



What's New? Highlighting Changes in the Just Released Nevada Law and Reference Guide - the Fifth Edition (2020)

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The much needed, highly anticipated, newest edition of the Nevada Real Estate Division's Law and Reference Guide is finally here!

https://red.nv.gov/uploadedFiles/rednvgov/Content/Publications/References/law_guide.pdf

The *Guide* has been a prominent resource for not only those within the real estate profession, but widely consulted by real estate attorneys within the Silver State. My law firm, Keegan Law, had the great opportunity to provide updates, enhancements and expansions on this project for Nevada real estate licensees, and having done so, I sit in an optimal position to point out these new changes, of which, the most relevant ones are compiled here for our Realtor® members. Admittedly, these changes were submitted in August of 2020, and a lot of changes have occurred during that period between submission and publication. With that said, Nevada Realtors® can check out Legal Library for the latest information that didn't make the cut: [[Legal Library](#) | [Nevada Realtors](#) | [Nevada Association of Realtors](#)]

Before we get to the substantive changes, let's get the housekeeping changes out of the way first. The following changes were made in an effort to advance a more logical usage of the *Guide*, such as:

- Reorganizing tables to the end and categorizing them in logical groupings (Appendix I - 136).
- Amalgamated sequential page numbering and footnotes.
- All state-mandated forms were replaced with most current ones and moved to the appendices at the end (Appendix II - 147).
- A new appendix was added to include divisional Informational Bulletins (Appendix III-162).
- Old divisional positional statements were removed and division reports replaced with current ones.
- All legal citations (cases, statutes, administrative codes) were reviewed and updated if necessary.
- A new resources page was created and placed at the end of the Guide (178).

Now let's get to the meat of the matter!

I. Nevada Law on Real Estate Agency (I-3)



- Removed usage of the term “Dual Agency” throughout and replaced with “Multiple Representation”.
- Added information on the state-mandated Duties Owed Supplemental List and identified it must be used when a team/team’s licensed assistant will be working on a transaction file (I-6).
- Identified the three main sections of the state-mandated Consent to Act form (I-7).
- Expanded the section on the requirement to obtain written authorization from the other broker before speaking directly to their client, and added the elements of actions based on intentional interference with contracts (I-8).
- Highlighted that *property managers should not represent clients in court / evictions; doing so is the unauthorized practice of law NRS 7.285* (I-9).
 - Accounted for any and all equitable legal remedies by omitting specific reference to “civil” lawsuits, for a breach of contractual duty and liability to broker or client.
- Added “definite” to the requirements of exclusive representation brokerage agreement, which, as a reminder, must be in *writing, with a definite, specified and complete termination date*. (I-16)
- Corrected the legal conclusion of the Bartsas Realty v. Leverton case. This case was subsequently affirmed by the Nevada Supreme Court which held Bartsas had abandoned efforts to procure an offer, was ineffective, produced no results and ultimately was not the procuring/inducing cause.

III. Nevada Law of Brokerage Agreements (III-42)

- Added information regarding requirements of licensees, as independent contractors of a broker, must, summarizing:
 - ...3. Include name of brokerage in advertising
 - ...4. Ensure earnest monies are deposited, and within one (1) business day(III-42, 43).
- Identified the factors considered in procuring cause claims: proximate cause, not abandoning efforts, unbroken chain of events (III-44).
- Added information regarding use of *lis pendens* and differentiated that it is not available to enforce personal / money judgments, but there must be a real property interest (*i.e. specific performance*) (III-47).
- Added information on when a tenant files for bankruptcy and mentions court procedures a property manager can seek together with hired legal counsel (III-63).
- Included elements of tortious interference with a contract (III-52).
- Identified net listings are recognized as customary practice in Nevada (III-57).
- Clarified RESPA covers federally backed mortgages (III-58).
- Emphasized *payment of commission must come directly from broker / owner-developer* (III-60).
- Acknowledged that **although a brokerage agreement defined does not include a property management agreement, when a brokerage engages in property**



management it is an agreement between client and broker. NRS 645.0192. (III-63).

IV. Nevada Law on Offers and Purchase Agreements (IV-69)

- Clarified, contrary to popular belief, *the release of earnest monies (EMD) is not automatic*, by adding language supported by laws that govern escrow officers (NRS 645A) that states even when a purchase agreement provides for the EMD to automatically go to a specific party upon default, *escrow companies will not release funds without a signed authorization from both parties to the transaction.*
 - Furthermore, additional language was included to identify *penalties for refusals to sign cancellation instructions not backed by good faith disputes.* NRS 645A.175(3).

(IV-76)

- Paired down information on the ever-so-complex installment and option contracts to emphasize *licensees should refrain from engaging in the slippery slope of the unauthorized practice of law.* (IV-90)
- Added information on *rebates / credits* offered at closing and highlighting that such activity *must be done during the transaction and disclosed in writing to all parties!*
 - Identifying that *inducements must not be false or misleading*, meaning you actually have to provide the thing promised.
 - Cautioning that *monies rebated or refunded outside of closing and not disclosed in writing would be considered mortgage fraud.* Additionally, if the agent doesn't pay the buyer, that could be a violation of a false promise to the buyer.

(IV-124)

VI. Nevada Law on Advertising (VI-120)

Included new laws on nicknames (V-123), team names (V-127), including the requirement that license numbers are on everything.

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