker's, broker-salesperson's or salesperson's license issued by any other jurisdiction.

3.

The Commission may take action pursuant to NRS 645.630 against any person who:

(a)

IS LICENSED PURSUANT TO THIS CHAPTER AS A REAL ESTATE BROKER, A REAL ESTATE BROKER-SALESPERSON OR A REAL ESTATE SALESPERSON;

(B)

Holds a permit to engage in property management issued pursuant to NRS 645.6052; and

(b) (C)

In connection with any property for which the person has obtained a property management agreement pursuant to NRS 645.6056:

(1)

Is convicted of violating any of the provisions of NRS 202.470;

(2)

Has been notified in writing by the appropriate governmental agency of a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to inform the owner of the property of such notification; or

(3)

Has been directed in writing by the owner of the property to correct a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to correct the potential violation, if such corrective action is within the scope of the person's duties pursuant to the property management agreement.

4.

The Division shall maintain a log of any complaints that it receives relating to activities for which the Commission may take action against a person holding a permit to engage in property management pursuant to subsection 3.

Sec. 17. NRS 645.648 is hereby amended to read as follows:

645.648

1.

If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a real estate broker, broker-salesperson or salesperson ~~OR THE HOLDER OF A PERMIT TO ENGAGE IN PROPERTY MANAGEMENT PURSUANT TO NRS 645.6052~~, the Division shall deem the license ~~OR PERMIT~~ issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued to the holder of the license ~~OR PERMIT~~ by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license ~~OR PERMIT~~ has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2.

The Division shall reinstate a license as a real estate broker, broker-salesperson or salesperson ~~OR A PERMIT TO ENGAGE IN PROPERTY MANAGEMENT PURSUANT TO~~

NRS 645.6052 that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license OR PERMIT was suspended stating that the person whose license OR PERMIT was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 18. NRS 645.675 is hereby amended to read as follows:

645.675

The expiration or revocation of a license, permit or registration by operation of law or by order or decision of the Commission or a court of competent jurisdiction, or the voluntary surrender of a license, permit or registration by a real estate broker, real estate broker-salesperson, real estate salesperson, property manager , LANDLORD PROPERTY MANAGER or owner-developer does not:

1.

Prohibit the Administrator, Commission or Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the real estate broker, real estate broker-salesperson, real estate salesperson, property manager , LANDLORD PROPERTY MANAGER or owner-developer as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2.

Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the real estate broker, real estate broker-salesperson, real estate salesperson, property manager , LANDLORD PROPERTY MANAGER or owner-developer.

Sec. 19. NRS 645.740 is hereby amended to read as follows:

645.740

1.

The Commission shall render an informal decision on any complaint within 15 days after the final hearing thereon and shall give notice in writing of the ruling or decision to the applicant , PERMITTEE or licensee affected thereby within 60 days after the final hearing thereon by certified mail to the last known address of the person to whom the notice is sent.

2.

If the ruling is adverse to the PERMITTEE OR licensee, the Commission shall also state in the notice the date upon which the ruling or decision becomes effective, which date must not be less than 30 days after the date of the notice.

3.

The decision of the Commission may not be stayed by any appeal in accordance with the provisions of NRS 645.760, unless the district court so orders upon motion of the PERMITTEE OR licensee, notice to the Division of the motion and opportunity for the Division to be heard.

4.

An appeal from a decision of the district court affirming the revocation or suspension of a PERMIT OR license does not stay the order of the Commission unless the district or appellate court, in its discretion and upon petition of the PERMITTEE OR licensee, after notice and hearing orders such stay, and upon the filing of a bond for costs in the amount of \$1,000.

Sec. 20. NRS 645.760 is hereby amended to read as follows:

645.760

1.

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A ruling or decision of the Commission in any disciplinary action is final when in favor of the PERMITTEE OR licensee.

2.

If a ruling or decision is against the PERMITTEE OR licensee, the PERMITTEE OR licensee is entitled to judicial review of the ruling or decision in the manner provided by chapter 233B of NRS.

Sec. 21. NRS 645H.160 is hereby amended to read as follows: 645H.160 1. The provisions of this chapter which require a certificate of registration or permit do not apply to a person ~~or broker~~ who IS LICENSED PURSUANT TO CHAPTER 645 OF NRS AS A REAL ESTATE BROKER, A REAL ESTATE BROKER-SALESPERSON OR A REAL ESTATE SALESPERSON AND has a current permit to engage in property management pursuant to chapter 645 of NRS.

2.

A person ~~or broker~~ who IS LICENSED PURSUANT TO CHAPTER 645 OF NRS AS A REAL ESTATE BROKER, A REAL ESTATE BROKER-SALESPERSON OR A REAL ESTATE SALESPERSON AND has a permit to engage in property management pursuant to chapter 645 of NRS may engage in the business of asset management if the provision of asset management services is included in the property management agreement entered into pursuant to NRS 645.6056.

3.

Except as otherwise provided in subsection 1, a person or broker who engages in the business of asset management must comply with the provisions of this chapter and the recordkeeping requirements of chapter 645 of NRS.

4.

The provisions of this chapter do not apply to:

(a)

A person who is a regular, full-time employee of a bank, mortgage company, mortgage servicer as that term is defined in NRS 645F.063, credit union, thrift company, savings and loan association or savings bank, or any subsidiary thereof.

(b)

A person who takes possession of property from a defendant in connection with a judicial proceeding for eminent domain brought pursuant to chapter 37 of NRS.

Sec. 22.

1.

Notwithstanding the amendatory provisions of this act, a person who, on January 1, 2024, is engaged in the activities of a landlord property manager may continue to engage in the activities of a landlord property manager without obtaining a permit to engage in property management issued pursuant to NRS 645.6052, as amended by section 10 of this act, until July 1, 2024.

2.

As used in this section, "landlord property manager" has the meaning ascribed to it in section 3 of this act.

Sec. 23.

1.

This section becomes effective upon passage and approval.

2.

Sections 1 to 22, inclusive, of this act become effective:

- (a) Upon passage and approval for the purpose of adopting any regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and
- (b) On January 1, 2024, for all other purposes.

History

A.B. 327

ASSEMBLY BILL NO. 327-ASSEMBLYWOMAN CONSIDINE

MARCH 17, 2023

REFERRED TO COMMITTEE ON COMMERCE AND LABOR

SUMMARY--REVISES PROVISIONS GOVERNING REAL PROPERTY. (BDR 54-139)

FISCAL NOTE: EFFECT ON LOCAL GOVERNMENT: NO.

EFFECT ON THE STATE: YES.

Sponsor(s)

Considine

Classification

Subject: AGREEMENTS (59%); MANAGERS & SUPERVISORS (59%)

Load-Date: March 23, 2023

THE STATE OF NEVADA BILL TEXT
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