

ASSEMBLY BILL NO. 438—COMMITTEE
ON COMMERCE AND LABOR

MARCH 27, 2023

Referred to Committee on Commerce and Labor

SUMMARY—Prohibits title insurers, title agents, escrow officers and certain real estate professionals from engaging in certain conduct. (BDR 57-1005)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~fornitted-material~~ is material to be omitted.

AN ACT relating to title insurance; prohibiting a title insurer, title agent, escrow officer and certain persons who hold licenses or registrations issued by the Real Estate Division of the Department of Business and Industry from engaging in certain conduct; providing civil penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for the licensure and regulation of title insurers, title agents and escrow officers by the Commissioner of Insurance. (Chapter 692A of NRS) Existing law prohibits a title insurer or underwritten title company from making certain payments to persons associated with real property as inducement or compensation for the placing of an order for a title insurance policy or for the performance of escrow services or other service by the insurer or company. (NRS 686A.130)

Section 1 of this bill prohibits a title insurer, title agent or escrow officer, with certain exceptions, from: (1) producing any advertisement for a real estate facilitator or paying any portion of the costs of any advertising or marketing engaged in by a real estate facilitator; (2) paying any portion of the ordinary business costs of a real estate facilitator; or (3) leasing or using office space in the office of a real estate facilitator or otherwise sharing office space with a real estate facilitator. **Section 1** authorizes a title insurer, title agent or escrow officer to engage in certain advertising associated with a real estate facilitator under certain circumstances. **Section 1** authorizes the Commissioner of Insurance to impose an administrative fine for a violation of the prohibitions set forth in **section 1** and to suspend or revoke the license of an escrow officer who commits such a violation. **Section 1** defines “real estate facilitator” to mean a real estate broker, real estate



20 broker-salesperson, real estate salesperson, owner-developer or any other person
21 who provides services in connection with a real estate transaction in this State.

22 Existing law provides for the licensure and regulation of real estate brokers,
23 real estate broker-salespersons, real estate salespersons and the registration and
24 regulation of owner-developers by the Real Estate Division of the Department of
25 Business and Industry and the Real Estate Commission. (Chapter 645 of NRS)
26 **Section 2** of this bill prohibits a real estate broker, real estate broker-salesperson,
27 real estate salesperson or owner-developer from: (1) soliciting or accepting certain
28 payments for advertising or ordinary business costs from a title insurer, title agent
29 or escrow officer; or (2) leasing or using office space in the office of a title insurer,
30 title agent or escrow officer or otherwise sharing office space with a title insurer,
31 title agent or escrow officer. **Section 2** authorizes the Commission to impose an
32 administrative fine for a violation of the prohibitions set forth in **section 2** and to
33 suspend or revoke the license or registration of a real estate broker, real estate
34 broker-salesperson, real estate salesperson or owner-developer who commits such a
35 violation.

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

1 **Section 1.** Chapter 692A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 *1. A title insurer, title agent or escrow officer shall not:*

4 *(a) Except as otherwise provided in subsection 2, produce any*
5 *advertisement for a real estate facilitator or pay any portion of the*
6 *costs of any advertising or marketing engaged in by a real estate*
7 *facilitator;*

8 *(b) Pay any portion of the ordinary business costs of a real*
9 *estate facilitator; or*

10 *(c) Lease or use office space inside the office of or otherwise*
11 *share office space with a real estate facilitator.*

12 *2. A title insurer, title agent or escrow officer may place an*
13 *advertisement on any advertising medium associated with a real*
14 *estate facilitator, including, without limitation, a publication*
15 *published by a real estate facilitator or by a trade association that*
16 *represents or supports the interests of real estate facilitators if:*

17 *(a) The advertising medium provides any title insurer, title*
18 *agent or escrow officer an equal opportunity to advertise on the*
19 *medium;*

20 *(b) The title insurer, title agent or escrow officer pays the same*
21 *price for the advertisement as would be required of any other*
22 *person for an equivalent advertisement on the advertising*
23 *medium; and*

24 *(c) The purpose of the advertisement is solely to promote the*
25 *title insurer, title agent or escrow officer.*



1 3. *If, upon a hearing, it is determined that a title insurer, title*
2 *agent or escrow officer has violated the provisions of subsection 1,*
3 *the Commissioner may:*

4 (a) *For a violation committed by a title insurer or title agent,*
5 *impose an administrative fine of not less than \$1,000 and not more*
6 *than \$10,000 for each violation; and*

7 (b) *For a violation committed by an escrow officer:*

8 (1) *Impose an administrative fine of not less than \$1,000*
9 *and not more than \$5,000; and*

10 (2) *Suspend or revoke the license of the escrow officer.*

11 4. *As used in this section:*

12 (a) *“Ordinary business costs” includes, without limitation, the*
13 *cost of furniture, office equipment, cellular telephones, cellular*
14 *telephone plans, business cards, postage, advertising leads,*
15 *mailing lists, computer software or subscriptions to Internet-based*
16 *services. The term does not include the cost of software used by a*
17 *title insurer, title agent or escrow officer that assists a real estate*
18 *facilitator in communicating with or handling transactions with*
19 *the title insurer, title agent or escrow officer.*

20 (b) *“Real estate facilitator” means a real estate broker, real*
21 *estate broker-salesperson, real estate salesperson, owner-developer*
22 *licensed or registered pursuant to chapter 645 of NRS or any other*
23 *person who provides services in connection with a real estate*
24 *transaction in this State.*

25 **Sec. 2.** Chapter 645 of NRS is hereby amended by adding
26 thereto a new section to read as follows:

27 1. *A real estate broker, real estate broker-salesperson, real*
28 *estate salesperson or owner-developer shall not:*

29 (a) *Solicit or accept any payment from a title insurer, title*
30 *agent or escrow officer to pay any portion of the costs of any*
31 *advertising or marketing engaged in by the real estate broker, real*
32 *estate broker-salesperson, real estate salesperson or owner-*
33 *developer;*

34 (b) *Allow a title insurer, title agent or escrow officer to*
35 *produce an advertisement for the real estate broker, real estate*
36 *broker-salesperson, real estate salesperson or owner-developer;*

37 (c) *Solicit or accept any payment from a title insurer, title*
38 *agent or escrow officer to pay any portion of the ordinary business*
39 *costs of the real estate broker, real estate broker-salesperson, real*
40 *estate salesperson or owner-developer; or*

41 (d) *Lease or use office space inside the office of or otherwise*
42 *share office space with a title insurer, title agent or escrow officer.*

43 2. *In addition to any other remedy or penalty, if a real estate*
44 *broker, real estate broker-salesperson, real estate salesperson or*



1 *owner-developer violates the provisions of subsection 1, the*
2 *Commission may:*

3 *(a) Impose an administrative fine of not less than \$1,000 and*
4 *not more than \$10,000; and*

5 *(b) Suspend or revoke the license or registration of the real*
6 *estate broker, real estate broker-salesperson, real estate*
7 *salesperson or owner-developer.*

8 *3. As used in this section:*

9 *(a) "Escrow officer" has the meaning ascribed to it in*
10 *NRS 692A.028.*

11 *(b) "Ordinary business costs" includes, without limitation, the*
12 *cost of furniture, office equipment, cellular telephones, cellular*
13 *telephone plans, business cards, postage, advertising leads,*
14 *mailing lists, computer software or subscriptions to Internet-based*
15 *services. The term does not include the cost of software used by a*
16 *title insurer, title agent or escrow officer that assists a real estate*
17 *broker, real estate broker-salesperson, real estate salesperson or*
18 *owner-developer in communicating with or handling transactions*
19 *with the title insurer, title agent or escrow officer.*

20 *(c) "Title agent" has the meaning ascribed to it in*
21 *NRS 692A.060.*

22 *(d) "Title insurer" has the meaning ascribed to it in*
23 *NRS 692A.070.*

