

BUSINESS BROKERS

What is a Business Broker?

According to the legislative history of Senate Bill 315 from the 73rd Session of the Nevada Legislature, the proposed business broker permit was intended for real estate licensees in conjunction with the sale, lease, exchange, purchase, or option of real estate. Senate Bill 315 did not create a new licensing requirement for individuals who broker businesses which do not have a real estate component to the transaction.

A Business Broker” is a person who, while acting as a real estate broker, real estate broker-salesman or real estate salesman for another and for compensation or with the intention or expectation of receiving compensation: 1. Sells, exchanges, options or purchases a business; 2. Negotiates or offers, attempts or agrees to negotiate the sale, exchange, option or purchase of a business; or 3. Lists or solicits prospective purchasers of a business. NRS 645.0075.

Whereas, a Real Estate Broker means a person who, for another and for compensation or with the intention or expectation of receiving compensation: (a) Sells, exchanges, options, purchases, rents or leases, or negotiates or offers, attempts or agrees to negotiate the sale, exchange, option, purchase, rental or lease of, or lists or solicits prospective purchasers, lessees or renters of, any real estate or the improvements thereon or any modular homes, used manufactured homes, used mobile homes or other housing offered or conveyed with any interest in real estate; (b) Engages in or offers to engage in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee in connection with any employment undertaken to promote the sale or lease of business opportunities or real estate by advance fee listing advertising or other offerings to sell, lease, exchange or rent property; (c) Engages in or offers to engage in the business of property management; or (d) Engages in or offers to engage in the business of business brokerage.

What activities may a licensed real estate agent perform?

A real estate licensee need not obtain a Business Broker Permit to represent a party to a purchase or sale of a business within the State of Nevada if there is not a real estate component involved in the sale or purchase. A real estate component includes, but is not limited to, a building, land or a leasehold interest.

What activities must be performed by one who holds a Business Broker Permit?

If a part of the sale of a business requires the assumption of an existing lease or the purchase of a building, then that transaction requires a Real Estate License and Business Broker Permit in the State of Nevada. An example of a business sale that would not require Nevada Real Estate Licensure would be a dental practice including only dental equipment, patient files and a patient list.

What actions may be taken if unlicensed business broker activities are conducted which require a license?

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-salesman or real estate salesman within the State of Nevada without first obtaining the appropriate license from the Real Estate Division as provided for in this chapter; and (d) 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-salesman or real estate salesman and a permit to engage in business as a business broker. NRS 645.230.

The Real Estate Commission may impose an administrative fine against any person who knowingly: (a) Engages or offers to engage in any activity for which a license, permit, certificate or registration or any type of authorization or any regulation if the person does not hold the required license, permit, certificate or registration or has not been given the required authorization; or (b) Assists or offers to assist another person to commit the above described violation. The Commission may impose an administrative fine in the amount of any gain or economic benefit that the person derived from the violation or \$5,000, whichever amount is greater. NRS 645.235.

To view the applicable statutes and regulations in their entirety, visit our website at www.red.state.nv.us.

12/05/08