



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

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QUALIFIED INTERMEDIARY REGISTRATION
NRS 645.606 et seq

This is a companion document to "Qualified Intermediary Individual Application/Registration, Document 572

Information and Instructions

1. Statutes and Regulations:

Review the attached excerpts from Nevada Revised Statutes and Nevada Administrative Codes.

2. Who Must Register:

NRS 645.605 requires that persons (including corporations and business entities) who act as qualified intermediaries in Nevada, must register with the Division. NRS 645.606 defines "qualified intermediary" to include any person who advertises or holds himself out as prepared to facilitate a tax-free exchange of property in Nevada by acting as the custodian of money or other property, and those words are further explained in NAC 645.774 and 645.776.

If you are a bank or other depository institution, an escrow company, a title insurer, an agent licensed pursuant to chapter 92A of NRS or a subsidiary or employee of such an organization, you need not register. See NRS 645.606(3). The term "subsidiary" is given its common law meaning, which means that you must be substantially owned and controlled by such an organization in order to be exempt from registration.

If the Qualified Intermediary is a Corporation, the Corporate Officers (President, Vice President, Secretary or Treasurer) and Directors or Trustees, **WHO WILL DO BUSINESS IN THE STATE OF NEVADA**, must also register. However, such Corporate Officers, Directors or Trustees, are **NOT** required to post a bond.

3. How Registration Works:

- A. Registration with the Division is for informational purposes only. Information in your registration file is available to members of the public. Although background information checks are conducted for purposes of putting information in your file and determining the bond or deposit amount, the Division does not evaluate competency or qualifications of intermediaries, and does not regulate intermediaries for the protection of consumers. If you are registered in Nevada, you may advertise that fact provided you only use the word "registered." You may not lead people to believe that registration is the same thing as being licensed in or regulated by the State of Nevada.
- B. If a client or member of the public has a complaint against an intermediary, it must be handled through our court system. The Division has no power to handle complaints. Persons who lost money due to embezzlement or misappropriation of their property may place claims against your bond or deposit, and in so doing, they must notify the Division. The Division will provide information regarding other claims against the bond or deposit.
- C. If you violate Nevada's criminal statutes (see NRS 205.960), you will be subject to a criminal fine as determined by the court plus a civil fine of \$10,000. The civil fine is placed in a recovery account that is available to residents in Nevada who are defrauded by intermediaries, on a pro rata basis. See NRS 205.960 and NAC 645.794 - 645.798.

D. Registration is effective for one year, and must be renewed not later than ten (10) days before expiration.

E. Registration may be revoked at any time for the reasons listed in NAC 645.786. To do so, the Division must file a complaint before the Nevada Real Estate Commission and you will be given an opportunity for a hearing. If your registration is revoked, you will be allowed to complete transactions in process, but will not be permitted to do new business in Nevada.

F. During the term of your registration, the Division may increase the amount of the required bond or deposit based on changed circumstances.

4. How to Register:

A. Application: You start the registration by submitting a packet to the Division, which includes:

- (1) A completed application form.
- (2) **Two** fingerprint cards on forms provided by the Division for each person who must individually register as explained in Section 7, below.
- (3) The following fees:
 - \$100 registration fee (non-refundable). If your application is rejected and you reapply within ninety (90) days, you will be given credit for the fees paid
 - \$39.00 for each person whose fingerprint cards are provided.
- (4) A copy of a bond application in the amount of \$25,000. If you are proposing to post a deposit or other form of security, contact the Division to coordinate.

B. Acceptance or rejection of your application:

- (1) Within ten days after your application is received, we will either accept it or reject it.
- (2) If we reject your application, we will inform you why. NAC 645.782 lists the reasons an application may be rejected, and what happens upon rejection.

5. Bond or Deposit:

A. NRS 645.608(1) and NAC 645.788 describes bond requirements.

B. If you choose to post a deposit instead of a bond, see NRS 645.608 and NAC 645.792. In accordance with NRS 100.065, the deposit may be in the form of:

- (1) A bond of the United States or the State of Nevada of an actual market value of not less than the amount specified by the Division, or
- (2) A letter of credit from a bank, savings bank or savings and loan association that meets the requirements in NAC 645.792, or
- (3) A savings certificate, certificates of deposit or investment certificate of a bank, savings bank or savings and loan association that must indicate an account of an amount not less than the amount specified by the Division.

The original bond, letter of credit, or certificate must be retained by the Division. Bonds or deposits must extend six (6) months beyond expiration of registration so as to provide additional protection for consumers.

C. Because of the six-month overlap, when you renew your registration, it may be necessary to post a bond or deposit for only one year from the expiration of the bond or deposit you have in place. The combined expiration dates must add up to eighteen (18) months from the renewal date.

6. Instructions for the Application Form:

Questions 1 and 2 - Indicate the name under which you will be doing intermediary business and the address and phone number where you will be doing business. If these items change during the registration period, you are required by law to inform us. (NRS 645.6075)

Questions 3 through 5 - If you are a sole proprietor, indicate your name and address and circle “sole proprietor” in question 5. No other information is necessary. If you are a partnership or limited liability, answer questions as appropriate. Consult with your counsel as to whether or not it is necessary for you to qualify to do business in Nevada.

Question 6 - This information is necessary to determine your bond or deposit amount, depending on the answers to other questions. See NAC 645.788. It is only necessary to indicate the amount you are holding at the time you fill out the application, and it is not necessary to identify your client (s).

Questions 7 through 14 - This information is also necessary to establish a bond or deposit amount, depending on answers to other questions. See NAC 645.790 and 792. If you are a sole proprietor, the word “company” means you, regardless of whether or not the judgment, litigation or criminal proceeding involves your work as an intermediary. If a partnership (limited or general), questions 8 and 9 need only be answered with respect to judgements or litigation against the partnership or against any of the partners which involve transactions where the partner was acting as an agent for the partnership. If a corporation, answer questions 8 through 14.

List of Persons Having an Interest in Company - As required by NRS 645.6065, list the names, residence and business addresses of all persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each. If a partnership, this means all general partners. If a limited partnership, list general partners only. If a corporation, list the corporate president, all vice presidents, the secretary and treasurer, and all directors or trustees, and if there is a sole shareholder, list that shareholder. Otherwise, it is not necessary to list shareholders.

7. Who Must Register and Submit Fingerprint Cards:

- Each corporate officer, director or trustee of the corporation who will be doing business in Nevada must be registered.
- If you are a sole proprietorship (list the sole proprietor in Question 4)
- If you are a general or limited partnership, each general partner who will be doing business in Nevada must be registered individually (complete the Individual Application/Registration form, Document 572).
- If you are a corporation, each person you list as having an interest in the corporation must register individually if that person will be doing in Nevada. To register general partners, corporate officers and directors who will be doing business in Nevada, check “yes” next to their names on the List of Persons having an interest in the company. Each person listed must complete an Individual Application/Registration form (Document 572) and submit it with two fingerprint cards.



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Application/Registration
Qualified Intermediary in Nevada
NRS 645.6065

Initial Registration Renewal

Fee: \$100.00

Name of Bonding Company

Expiration Date of Bond

NOTE: This is a public record under Nevada Revised Statutes Chapter 239. Information on this application may be released to members of the public on request.

1. Business Name in Nevada

2. Business Address Phone # _____

3. Name of Principal Company/Registrant

4. Address of Principal Company/Registrant Phone # _____

5. Business Form Corporation Professional Corporation Limited Liability Company
 Limited Partnership General Partnership Sole Proprietorship

Date of Organization _____ Taxpayer ID No _____

State of Organization _____ Date Qualified to do Business in Nevada _____

Name of Nevada Resident Agent _____

6. Name under which money or other property will be held for the benefit of clients

11. Yes No Has the company or any of the owners, directors, officers or employees ever been convicted in any court of racketeering or any crime (whether felony, gross misdemeanor or misdemeanor) involving fraud, theft, embezzlement, fraudulent conversion or misappropriation of property? If so, attach a certified copy of the record of conviction. See Instructions.
12. Yes No Has the company or any of the owners, directors, officers or employees had a judgement or order entered against them (including stipulated judgement, consent decree or order) in any civil or administrative action which any judgement or order involves racketeering, fraud, theft, embezzlement, fraudulent conversion, misappropriation of property, the use of any untrue or misleading representation made in connection with the sale of property or services, or the use of any unfair, unlawful or deceptive trade practices? If so, attach a certified copy of the judgement or order, including the Findings of Fact and Conclusions of Law.
13. Yes No Has a receiver been appointed to take control of any assets of the company?
14. Yes No Is the company presently involved in a corporate dissolution, merger, sale of assets or any other business combination? If so, attach an explanation.

CHILD SUPPORT STATEMENT

IMPORTANT FOR RESIDENTS AND NON-RESIDENTS

Pursuant to Senate Bill 356, the following statement **MUST** be answered and signed. Your application for this certificate will be **DENIED** if you do not indicate on the statement which of the provisions apply to you.

- I AM NOT SUBJECT to a court order for the support of a child.
- I AM SUBJECT to a court order for the support of one or more children and AM IN COMPLIANCE with that order or plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed in that order.
- I AM SUBJECT to a court order for the support of one or more children and NOT IN COMPLIANCE with that order or plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed in that order.

I hereby certify under penalty of perjury that the answers contained in this application are true and correct. I understand that if I am subject to a court order for support of one or more children and I am not in compliance with that order or a plan, my application for license, certification or renewal of a license or certification will be denied.

STATE OF _____ COUNTY OF _____

IN WITNESS WHEREOF, the aforesaid applicant has caused these presents to be executed this

_____ day of _____ 20 _____

Applicant Name(Print)

(Signature)

Before me, a Notary Public in and for said County and State, personally appeared _____

_____ To me known to be the person who executed the foregoing instrument, who, being by first duly sworn, acknowledged under oath that he/she executed the said instrument as his/her free and voluntary act for the use and purposes therein set forth.

Subscribed and sworn to me before this _____ day of _____ 20 _____

My Commission expires: _____

(SEAL)

Notary Public

By signing below, I agree that:

1. Registration is not effective in Nevada until this application is accepted by the Division in writing. A Certificate of Registration will be issued upon acceptance.
2. Registration is effective for one year and must be renewed at least ten (10) days before it expires. Renewal must be on forms supplied by the Division, and I must post a bond or deposit which (in combination with any bond or deposit in place when renewal occurs) will not expire less than eighteen (18) months from the date of renewal.
3. If any information on this registration or otherwise supplied to the Division is inaccurate, incomplete, or misleading, the Division may revoke this registration.
4. I must notify the Division of any change in my address or phone number, and I understand that this registration may be revoked if I fail to do so.
5. I authorize the Federal Bureau of Investigation, any other law enforcement authority, any credit reporting agency, any financial institution, or other person holding information about the above named company to release information it has about the company to the Department of Business and Industry, Real Estate Division.

Certification

I certify, under penalty of perjury, that the foregoing information is complete and accurate in all respects, and that attached hereto is a complete and accurate list of all of persons having an interest in the business as principals, partners, officers, trustees or directors.

Printed Name

Signature

Date

**Verification Upon Oath
NRS 240.167**

STATE OF _____ }
COUNTY OF _____ } ss.

Signed and sworn to (or affirmed) before me on _____

Date

Seal

Notary Signature

LIST OF PERSONS HAVING AN INTEREST IN COMPANY
(See Instructions)

Date of this List _____

Name of Company

Name and Address (residence and business) of each Principal in the Company, and indicate whether the person is registered in Nevada. Attach additional sheets, as necessary.

Individual Registration Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No	Name _____
	Title _____
	Personal Address _____

Business Address _____

Individual Registration Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No	Name _____
	Title _____
	Personal Address _____

Business Address _____

Individual Registration Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No	Name _____
	Title _____
	Personal Address _____

Business Address _____

Individual Registration Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No	Name _____
	Title _____
	Personal Address _____

Business Address _____

BOND OF QUALIFIED INTERMEDIARY

Bond No _____

KNOW ALL MEN BY THESE PRESENTS: That we, _____

COMPANY as Principal, and _____
a surety company authorized to do business in the State of Nevada as Surety, are firmly bound unto **THE STATE OF NEVADA** as Obligee, in the penal sum of **TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00)** for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns, firmly by these presents.

WHEREAS, The Principal has applied to The Real Estate Division of The Department Of Business and Industry of the State of Nevada for registration as a "Qualified Intermediary" as required by Nevada Revised Statute NRS 645.6065 and 645.608 and is required to furnish a surety bond in connection with said registration.

NOW, THEREFORE, if Principal shall faithfully comply with the provisions of NRS 645.608 and pay all losses suffered by clients because principal misappropriates, embezzles, converts, wrongfully encumber, loses or fails to convey or causes to be conveyed to the intended part any property which comes into the principals possession or control, then obligation shall be void: otherwise to remain in full force and effect.

PROVIDED HOWEVER

1. The maximum liability for any and all claims made under this bond regardless of the number of license periods the bond is in effect shall not exceed the amount shown above.
2. This bond only covers transactions in which the principal acts as a qualified intermediary in the State of Nevada.
3. This bond is limited to payment of the actual cash value or fair market value of the property lost and expressly excluded attorney's fees, costs of collection and special, consequential and exemplary damages.
4. All claims under this bond must be filled with surety within one hundred eighty (180) days of its expiration.
5. This bond does not guarantee that transactions involving the principal will qualify as nontaxable deferred exchanges of real property.

This bond shall be effective _____ 20 _____ and shall remain in full force and _____

effect until released by the obligee or until canceled by the Surety. The surety may cancel this bond by giving sixty (60) days written notice to the Real Estate Division of the Department of Business and Industry of the State of Nevada.

Executed this _____ day of _____ 20 _____

QUALIFIED INTERMEDIARIES FOR TAX-DEFERRED EXCHANGES OF PROPERTY

NRS 645.606 “Qualified intermediary” defined. [Effective until the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. As used in NRS 645.606 to 645.609, inclusive, “qualified intermediary” has the meaning ascribed to it in 26 C.F.R. § 1.1031(k)-1(g).
2. The term includes any person who advertises or holds himself out as prepared to facilitate a tax-deferred exchange of property in this state by acting as the custodian of money or other property.
3. The term does not include a bank, credit union or other depository institution, an escrow company, a title insurer, an agent licensed pursuant to chapter 692A of NRS or its subsidiaries or employees.

(Added to NRS by 1993, 2019; A 1995, 994; 1997, 2167; 1999, 1539)

NRS 645.606 “Qualified intermediary” defined. [Effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. As used in NRS 645.606 to 645.6085, inclusive, “qualified intermediary” has the meaning ascribed to it in 26 C.F.R. § 1.1031(k)-1(g).
2. The term includes any person who advertises or holds himself out as prepared to facilitate a tax-deferred exchange of property in this state by acting as the custodian of money or other property.
3. The term does not include a bank, credit union or other depository institution, an escrow company, a title insurer, an agent licensed pursuant to chapter 692A of NRS or its subsidiaries or employees.

(Added to NRS by 1993, 2019; A 1995, 994; 1997, 2167; 1999, 1539, effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings)

NRS 645.6065 Registration; regulations; renewal of registration. [Effective until the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. Except as otherwise provided in NRS 645.607, a person shall not act as a qualified intermediary unless he is registered as such with the division. The division may adopt such regulations as it deems necessary to carry out the provisions of NRS 645.606 to 645.609, inclusive.
2. A person may apply for registration by paying to the division a \$100 fee plus the actual cost of a background investigation conducted by the Federal Bureau of Investigation and filing with the division:
 - (a) The following information on a form provided by the division:
 - (1) The applicant’s name, address and telephone number;
 - (2) The name under which the applicant will hold the money or other property of a client;
 - (3) The names, residence and business addresses of all persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each;
 - (4) If the applicant is a natural person, the social security number of the applicant; and
 - (5) The length of time the applicant has been engaged in the business of acting as such an intermediary;
 - (b) If the person is a natural person, the statement required pursuant to NRS 645.6068; and

(c) A card provided by the division upon which the applicant's fingerprints, taken by an agency of law enforcement, are displayed.

3. The division shall:

(a) Mail the card upon which the applicant's fingerprints are displayed to the Federal Bureau of Investigation; and

(b) Request from the Bureau such information regarding the applicant's criminal history as the division deems necessary.

4. Registration pursuant to this section must be renewed each year on or before the date of the original registration by providing the information required by the division for that purpose and paying a renewal fee of \$75.

(Added to NRS by 1993, 2019; A 1997, 2167)

NRS 645.6065 Registration; regulations; renewal of registration. [Effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. Except as otherwise provided in NRS 645.607, a person shall not act as a qualified intermediary unless he is registered as such with the division. The division may adopt such regulations as it deems necessary to carry out the provisions of NRS 645.606 to 645.6085, inclusive.

2. A person may apply for registration by paying to the division a \$100 fee plus the actual cost of a background investigation conducted by the Federal Bureau of Investigation and filing with the division:

(a) The following information on a form provided by the division:

(1) The applicant's name, address and telephone number;

(2) The name under which the applicant will hold the money or other property of a client;

(3) The names, residence and business addresses of all persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each; and

(4) The length of time the applicant has been engaged in the business of acting as such an intermediary; and

(b) A card provided by the division upon which the applicant's fingerprints, taken by an agency of law enforcement, are displayed.

3. The division shall:

(a) Mail the card upon which the applicant's fingerprints are displayed to the Federal Bureau of Investigation; and

(b) Request from the Bureau such information regarding the applicant's criminal history as the division deems necessary.

4. Registration pursuant to this section must be renewed each year on or before the date of the original registration by providing the information required by the division for that purpose and paying a renewal fee of \$75.

(Added to NRS by 1993, 2019; A 1997, 2167, effective on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings)

NRS 645.6068 Payment of child support: Statement by applicant for registration; grounds for denial of registration; duty of division. [Expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

1. A natural person who applies for the issuance or renewal of his registration as a qualified intermediary shall submit to the division the statement prescribed by the welfare division of the department of human resources 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 registration; or
- (b) A separate form prescribed by the division.

3. An applicant may not be registered as a qualified intermediary 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 he 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 he 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.

(Added to NRS by 1997, 2164)

NRS 645.607 Officers and directors of corporation required to register. If the intermediary is a corporation qualified to do business in this state, every officer and director of the corporation who does business in this state must be registered. No other employee is required to register.

(Added to NRS by 1993, 2020)

NRS 645.6075 Notice of change of address or telephone number. A qualified intermediary shall inform the division in writing of any change in his address or telephone number.

(Added to NRS by 1993, 2020)

NRS 645.608 Bond or deposit.

1. Except as otherwise provided in subsection 2, a qualified intermediary shall post with the division a bond executed by the intermediary as principal, and by a corporation qualified pursuant to the laws of this state as a surety. The bond must be payable to the State of Nevada and conditioned upon the payment of all money due to the state and the clients of the intermediary. The division shall, by regulation, establish the minimum amount required for the bond.
2. In lieu of such a bond an intermediary may deposit with the division under such terms and conditions as the division may prescribe, a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the division.
3. Any person claiming against a bond may bring an action in a court of competent jurisdiction on the bond for damages to the extent covered by the bond. A person who brings an action on a bond shall notify the division in writing upon filing the action.
4. Upon receiving a request from a person for whose benefit a bond is required, the division shall notify him:
 - (a) That a bond is in effect and the amount of the bond; and
 - (b) If there is an action against the bond, of the title, court and case number of the action and the amount sought by the plaintiff.
5. If a surety wishes to make payment without awaiting action by a court, the amount of the bond must be reduced to the extent of any payment made by the surety in good faith under the bond. Any payment must be based on written claims received by the surety before any action is taken by a court.
6. Claims against a bond have equal priority, and if the bond is insufficient to pay all claims in full, they must be paid on a pro rata basis. Partial payment of claims is not full payment, and any claimant may bring an action against the intermediary for the

unpaid balance.

(Added to NRS by 1993, 2020)

NRS 645.6085 Deposit and use of money received from civil penalty. The division shall deposit any money it receives from a civil penalty imposed pursuant to NRS 205.960 with the state treasurer for credit to a separate account in the state general fund. The division shall expend at least 75 percent of the money so received to pay administrative costs related to:

1. The registration of intermediaries; and
2. Any program it develops to supply information regarding intermediaries to the public.

Any remaining money may be used by the division to reimburse residents of Nevada for financial losses caused by the illegal conduct of an intermediary.

(Added to NRS by 1993, 2020)

NRS 645.609 Suspension of registration for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of registration. [Expires by limitation on the date of the repeal of the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

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 registered with the division as a qualified intermediary, the division shall deem the registration 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 by the district attorney or other public agency pursuant to NRS 425.550 to the person who is registered as a qualified intermediary stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.
2. The division shall reinstate the registration of a qualified intermediary 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 registration was suspended stating that the person whose registration was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

(Added to NRS by 1997, 2165)

REGULATION OF QUALIFIED INTERMEDIARIES

NAC 645.772 Definitions. As used in NAC 645.772 to 645.798, inclusive, unless the context otherwise requires:

1. "Agreement" means a written agreement between a qualified intermediary and a client in which the qualified intermediary agrees to act as an intermediary in an exchange of real property for the benefit of the client.
2. "Person" has the meaning ascribed to it in NRS 0.039.

(Added to NAC by Real Estate Div., eff. 3-30-94)

NAC 645.774 "Act as a qualified intermediary" interpreted. As used in subsection 1 of NRS 645.6065, the division will interpret "act as a qualified intermediary" to include:

1. Entering into an agreement with a client who is known by the qualified intermediary to be a resident of Nevada on the date of the agreement and who desires to:
 - (a) Relinquish real property located in Nevada in exchange for other real property in a tax-deferred exchange; or
 - (b) Acquire real property located in Nevada, which the client identifies at the time when the agreement is entered, to replace relinquished property in a tax-deferred exchange.
2. Maintaining an office in Nevada to solicit or conduct business as a qualified intermediary, regardless of where the real property which is the subject of the exchange is located or where the client resides.

(Added to NAC by Real Estate Div., eff. 3-30-94; A 3-1-96)

NAC 645.776 “Advertises or holds himself out as prepared to facilitate a tax-deferred exchange of property in this state by acting as the custodian of money or other property” interpreted.

1. As used in subsection 2 of NRS 645.606, except as otherwise provided in subsection 2 of this section, the division will interpret “advertises or holds himself out as prepared to facilitate a tax-deferred exchange of property in this state by acting as the custodian of money or other property” to include a person making a statement that he is ready, willing, and able to act as a qualified intermediary, an escrow holder of a qualified escrow account, a trustee of a qualified trust, as those terms are defined in 26 C.F.R. § 1.1031(k)-1(g), or as a custodian of property in a tax-deferred exchange of real property as a part of:

- (a) Advertising in printed publications which are published in Nevada, including telephone directories for locations in Nevada;
- (b) Advertising by direct mail or circulating material to residents of Nevada;
- (c) Telephone calls, electronic or telephonic transmissions to a facsimile machine or other electronic communications directed as solicitations to residents or other persons located in Nevada; or
- (d) Advertising with a broadcast medium that initiates its broadcasts in Nevada.

2. The interpretation set forth in subsection 1 does not include:

- (a) Advertising for and teaching seminars or classes, or giving presentations to attorneys, accountants, real estate licensees, persons who offer tax advice, or other persons where the primary purpose is to teach the persons about tax-deferred exchanges of real property or about acting as a qualified intermediary, an escrow holder of a qualified escrow account, or a trustee of a qualified trust;
- (b) Advertising in regional or national publications which are published outside Nevada, even if the publications are distributed to residents of Nevada as well as residents of other states, unless the text of the advertisement specifically refers to Nevada or any location in Nevada; or
- (c) Advertising with a broadcast medium which initiates its broadcasts outside Nevada, even if the broadcasts are received by persons in Nevada as well as persons in other states, unless the advertisement specifically refers to Nevada or any location in Nevada.

(Added to NAC by Real Estate Div., eff. 3-30-94; A 3-1-96)

NAC 645.778 “Officers” interpreted. As used in NRS 645.607, the division will interpret “officers” to include the president and any vice president, secretary, or treasurer of the corporation.

(Added to NAC by Real Estate Div., eff. 3-30-94)

NAC 645.780 Registration: Application; effective date; expiration; notice of denial.

1. An application for registration submitted pursuant to NRS 645.6065 is not effective until the application is accepted by the division. Within 10 days after receipt of an application for registration, the division will accept or deny the application.

2. In addition to the information required by NRS 645.6065, an application for registration must include:

- (a) A list of all judgments that have been entered against the applicant by a court or administrative agency for which the applicant is liable, including judgments which are under appeal but for which enforcement has been stayed.
- (b) A description of any litigation or matters referred to alternative methods of resolving disputes which involve the applicant and which could result in a judgment against the applicant. The description does not need to include a prediction of the possible outcome of the litigation or other matters.
- (c) The name and address of the financial institution and current balance of all accounts in which the applicant is holding money for clients at the time the application is completed. The applicant does not need to identify the clients or the specific amounts being held for any client.
- (d) A statement of whether the applicant or any of its owners, directors, officers, or employees have been convicted of racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, and, if so, a certified copy of the record of conviction must be provided.

(e) A statement of whether the applicant or any of its owners, directors, officers, or employees have had entered against them a final judgment or order, including a stipulated judgment or order, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, misappropriation of property, the use of any untrue or misleading representation in an attempt to sell property or services, or the use of any unfair, unlawful, or deceptive trade practice, and, if so, a certified copy of each judgment or order, including the findings of fact and conclusions of law, must be provided.

(f) A statement of whether a receiver has been appointed to take control of any of the assets of the applicant or whether the applicant is in the process of corporate dissolution, reorganization, merger, sale of assets, or any other business combination.

3. If the division accepts an application for registration, it will issue a certificate of registration to the applicant. The certificate of registration will state the date the registration becomes effective and the date upon which the registration expires. In no case will the registration expire on a date later than the date on which the bond or other deposit posted by the qualified intermediary expires.

4. If the division denies an application for registration, it will send a notice to the applicant which informs the applicant of the reasons for denial.

5. The division will not withhold acceptance of an application pending the outcome of an investigation conducted by the Federal Bureau of Investigation pursuant to NRS 645.6065 on the background of the applicant.

(Added to NAC by Real Estate Div., eff. 3-30-94)

NAC 645.782 Rejection of application; refund of fee; reapplication.

1. The division will reject an application which:

(a) Does not conform with the requirements of NRS 645.6065;

(b) Does not include information sufficient for the division to determine the minimum amount of the bond or other deposit to be posted pursuant to NRS 645.608; or

(c) Contains information which is false, misleading, or incomplete.

2. Except as otherwise provided in subsections 3 and 4, the division will not refund the fee for the application for registration.

3. The division will refund the portion of the fee that is attributable to the cost of the investigation if the investigation was not conducted by the Federal Bureau of Investigation.

4. If an applicant reapplies within 90 days after the rejection of his application, the division will give him credit for the fee that he paid with the original application.

(Added to NAC by Real Estate Div., eff. 3-30-94)

NAC 645.784 Renewal of registration.

1. A registrant must file annually with the division an application for the renewal of his registration on forms supplied by the division. For renewal of his registration, a registrant must submit any information or fingerprint cards necessary to make current the information contained in his original application for registration.

2. To avoid a lapse in registration, the division must receive a registrant's application for the renewal of registration accompanied by the appropriate fee required by NRS 645.6065 at least 10 days before expiration of the registration.

(Added to NAC by Real Estate Div., eff. 3-30-94)

NAC 645.786 Revocation of registration; procedure.

1. After acceptance of a registration, the division may revoke a registration if:

(a) The division discovers that a registrant supplied information in his application for registration which is false, materially misleading or incomplete;

(b) Any portion of the amount of the bond or deposit that the registrant posted pursuant to NRS 645.608 has been drawn

upon, terminated or is otherwise no longer available;

(c) The division demands an increase in the minimum amount of the bond or other deposit pursuant to NAC 645.788 during the period of registration and the registrant fails to post the additional amount; or

(d) A registrant fails to inform the division of a change of address or telephone number as required by NRS 645.6075.

2. To revoke a registration, the division will notify the registrant of the revocation and provide a 30-day notice of a hearing to be conducted by an administrative hearing officer of the department of business and industry pursuant to the provisions of chapter 233B of NRS.

(Added to NAC by Real Estate Div., eff. 3-30-94; A 3-1-96)

NAC 645.788 Bond or deposit: Minimum amount; increase of minimum amount; objection by applicant; procedural requirements.

1. Except as otherwise provided in subsection 2, the minimum amount of a bond or other deposit required by NRS 645.608 must be \$25,000.

2. The division may, as appropriate, increase the minimum amount of the bond or other deposit to not more than:

(a) The amount of any outstanding judgments or tax assessments against the applicant;

(b) Fifty percent of the amount in controversy reported to the division in accordance with paragraph (b) of subsection 2 of NAC 645.780; or

(c) The amount specified in paragraph (c) of subsection 2 of NAC 645.780 if the information supplied pursuant to paragraph (d), (e), or (f) of NAC 645.780 is in the affirmative.

3. If an applicant objects to an increase in the minimum amount of the bond or other deposit required by the division pursuant to subsection 2, he may appeal the decision by requesting a hearing before the commission. The request must be in writing and received by the division within 30 days after the date on which the division informed the applicant of the increase.

4. If an applicant appeals a decision of the division pursuant to subsection 3, the hearing will be held in the manner set forth in NRS 645.440. At the hearing, the applicant has the burden of proving that the increase in the minimum amount of the bond or other deposit required by the division is unreasonable.

(Added to NAC by Real Estate Div., eff. 3-30-94)

NAC 645.790 Purposes and restrictions of bond.

1. Except as otherwise provided in subsection 2, a bond posted pursuant to NRS 645.608, must, to the satisfaction of the division:

(a) Assure payment to all clients up to the amount of the bond in all covered transactions for losses suffered by clients because the principal misappropriates, embezzles, converts, wrongfully encumbers, loses, or fails to convey or cause to be conveyed to the intended party any property which comes into the principal's possession or control;

(b) Cover losses incurred as a result of actions or inactions by the principal during the period of the bond; and

(c) Be effective for a period not less than 18 months after the date of the application for registration or the renewal of registration.

2. The bond:

(a) Need only cover losses in transactions in which the principal acts as a qualified intermediary in Nevada;

(b) May limit payment of losses to the actual cash value or fair market value of the property lost by the client and may expressly exclude attorney's fees, costs of collection and special, consequential, and exemplary damages;

(c) May limit the time for filing claims against the bond to 180 days after the expiration of the bond; and

(d) Need not assure that the qualified intermediary will carry out his obligations in such a way as to assure that the transaction

will qualify as a nontaxable deferred exchange of real property.

(Added to NAC by Real Estate Div., eff. 3-30-94)

NAC 645.792 Deposit of security in lieu of bond.

1. If, in accordance with subsection 2 of NRS 645.608, an applicant posts a letter of credit with the division, the letter of credit must:

(a) Be irrevocable and be effective for a period not less than 18 months after the date of the application for registration or renewal of registration.

(b) State that the issuer will honor multiple drafts for payment upon compliance with the terms of the credit;

(c) Be in a form acceptable to the division; and

(d) Name the division as the beneficiary for the benefit of the clients of the qualified intermediary.

2. If, in accordance with subsection 2 of NRS 645.608, an applicant posts a savings certificate, certificate of deposit, or investment certificate, the certificate must comply with the requirements of subsection 2 of NRS 645.608. Interest earned on a certificate may accrue to the account of the qualified intermediary.

(Added to NAC by Real Estate Div., eff. 3-30-94; A 7-7-94)

NAC 645.794 Claim for reimbursement of financial losses caused by qualified intermediary; exceptions.

1. To obtain reimbursement for financial losses caused by the illegal conduct of a qualified intermediary pursuant to NRS 645.6085, a person must file a claim with the division in writing on forms supplied by the division. The claimant must provide information satisfactory to the division to demonstrate that his loss is properly recoverable.

2. The division will approve a claim if:

(a) The claimant was a resident of Nevada at the time of the loss;

(b) The loss was caused by a qualified intermediary, regardless of whether the qualified intermediary was registered in Nevada;

(c) The loss to the claimant was caused by:

(1) The misappropriation, embezzlement, conversion, wrongful encumbrance, or failure by the qualified intermediary to convey any property to the claimant or to the party intended by the claimant;

(2) The permanent loss of possession of the property by the qualified intermediary as a result of:

(I) A bankruptcy proceeding involving the qualified intermediary or the property which was the subject of the exchange; or

(II) A foreclosure of a judgment lien, tax lien, or other lien against the qualified intermediary; or

(3) The payment by the claimant to creditors of the qualified intermediary to relieve liens against the property placed by creditors of the qualified intermediary;

(d) The claimant made a claim against the bond or other deposit, unless the division determines that making such a claim was impracticable under the circumstances; and

(e) If the loss was a result of a voluntary act of the qualified intermediary, the claimant obtained a judgment against the qualified intermediary. As used in this paragraph, "a voluntary act of the qualified intermediary" includes willful misappropriation, embezzlement or conversion and wrongful encumbrance and conveyance of property to a person other than its intended beneficiary.

3. The division will approve claims only in the amount of the actual amount of cash lost by the claimant or the fair market value of the property that was misappropriated or lost by the qualified intermediary.

4. The division will not approve payment of:

- (a) Attorney's fees;
- (b) Costs of collection;
- (c) Special, consequential, and exemplary damages; or
- (d) Interest.

5. A claimant may not recover his losses if an exchange of property does not qualify for nontaxable deferred status.

(Added to NAC by Real Estate Div., eff. 3-30-94)

NAC 645.796 Approval and payment of claim.

1. If the division approves a claim, it will inform the claimant of the amount of the claim approved, and will explain the procedures for payment of claims set forth in subsection 2.
2. If the division allows a claim, it will hold the claim for 2 years and pay against the claim as money becomes available pursuant to NRS 645.6085. As money becomes available, the division will pay claims on a pro rata and equal priority basis.
3. Payments on a claim will cease when the claim has been satisfied or 2 years after the date on which the division made the first payment on the claim, whichever occurs first.

(Added to NAC by Real Estate Div., eff. 3-30-94)

NAC 645.798 Denial of claim; appeal.

1. If the division denies a claim, it will inform the claimant of its decision in writing and explain the claimant's rights of appeal set forth in subsection 2.
2. If a claimant is not satisfied with the amount of a claim approved by the division or if the division denies a claim, the claimant may appeal the decision to the commission. The appeal must be in writing and received by the division within 30 days after the claimant is notified of the division's decision. The division will schedule a hearing with the commission within 90 days after receipt of the request for a hearing from the claimant. At the hearing, the claimant has the burden of proving to the satisfaction of the commission that he qualifies for reimbursement in the amount of his claim.

(Added to NAC by Real Estate Div., eff. 3-30-94)