

Chapter 1 : NRS: CHAPTER A - ESCROW AGENCIES AND AGENTS

NRS Licensees affiliated with same brokerage: Additional duties when assigned to separate parties to real estate transaction. NRS Additional duties of licensee entering into brokerage agreement to represent client in real estate transaction.

Creation; number and appointment of members; powers and duties; regulations; service of process. Limitation on consecutive service by member. Quorum; effect of vacancy; act of majority. Principal and branch offices. Seal; general provisions governing public inspection and confidentiality of records; admissibility of certified copies of records as evidence. Opinions and action as attorney. Requirements; duties of licensee; regulations. Additional duties when assigned to separate parties to real estate transaction. Employment of licensed salespersons; association with qualified sales manager; registration. Form and contents of application for registration. Regulations concerning qualifications; principal place of business and records. Qualifications and duties of person who acts as sales manager. Accounting; commingling; records; inspection and audit. Investigation and audit involving insolvency of broker or enforcement by Division; regulations governing scope of audit; grounds for disciplinary action. Exemption from certain examination requirements; issuance of license as broker or broker-salesperson by reciprocity. Submission of certain information by applicant; grounds for denial of license; duty of Division. Notice; hearing; written decision; false statement ground for denial. Subjects covered; acceptance of national examination. Erection, maintenance, size and placement of signs. Standards; renewal or reinstatement of license. Persons eligible; requirements; instruction; expiration; renewal; regulations. Requirements for certain organizations. Improper trade practices; violations of certain orders, agreements, laws and regulations; criminal offenses; other unprofessional and improper conduct; reciprocal discipline; violations relating to property management; log of complaints. Unprofessional and improper conduct relating to real estate transactions. Unprofessional and improper conduct relating to sale of insurance for home protection. Failure to pay money to Commission or Division. Complaint; notice of hearing. Answer; limitations on time of commencing proceeding. Rendition; notice; effective date; stay of decision.

Additional duties owed to a client nrs Additional duty in an assigned agency nrs Comparison of duties owed to all parties and duties owed to a client.

Single or Sole Agency The Consent to Act form Items of Public Record Financial Audit of A Party End of Transaction or Contract Date Abandonment or Involuntary Termination â€” Client or Broker Death - Client or Broker We look at how real estate agency is created, the legally 91 Nev. R e p resenting t h e C lient 1. It is voluntary, consensual and as a rule when dealing with real property - is founded upon an express or implied contract. The position statement may be found at <http://> Unless otherwise noted, all agency referred to in I-3 The Nevada Law and Reference Guide, is concerned with real estate agency in which the broker is the agent of the client. It may be either oral or written. The compensation may be paid to the broker by either the client or another person. Real estate related services include, but are not limited to, any of the following acts: It also covers the listing or soliciting of prospective purchasers, lessees or renters, or the taking of an advance fee. Single or sole agency â€” Single agency is the most common form of agency and the one least likely to create liability for a broker. Single agency is where the broker represents only one party in a given transaction. Transactional agency is where the broker agrees that he or she is not representing either party but only is hired to facilitate the transaction. Limited agency is a truncated form of agency wherein the broker contractually limits his duties and liabilities with the client by agreeing to perform only certain acts of representation. In Nevada, with one exception, no duty of a licensee as found in NRS The exception is when a client authorizes in to waive the duty to present all offers NRS Glenn Osterhus, Nev. There are several types of possible multiple representations. The most typical is where a broker seeks to represent both the buyer and seller. Not as prevalent but more common in sellers markets where there are more buyers than properties , is when the broker represents two or more buyers in competition with each other for a single property. Theoretically, a broker could also simultaneously represent a seller and multiple competing buyers. Under existing law, regardless of which parties are being represented, seller and buyer or another mixture, each party must be given a Consent to Act form and the opportunity to reject this type of agency relationship. The broker and each licensee under him or her owes to each client all of the duties provided for in law. The law does acknowledge such representation creates a conflict of interest in the licensee as the clients have interests opposed to one another. Every licensee must be aware of the appearance of such undisclosed representation. For example, undisclosed representation may inadvertently occur when a licensee representing a seller provides the buyer with client services such that the buyer is under I-5 the reasonable expectation that the licensee is working for him. A new Duties Owed form should be provided to each client. The appropriate agency disclosure form Duties Owed or Consent to Act if applicable must be used in all real estate agency relationships regardless of the type of representation, i. The Duties Owed form must also be given when a licensee is a principal in a transaction. These forms are strictly disclosure documents. Each form specifically states that it does not constitute a contract for services nor an agreement to pay compensation. The broker does not regularly deal with ranch or rural properties therefore, he refers the client to a broker who regularly works with this type of property. The first broker is not required to provide the rancher with a Duties Owed form. The third section is where the client signs acknowledging receipt of a copy of the form. The client, in signing the acknowledgement, also attests that he or she has read and understands the disclosure. The Duties Owed form may be found at: The Consent to Act form â€” The Consent to Act form²⁴ is used when a broker broker-salesperson or salesperson , is acting for two or more parties to a transaction. The form is divided into approximately seven parts. Part two recites the legal authorization that allows a broker to act for more than one party in a real estate transaction and states the requirement for written client authorization. Part five lets the client know he or she is not required to consent to this type of representation. These violations include forms not given to clients, forms not completed correctly, and those lacking required signatures or missing necessary

information. Anytime there is a change in the identity of the parties or licensees, a new form must be completed and signed. Unintentional agency is where the licensee did not intend to create or continue with the representation of the client, however; the client reasonably assumed the licensee was representing him or her. Implied agency is where the licensee acts as the agent of the client with the intention of representation and the client tacitly accepts those services even though there is no expressed oral or written brokerage agreement. Glenn Osterhus, A brokerage agreement is defined as an oral or written contract between a client and a broker in which the broker agrees to provide real estate related services in exchange for valuable consideration. In *Keystone Realty v. The agent* also told them he would ensure that the developer delivered their deed to them as payment was being held outside of escrow on the advice of the agent. At no time did the agent inform the Osterhuses he only represented the developer. The couple filed a law suit against the developer and brokerage for breach of agency and negligence. The broker argued there was no agency relationship with the Osterhuses as the broker only represented the developer. Without agency, there was no duty to the Osterhuses to ensure they received their title. These duties are found in statute, regulation, and expounded upon in case law. Nevada regulations NAC have the force and effect of law. The common law is that body of law derived from judicial decisions rather than from statutes or constitutions. The replacement of common law duties by statute is limited to those duties identified in NRS For this the licensee must look to case law. For example, NRS The question remains what constitutes a material fact. Some contracts extend the authority of the licensee to act for the client beyond the traditional limits of special agency. For example, a property manager is given a greater range of authority to act for the landlord than the usual authority afforded to a listing broker. A breach of a contractual duty can create liability and either party broker or client may file a civil law suit to obtain a remedy. An example of an affirmative duty would be NAC Breach of NRS The law recognizes three types of behavior that can create liability - not doing what one is required to do, doing what one is not supposed to do, and doing something one is supposed to do but doing it in a wrong negligent way. The legal terms are nonfeasance, malfeasance, and misfeasance. Nonfeasance occurs when a licensee is supposed to act and does not. If a licensee is removed from the transaction by the broker, the parties are required to be informed that the licensee is no longer representing the client. A broker would be guilty of nonfeasance if he or she failed to inform the parties. I - 13 Malfeasance is a wrongful or unlawful act. Obviously, it is not malfeasance if a client has signed an appropriate waiver under NRS Misfeasance is where a licensee performs a lawful act but in an unlawful or negligent manner. *Hendricks broker Hendricks* took a listing from *Fleshman*. The broker obtained a buyer who was ready and willing to purchase the property but who would not take it with the lease. When the transaction failed because the seller refused to break the lease he would have been sued by the tenant , and the buyer refused to purchase with the lease in place, the broker sued the seller for his commission. The court found that in order for the broker to collect his commission he would have had to produce a ready, willing and able buyer. This buyer would not purchase because of the lease. Just as there are affirmative duties and prohibitions, the law specifically restricts *South Seventh Realty, 97 Nev. South Seventh Realty* , a purchaser sued both the seller and the listing broker for misrepresentation as to how the property was constructed. The purchaser declared that both the seller and the broker misrepresented the property as being a frame and stucco house when in fact it was not. The court relying on established agency principles found for the broker and refused to find him liable. The court quoted a learned treatise in finding This protection has its limitations. The court in the same case said it was making its findings on the limited arguments presented in the appeal. If the buyer had argued this level of diligence, the outcome of the case could have been different. An agent can properly rely upon statements of the principal to the same extent as upon statements from any other reputable source. This level of diligence “ should have known - is so well established in law that it has withstood legislative attempts to remove it. Items of Public Record , Some of those items may be of public record thereby, theoretically, available to anyone. Should the seller not disclose a material fact that is of public record, this statute provides that the licensee cannot be charged with non-disclosure if the licensee reasonably had no knowledge of the item and the public record was readily available to the client. The licensee is not

required to search the public records to ensure the seller told the truth. *Seventh Realty*, 97 Nev. If a material fact, data or information concerning the property is readily discernable to the licensee or, it is a fact, data or information that a reasonably prudent licensee would have knowledge of, the licensee will be held liable for the non-disclosure even if that item is of public record. There is a caveat to this release from liability; it is that the professional is certified or licensed.

performed by an accountant pursuant to subsection 3 is equivalent to an examination conducted by the Division. The Commissioner may examine any area of the operation of an escrow agency if the Commissioner determines that the examination of that area is not equivalent to an examination conducted by the Division. Subpoenas, oaths and examination of witnesses; penalty. In the conduct of any examination, investigation or hearing, the Commissioner may: Every person subpoenaed pursuant to the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor. The Commissioner shall establish by regulation the fees to be paid by all persons subject to the provisions of this chapter for the supervision, investigation and examination of such persons by the Commissioner or the Division. In establishing the fees, the Commissioner shall consider: The Commissioner shall adopt regulations prescribing the standards for determining whether an escrow agency has maintained adequate supervision of an escrow agent pursuant to the provisions of this chapter. Each escrow agency shall pay the assessment levied by the Commissioner and cooperate fully with the audits and examinations performed pursuant to NRS F. All escrow agents and agencies shall maintain, for a period of not less than 6 years, complete and suitable records of all escrow transactions made by them. A record of a transaction must be maintained in the county in which the property to which it relates is located if the agent or agency maintains a place of business in that county. Every escrow agent and agency shall, at the times required by the Commissioner, file in the Office of the Commissioner a correct statement, in the form and containing the data the Commissioner may require, of the business of the agent or agency. General provisions governing public inspection and confidentiality. Except as otherwise provided by law, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to this chapter are open to public inspection, except that the Commissioner may withhold from public inspection for such time as the Commissioner considers necessary any information which in his or her judgment the public welfare or the welfare of any escrow agent or agency requires to be so withheld. Certain records relating to complaint or investigation deemed confidential; certain records relating to disciplinary action deemed public records. Except as otherwise provided in this section and NRS The complaint or other document filed by the Commissioner to initiate disciplinary action and all documents and information considered by the Commissioner when determining whether to impose discipline are public records. An escrow agency shall immediately notify the Commissioner of any change in the ownership of 5 percent or more of its outstanding voting stock. Except as otherwise provided in subsection 5, the Commissioner shall conduct an investigation to determine whether the applicant has the experience, character, financial condition, business reputation and general fitness to command the confidence of the public and to warrant the belief that the business conducted will protect and safeguard the public. If the Commissioner denies the application, the Commissioner may forbid the applicant from participating in the business of the escrow agency. The escrow agency with which the applicant is affiliated shall pay the cost of the investigation as the Commissioner requires. An escrow agency may submit a written request to the Commissioner to waive an investigation pursuant to subsection 3. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his or her employment with a financial institution. If a person offers or provides any of the services of an escrow agent or escrow agency or otherwise engages in, carries on or holds himself or herself out as engaging in or carrying on the business of an escrow agent or escrow agency and, at the time: The person was required to have a license pursuant to this chapter and the person did not have such a license; or 2. An escrow agent is not subject to disciplinary action by the Commissioner for committing such an act under instruction by the escrow agency; p In the case of an escrow agency, if the applicant or licensee is a partnership, corporation or unincorporated association, has a member of the partnership or an officer or director of the corporation or unincorporated association who has been convicted of, entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court relating to the practice of escrow agents or agencies, or any felony or misdemeanor of which

an essential element is an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering; or q In the case of a person who performs the services of a construction control, has failed to comply with the provisions of chapter of NRS. It is sufficient cause for the imposition of a fine or the refusal, suspension or revocation of, or the placement of conditions upon, the license of a partnership, corporation or any other association that any member of the partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for such action had the applicant or licensee been a natural person. The Commissioner may suspend any license for not more than 30 days, pending a hearing, if upon examination into the affairs of the licensee it is determined that any of the grounds enumerated in subsection 1 or 2 exist. The Commissioner may refuse to issue a license to any person who, within 10 years before the date of applying for a current license, has had suspended or revoked a license issued pursuant to this chapter or a comparable license issued by any other state, district or territory of the United States or any foreign country. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records. If the Commissioner receives a copy of a court order issued pursuant to NRS The Commissioner shall reinstate a license as an escrow agent or escrow agency that has been suspended by a district court pursuant to NRS The expiration or revocation of a license of an escrow agent or agency by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not: Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the escrow agent or agency 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 escrow agent or agency. Notice of the entry of any order of suspension, revocation or placement of conditions upon a license or of imposing a fine or refusing a license to any escrow agent or agency must be given in writing, served personally or sent by certified mail or by telegram to the last known address of the agent or agency affected. The agent or agency, upon application, is entitled to a hearing. If an application is not made within 20 days after the entry of the order, the Commissioner shall enter a final order. The Commissioner may conduct an investigation if it appears that an escrow agent or agency is conducting business in an unsafe and injurious manner or in violation of this chapter or if it appears that any person is engaging in the escrow business without being licensed pursuant to the provisions of this chapter. If upon investigation it appears that the agent or agency is so conducting business or an unlicensed person is engaged in the escrow business, the Commissioner may: A person may, within 30 days after receiving the order, file a verified petition with the Commissioner for a hearing. If the Commissioner does not hold a hearing within 30 days after the petition is filed or issue a written decision within 45 days after the hearing is held, the order is rescinded. The district attorney or the Attorney General shall cause the appropriate legal action to be taken to enjoin the operation of the business or prosecute the violations of this chapter. If the Commissioner brings suit, the district court of any county of this State may grant an injunction to prevent and restrain the unsafe, injurious or illegal practices or transactions. The court may, during the pendency of the proceedings before it, issue such temporary restraining orders as may appear to be just and proper. The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient ground, in the discretion of the court, for the issuance ex parte of a temporary restraining order. If the order of the Commissioner is reversed, the court shall specifically direct the Commissioner as to his or her further action in the matter including the making and entering of any order and any conditions, limitations or restrictions to be contained therein. The Commissioner may revoke or alter the order for any proper cause which is discovered after the order is issued. If an order of the Commissioner is affirmed, the appellant is not barred after 1 year from filing a new application if the application is not otherwise barred or limited. The appeal does not suspend the operation of the order appealed from during the pendency of the appeal except upon proper order of the court. If the board of directors or any officer or person in charge of the offices of such an agency refuses to permit the Commissioner to take possession of the property, the Commissioner shall

communicate that fact to the Attorney General. Thereupon the Attorney General shall immediately institute such proceedings as may be necessary to place the Commissioner in immediate possession of the property of the agency. The Commissioner thereupon shall make or cause to be made an inventory of the assets and known liabilities of the agency. The Commissioner shall file one copy of the inventory in his or her office and one copy in the office of the clerk of the district court of the county in which the principal office of the agency is located and shall mail one copy to each stockholder, partner, officer or associate of the agency at his or her last known address. The clerk of the court with which the copy of the inventory is filed shall file it as any other case or proceeding pending in the court and shall give it a docket number. The officers, directors, partners, associates or stockholders of the escrow agency may, within 60 days after the date the Commissioner takes possession of the property, business and assets, make good any deficit which may exist or remedy the unsafe condition of its affairs. At the expiration of such time, if the deficiency in assets or capital has not been made good or the unsafe condition remedied, the Commissioner may apply to the court to be appointed receiver and proceed to liquidate the assets of the agency which are located in this state in the same manner as provided by law for liquidation of a private corporation in receivership. No other person may be appointed receiver by any court without first giving the Commissioner ample notice of his or her application. The inventory made by the Commissioner and all claims filed by creditors are open at all reasonable times for inspection and any action taken by the receiver upon any of the claims is subject to the approval of the court before which the cause is pending. The expenses of the receiver and the compensation of counsel, as well as all expenditures required in the liquidation proceedings, must be fixed by the Commissioner subject to the approval of the court, and, upon certification of the Commissioner, must be paid out of the money that he or she possesses as receiver. All money deposited in escrow to be delivered upon the close of the escrow or upon any other contingency must be kept separate from money belonging to the escrow agent or agency and must be deposited in a financial institution that is federally insured or insured by a private insurer approved pursuant to NRS. Money deposited in escrow is not subject to execution or attachment on any claim against the escrow agent or agency. An escrow agent or agency shall not knowingly keep or cause to be kept any money in any bank, credit union or other financial institution under any name designating the money as belonging to the clients of any escrow agent or agency, unless the money was actually entrusted to the agent or agency by the client for deposit in escrow. An escrow agent shall not disburse money from an escrow account unless deposits which are at least equal in value to the proposed disbursements and which relate directly to the transaction for which the money is to be disbursed have been received. An escrow agent shall not disburse money from an escrow account on the same business day as the money is deposited unless the deposit is made in one of the following forms:

Chapter 4 : NRS: CHAPTER - REAL ESTATE BROKERS AND SALESPERSONS

NRS - Licensees affiliated with same brokerage: Additional duties when assigned to separate parties to real estate transaction. NRS - Additional duties of licensee entering into brokerage agreement to represent client in real estate transaction.

Chapter 5 : I. NEVADA LAW ON REAL ESTATE AGENCY

The Nevada Revised Statutes (NRS) are the current codified laws of the State of Nevada. The Nevada Supreme Court interprets the law and constitution of Nevada. Nevada law consists of Rules for Sealing and Redacting Court Records, State Financial Administration, Commission on Mineral Resources.

Chapter 6 : The essentials of real estate agency in Nevada (edition) | Open Library

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To whom can an agent assigned by his or her broker under NRS , to represent a buyer disclose confidential information? A) The buyer's mother. B) The listing agent.