



DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

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EDUCATION, RESEARCH AND RECOVERY FUND (ERRF)

The following is a brief breakdown of the procedure can be found in NRS 645.841 through 645.8494

1. Obtain final judgment from any court of competent jurisdiction against any licensee or licensees pursuant to Chapter NRS 645, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required.
2. Upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered, for an order directing payment out of the fund in the amount of the unpaid actual damages included in the judgment, but not more than \$25,000 per judgment. The petition must state the grounds which entitle the person to recover from the fund.
3. The following items must be served upon the Administrator and the judgment debtor. Affidavits of service must be filed with the court:
 - Copy of the Judgment;
 - Copy of the Petition;
 - Copy of the Complaint upon which the judgment was entered; and
 - Copy of Writ of execution, which was returned unsatisfied.
4. Pursuant to NRS 645.845, the Administrator may answer and defend any such action against the fund and may use any appropriate method of review on behalf of the fund.
If the court finds after the hearing that the claim should be levied against the portion of the fund allocated for the purpose of carrying out the provisions of NRS 645.841 to 645.8494, inclusive, the court shall enter an order directed to be the upon the claim pursuant to the provisions of and in accordance with the limitations contained in NRS 645.841 to NRS 645.8494 inclusive.
5. This memorandum does not waive any legal requirements regarding service of process, or any other applicable legal requirements for claims against the Fund.

REAL ESTATE EDUCATION, RESEARCH AND RECOVERY FUND

NRS 645.841 “Fund” defined. As used in [NRS 645.841](#) to [645.8494](#), inclusive, “Fund” means the Real Estate Education, Research and Recovery Fund.

NRS 645.842 Creation; use; balances; interest and income.

1. The Real Estate Education, Research and Recovery Fund is hereby created as a special revenue fund.
2. A balance of not less than \$300,000 must be maintained in the Fund, to be used for satisfying claims against persons licensed under this chapter, as provided in [NRS 645.841](#) to [645.8494](#), inclusive. Any balance over \$300,000 remaining in the Fund at the end of any fiscal year must be set aside and used:
 - (a) By the Administrator, after approval of the Commission, for real estate education and research; or
 - (b) For any other purpose authorized by the Legislature.
3. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund.

NRS 645.843 Payment of additional fee by licensee for augmentation of Fund.

1. Upon application for or renewal of every real estate broker’s, broker-salesperson’s and salesperson’s license, every licensed broker, broker-salesperson and salesperson shall pay in addition to the original or renewal fee, a fee for real estate education, research and recovery. The additional fee must be deposited in the State Treasury for credit to the Real Estate Education, Research and Recovery Fund, and must be used solely for the purposes provided in [NRS 645.841](#) to [645.8494](#), inclusive.
2. Owner-developers need not contribute to the Fund.

NRS 645.844 Recovery from Fund: Procedure; grounds; amount; hearing.

1. Except as otherwise provided in subsection 2, when any person obtains a final judgment in any court of competent jurisdiction against any licensee or licensees pursuant to this chapter, upon grounds of fraud, misrepresentation or deceit with reference to any transaction for which a license is required pursuant to this chapter, that person, upon termination of all proceedings, including appeals in connection with any judgment, may file a verified petition in the court in which the judgment was entered for an order directing payment out of the Fund in the amount of the unpaid actual damages included in the judgment, but not more than \$25,000 per judgment. The liability of the Fund does not exceed \$100,000 for any person licensed pursuant to this chapter, whether the person is licensed as a limited-liability company, partnership, association or corporation or as a natural person, or both. The petition must state the grounds which entitle the person to recover from the Fund.
2. A person who is licensed pursuant to this chapter may not recover from the Fund for damages which are related to a transaction in which the person acted in his or her capacity as a licensee.
3. A copy of the:
 - (a) Petition;
 - (b) Judgment;
 - (c) Complaint upon which the judgment was entered; and
 - (d) Writ of execution which was returned unsatisfied,must be served upon the Administrator and the judgment debtor and affidavits of service must be filed with the court.
4. Upon the hearing on the petition, the petitioner must show that:
 - (a) The petitioner is not the spouse of the debtor, or the personal representative of that spouse.
 - (b) The petitioner has complied with all the requirements of [NRS 645.841](#) to [645.8494](#), inclusive.
 - (c) The petitioner has obtained a judgment of the kind described in subsection 1, stating the amount thereof, the amount owing thereon at the date of the petition, and that the action in which the judgment was obtained was based on fraud, misrepresentation or deceit of the licensee in a transaction for which a license is required pursuant to this chapter.
 - (d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of assets was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.
 - (e) The petitioner has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment, and after reasonable efforts that no property or assets could be found or levied upon in satisfaction of the judgment.
 - (f) The petitioner has made reasonable efforts to recover damages from each and every judgment debtor.
 - (g) The petition has been filed no more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.
5. The provisions of this section do not apply to owner-developers.

NRS 645.845 Administrator may answer petition for recovery; effect of judgment; compromise of claim.

1. Whenever the court proceeds upon a petition as provided in [NRS 645.844](#), the Administrator may answer and defend any such action against the Fund on behalf of the Fund and may use any appropriate method of review on behalf of the Fund. The judgment debtor may answer and defend any such action on his or her own behalf.
2. Unless the judgment was entered by default, consent or stipulation or the case was uncontested, the judgment set forth in the petition is prima facie evidence but the findings of fact therein are not conclusive for the purposes of [NRS 645.841](#) to [645.8494](#), inclusive.
3. The Administrator may, subject to court approval, compromise a claim based upon the application of a petitioner. The Administrator shall not be bound by any prior compromise of the judgment debtor.

NRS 645.846 Court order requiring payment from Fund. If the court finds after the hearing that the claim should be levied against the portion of the Fund allocated for the purpose of carrying out the provisions of [NRS 645.841](#) to [645.8494](#), inclusive, the court shall enter an order directed to the Administrator requiring payment from the Fund of whatever sum it finds to be payable upon the claim pursuant to the provisions of and in accordance with the limitations contained in [NRS 645.841](#) to [645.8494](#), inclusive.

NRS 645.847 Automatic suspension of license upon payment from Fund; conditions for reinstatement of license. If the Administrator pays from the Fund any amount in settlement of a claim or towards satisfaction of a judgment against a licensee, the licensee's license issued pursuant to this chapter and [chapter 119](#) of NRS must be automatically suspended upon the effective date of an order by the court authorizing payment from the Fund. The license of the broker, broker-salesperson or salesperson may not be reinstated and no other license may be granted to him or her pursuant to this chapter until he or she has repaid in full, plus interest at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 2 percent, the amount paid from the Fund on his or her account. Interest is computed from the date payment from the Fund was made by the Administrator and the rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.

NRS 645.848 Distribution of payment from Fund if claims exceed maximum liability of Fund; order of payment of claims if balance of Fund insufficient; interest; use of certain money deposited in Fund.

1. Whenever claims are filed against the Fund which total more than the maximum liability for the acts of one licensee, the maximum liability of the Fund for each licensee must be distributed among the claimants in a ratio that their respective claims bear to the total of all claims, or in any other manner that the court may find equitable.
2. The distribution must be made without regard to the order of priority in which claims were filed or judgments entered.
3. Upon petition of the Administrator, the court may require all claimants and prospective claimants to be joined in one action so that the respective rights of all claimants may be equitably determined.
4. If, at any time, the money deposited in the Fund and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the Administrator shall, when sufficient money has been deposited in the Fund, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed, plus accumulated interest at the rate of 6 percent per annum. Any sums received by the Division pursuant to [NRS 645.847](#) and [645.8491](#) must be deposited in the State Treasury for credit to the account for education and research in the Fund.

NRS 645.8491 Administrator subrogated to rights of judgment creditor; deposit of money recovered. When the Administrator has paid from the Fund any money to the judgment creditor, the Administrator is subrogated to all other rights of the judgment creditor to the extent of the amount paid and any amount and interest so recovered by the Administrator on the judgment must be deposited in the State Treasury for credit to the Fund.

NRS 645.8492 Waiver of rights. The failure of a person to comply with any of the provisions of [NRS 645.841](#) to [645.8494](#), inclusive, shall constitute a waiver of any rights hereunder.

NRS 645.8494 Disciplinary action against licensee not restricted. Nothing contained in [NRS 645.841](#) to [645.8494](#), inclusive, limits the authority of the Commission to take disciplinary action against a licensee for a violation for any of the provisions of this chapter, or of the rules and regulations of the Commission, nor shall the repayment in full of all obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of this chapter or the rules and regulations promulgated thereunder.