
ASSEMBLY BILL NO. 64—COMMITTEE ON COMMERCE AND LABOR

PREFILED JANUARY 28, 1999

(ON BEHALF OF LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO INVESTIGATE
REGULATION OF MORTGAGE INVESTMENTS)

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to mortgage companies and loans secured by liens on real property. (BDR 54-1204)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to real property; revising the provisions relating to the licensing and the operation of certain mortgage companies; requiring certain mortgage companies to maintain a minimum net worth; establishing licensing requirements for mortgage agents and requiring such agents to pay certain fees; prohibiting various acts by mortgage companies and mortgage agents; providing for administrative sanctions and criminal penalties; revising the provisions relating to the licensing and the operation of certain construction controls, escrow agencies, escrow agents, title agents, title insurers and escrow officers; requiring certain construction controls, escrow agencies, title agents and title insurers to maintain a surety bond; and providing other matters properly relating thereto.

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

1 **Section 1.** Chapter 627 of NRS is hereby amended by adding thereto a new
2 section to read as follows:

3 ***1. A person may not conduct business as or hold a controlling interest or***
4 ***position in a construction control if the person or a relative of the person is***
5 ***licensed as, conducts business as or holds a controlling interest or position in:***

6 ***(a) A mortgage company or mortgage agent that is subject to the provisions of***
7 ***chapter 645B of NRS; or***

1 (b) Any other legal entity, regardless of its purpose, if the legal entity holds a
2 controlling interest or position in a mortgage company or mortgage agent that is
3 subject to the provisions of chapter 645B of NRS.

4 2. For the purposes of this section, a person shall be deemed to hold a
5 controlling interest or position if the person:

6 (a) Owns or controls a majority of the voting stock or holds any other
7 controlling interest, directly or indirectly, that gives him the power to direct
8 management or determine policy; or

9 (b) Is a partner, officer, director or trustee.

10 3. As used in this section, "relative" means a spouse or any other person who
11 is related within the second degree by blood or marriage.

12 **Sec. 2.** NRS 627.180 is hereby amended to read as follows:

13 627.180 1. Except for savings and loan associations, state banks and national
14 banking associations, licensed to do business in the State of Nevada, under the laws
15 of the State of Nevada or under the laws of the United States, title insurers or
16 underwritten title insurance companies authorized to do business in the State of
17 Nevada, or lenders of construction loan money for dwelling units who are approved
18 by the Federal Housing Administration or Department of Veterans Affairs and who
19 have been licensed and authorized to do business in the State of Nevada, every
20 construction control , **before** doing business in the State of Nevada , shall ~~[, within~~
21 ~~30 days immediately following July 1, 1965,]~~ file with the state contractors' board a
22 bond, executed by some corporation authorized to issue surety bonds in this state, in
23 ~~[a penal sum equal to 1 1/4 times]~~ the amount of ~~[capital in the business but in no~~
24 ~~event less than \$20,000, and such]~~ **\$250,000. The** bond must be kept in full force
25 and effect or replaced by a like bond as a condition to continuing to do business as a
26 construction control in the State of Nevada.

27 2. The form of the bond required is as follows:

28
29 BOND NO.

30 CONSTRUCTION CONTROL BOND

31
32 KNOW ALL MEN BY THESE PRESENTS:

33 That I,, having a principal place of business in
34, Nevada, as principal, and, a
35 corporation licensed to execute surety bonds under the provisions of the Nevada
36 Insurance Code, as surety, are held and firmly bound to the State of Nevada, for the
37 use of any person by whom funds are entrusted to the principal or to whom funds are
38 payable by the principal, in the sum of Dollars, lawful money of the
39 United States of America, to be paid to the State of Nevada, for which payment well
40 and

1 truly to be made we bind ourselves, our heirs, executors and successors, jointly and
2 severally, firmly by these presents:

3 THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:

4 WHEREAS, Under the Construction Control Law, certain duties,
5 obligations and requirements are imposed upon all persons, copartnerships,
6 associations or corporations acting as construction controls;

7 NOW, THEREFORE, If the principal and its agents and employees shall
8 faithfully and in all respects conduct business as a construction control in
9 accordance with the provisions of the Construction Control Law, this
10 obligation shall be void, otherwise to remain in full force and effect;

11 PROVIDED, HOWEVER, That the surety or sureties may cancel this bond
12 and be relieved of further liability hereunder by delivering 30 days' written
13 notice of cancellation to the principal; however, such cancellation shall not
14 affect any liability incurred or accrued hereunder prior to the termination
15 of such 30-day period;

16 PROVIDED FURTHER, That the total aggregate liability of the surety or
17 sureties herein for all claims which may arise under this bond shall be
18 limited to the payment of Dollars.

19 IN WITNESS WHEREOF, The principal and surety have hereunto set their
20 hands this day of, 19.....

21
22
23 By
24 Principal
25 (SURETY)
26 By
27 Attorney
28

29 **Sec. 3.** NRS 627.210 is hereby amended to read as follows:

30 627.210 The ~~following shall not be a construction control or subject~~
31 ~~to the~~ provisions of this chapter ~~[-]~~ **do not apply to:**

32 1. A contractor licensed under the laws of the State of Nevada, paying
33 a subcontractor, supplier of material, laborer, or other person for bills
34 incurred in construction, repair, alteration or improvement of any premises.

35 2. A subcontractor licensed to do business under the laws of the State
36 of Nevada, paying a subcontractor, supplier of material, laborer or other
37 person for bills incurred in construction, repair, alteration or improvement
38 of any premises.

39 3. An owner-contractor paying a contractor, subcontractor, supplier of
40 material, laborer or other person for bills incurred in construction, repair,
41 alteration or improvement of any premises.

42 4. A lender of construction loan ~~money, provided that~~ **money, other**
43 **than a mortgage company that is subject to the provisions of chapter**

1 **645B of NRS, if** he disburses the ~~{funds}~~ **money** directly to a contractor
2 authorized by the borrower to do the work, or disburses the ~~{funds}~~ **money**
3 directly to the owner of the premises.

4 5. A lender of construction loan ~~{moneys,}~~ **money**, to an owner of a
5 residential property or to an owner of not more than four units if the loan is
6 made to repair or improve such property and the construction costs are
7 \$10,000 or less, or 35 percent of the appraised value of the improvements
8 and repairs, whichever is greater.

9 **Sec. 4.** Chapter 645A of NRS is hereby amended by adding thereto a
10 new section to read as follows:

11 **1. A person may not be licensed as, conduct business as or hold a**
12 **controlling interest or position in an escrow agency or escrow agent if the**
13 **person or a relative of the person is licensed as, conducts business as or**
14 **holds a controlling interest or position in:**

15 **(a) A mortgage company or mortgage agent that is subject to the**
16 **provisions of chapter 645B of NRS; or**

17 **(b) Any other legal entity, regardless of its purpose, if the legal entity**
18 **holds a controlling interest or position in a mortgage company or**
19 **mortgage agent that is subject to the provisions of chapter 645B of NRS.**

20 **2. For the purposes of this section, a person shall be deemed to hold**
21 **a controlling interest or position if the person:**

22 **(a) Owns or controls a majority of the voting stock or holds any other**
23 **controlling interest, directly or indirectly, that gives him the power to**
24 **direct management or determine policy; or**

25 **(b) Is a partner, officer, director or trustee.**

26 **3. As used in this section, "relative" means a spouse or any other**
27 **person who is related within the second degree by blood or marriage.**

28 **Sec. 5.** NRS 645A.020 is hereby amended to read as follows:

29 645A.020 1. A person who wishes to be licensed as an escrow agent
30 or agency must file a written application in the office of the commissioner.

31 2. The application must:

32 (a) Be verified.

33 (b) Be accompanied by the appropriate fee prescribed in NRS
34 645A.040.

35 (c) State the location of the applicant's principal office and branch
36 offices in ~~{the}~~ **this** state and residence address.

37 (d) State the name under which the applicant will conduct business.

38 (e) List the names, residence and business addresses of all persons
39 having an interest in the business as principals, partners, officers, trustees
40 or directors, specifying the capacity and title of each.

41 (f) If the applicant is a natural person, include the social security
42 number of the applicant.

43 (g) Indicate the general plan and character of the business.

1 (h) State the length of time the applicant has been engaged in the
2 escrow business.

3 (i) Require a financial statement of the applicant.

4 (j) Require such other information as the commissioner determines
5 necessary.

6 (k) If for an escrow agency, designate a natural person to receive
7 service of process in this state for the agency.

8 3. ~~HH~~ *Except as otherwise provided by specific statute, if* the
9 commissioner determines, after investigation, that the experience,
10 character, financial condition, business reputation and general fitness of the
11 applicant are such as to command the confidence of the public and to
12 warrant the belief that the business conducted will protect and safeguard
13 the public, he shall issue a license to the applicant as an escrow agent or
14 agency.

15 4. The commissioner may waive the investigation required by
16 subsection 3 if the applicant submits with his application satisfactory proof
17 that he, in good standing, currently holds a license, or held a license, within
18 1 year before the date he submits his application, which was issued
19 pursuant to the provisions of NRS 692A.103.

20 5. An escrow agent or agency shall immediately notify the division of
21 any material change in the information contained in the application.

22 6. A person may not be licensed as an escrow agent or agency or be a
23 principal officer, director or trustee of an escrow agency if he is the holder
24 of an active license issued pursuant to chapter 645 of NRS.

25 **Sec. 6.** NRS 645A.030 is hereby amended to read as follows:

26 645A.030 1. Except as otherwise authorized by NRS 645A.031, at
27 the time of filing an application for a license as an escrow agency, the
28 applicant shall deposit with the commissioner a corporate surety bond
29 payable to the State of Nevada, in the amount of ~~[\$50,000,]~~ *\$250,000,*
30 executed by a corporate surety satisfactory to the commissioner, and
31 naming as principals the applicant and all escrow agents employed by or
32 associated with the applicant.

33 2. At the time of filing an application for a license as an escrow agent,
34 the applicant shall file with the commissioner proof that the applicant is
35 named as a principal on the corporate surety bond deposited with the
36 commissioner by the escrow agency with whom he is associated or
37 employed.

38 3. The bond must be in substantially the following form:
39

40 Know All Men by These Presents, that, as principal, and
41, as surety, are held and firmly bound unto the State of
42 Nevada for the use and benefit of any person who suffers damages because
43 of a violation of any of the provisions of chapter 645A of NRS, in the sum

1 of, lawful money of the United States, to be paid to the State of
2 Nevada for such use and benefit, for which payment well and truly to be
3 made, we bind ourselves, our heirs, executors, administrators, successors
4 and assigns, jointly and severally, firmly by these presents.

5 The condition of that obligation is such that: Whereas, the principal has
6 made an application to the commissioner of financial institutions of the
7 department of business and industry of the State of Nevada for a license as
8 an escrow agent or agency and is required to furnish a bond in the amount
9 of ~~[\$50,000]~~ **\$250,000** conditioned as set forth in this bond:

10 Now, therefore, if the principal, his agents and employees, strictly,
11 honestly and faithfully comply with the provisions of chapter 645A of
12 NRS, and pay all damages suffered by any person because of a violation of
13 any of the provisions of chapter 645A of NRS, or by reason of any fraud,
14 dishonesty, misrepresentation or concealment of material facts growing out
15 of any transaction governed by the provisions of chapter 645A of NRS,
16 then this obligation is void; otherwise it remains in full force.

17 This bond becomes effective on the day of, 19....., and
18 remains in force until the surety is released from liability by the
19 commissioner of financial institutions or until this bond is canceled by the
20 surety. The surety may cancel this bond and be relieved of further liability
21 hereunder by giving 60 days' written notice to the principal and to the
22 commissioner of financial institutions of the department of business and
23 industry of the State of Nevada.

24 In Witness Whereof, the seal and signature of the principal hereto is
25 affixed, and the corporate seal and the name of the surety hereto is affixed
26 and attested by its authorized officers at, Nevada, this
27 day of, 19.....

28
29 (Seal)

30 Principal

31 (Seal)

32 Surety

33 By

34 Attorney in fact

35
36 Licensed resident agent

37
38 **Sec. 7.** NRS 645A.037 is hereby amended to read as follows:

39 645A.037 ~~[1.—Except as otherwise provided in subsection 2, no~~
40 ~~licensee may]~~ **A licensee shall not** conduct the business of administering
41 escrows for compensation within any office, suite, room or place of
42 business in which any other business is solicited or engaged in, except a

1 notary public, or in association or conjunction with any other business,
2 unless authority to do so is given by the commissioner.

3 ~~{2. A licensee may conduct the business of administering escrows~~
4 ~~pursuant to this chapter in the same office or place of business as a~~
5 ~~mortgage company if:~~

6 ~~—(a) The licensee and the mortgage company:~~

7 ~~—(1) Operate as separate legal entities;~~

8 ~~—(2) Maintain separate accounts, books and records;~~

9 ~~—(3) Are subsidiaries of the same parent corporation; and~~

10 ~~—(4) Maintain separate licenses; and~~

11 ~~—(b) The mortgage company is licensed by this state and does not receive~~
12 ~~money to acquire or repay loans or maintain trust accounts as provided by~~
13 ~~NRS 645B.175.]~~

14 **Sec. 8.** Chapter 645B of NRS is hereby amended by adding thereto
15 the provisions set forth as sections 9 to 25, inclusive, of this act.

16 **Sec. 9. 1.** *A person may not be licensed as, conduct business as or*
17 *hold a controlling interest or position in a mortgage company or*
18 *mortgage agent if the person or a relative of the person is licensed as,*
19 *conducts business as or holds a controlling interest or position in:*

20 *(a) A construction control, as defined in NRS 627.050;*

21 *(b) An escrow agency or escrow agent, as defined in NRS 645A.010;*

22 *(c) An escrow officer, title agent or title insurer, as defined in NRS*
23 *692A.028, 692A.060 and 692A.070; or*

24 *(d) Any other legal entity, regardless of its purpose, if the legal entity*
25 *holds a controlling interest or position in a legal entity described in*
26 *paragraph (a), (b) or (c).*

27 **2.** *For the purposes of this section, a person shall be deemed to hold*
28 *a controlling interest or position if the person:*

29 *(a) Owns or controls a majority of the voting stock or holds any other*
30 *controlling interest, directly or indirectly, that gives him the power to*
31 *direct management or determine policy; or*

32 *(b) Is a partner, officer, director or trustee.*

33 **3.** *As used in this section, “relative” means a spouse or any other*
34 *person who is related within the second degree by blood or marriage.*

35 **Sec. 10.** *Except as otherwise provided in this chapter:*

36 **1.** *A person who claims an exemption from the provisions of this*
37 *chapter pursuant to NRS 645B.015 must file a written application for a*
38 *certificate of exemption with the office of the commissioner and pay the*
39 *fee required pursuant to NRS 645B.050.*

40 **2.** *An application for a certificate of exemption must include*
41 *sufficient evidence to establish that the person meets the requirements of*
42 *at least one exemption set forth in the provisions of NRS 645B.015.*

1 3. The commissioner shall issue a certificate of exemption to a
2 person who:

3 (a) Meets the requirements of at least one exemption set forth in the
4 provisions of NRS 645B.015; and

5 (b) Complies with the provisions of this section and NRS 645B.050.

6 4. A certificate of exemption expires automatically if, at any time, the
7 person who claims the exemption no longer meets the requirements of at
8 least one exemption set forth in the provisions of NRS 645B.015.

9 5. If a certificate of exemption expires automatically pursuant to this
10 section, the person shall not provide any services of a mortgage company
11 or mortgage agent or otherwise engage in, carry on or hold himself out
12 as engaging in or carrying on the business of a mortgage company or
13 mortgage agent, unless the person applies for and is issued:

14 (a) A license as a mortgage company or mortgage agent pursuant to
15 this chapter; or

16 (b) Another certificate of exemption.

17 6. The commissioner may impose upon a person who is required to
18 apply for a certificate of exemption or who holds a certificate of
19 exemption an administrative fine of not more than \$10,000 for each
20 violation that he commits, if the person:

21 (a) Has knowingly made or caused to be made to the commissioner
22 any false representation of material fact;

23 (b) Has suppressed or withheld from the commissioner any
24 information which the person possesses and which, if submitted by him,
25 would have rendered the person ineligible to hold a certificate of
26 exemption; or

27 (c) Has violated any provision of this chapter, a regulation adopted
28 pursuant to this chapter or an order of the commissioner that applies to a
29 person who is required to apply for a certificate of exemption or who
30 holds a certificate of exemption.

31 **Sec. 11. 1.** Except as otherwise provided in this section, if a
32 mortgage company:

33 (a) Is required to maintain any accounts described in NRS 645B.175,
34 the mortgage company and its mortgage agents shall not engage in any
35 activity that is authorized pursuant to this chapter, unless the mortgage
36 company maintains continuously a net worth of at least \$250,000.

37 (b) Is not required to maintain any accounts described in NRS
38 645B.175, the mortgage company and its mortgage agents shall not
39 engage in any activity that is authorized pursuant to this chapter, unless
40 the mortgage company maintains continuously:

41 (1) Beginning on October 1, 1999, through September 30, 2000,
42 inclusive, a net worth of at least \$25,000;

1 (2) Beginning on October 1, 2000, through September 30, 2001,
2 inclusive, a net worth of at least \$50,000;

3 (3) Beginning on October 1, 2001, through September 30, 2002,
4 inclusive, a net worth of at least \$75,000; and

5 (4) On or after October 1, 2002, a net worth of at least \$100,000.

6 2. If a mortgage company cannot maintain continuously the net
7 worth required pursuant to subsection 1, the commissioner may allow the
8 mortgage company and its mortgage agents to engage in activities that
9 are authorized pursuant to this chapter, if the mortgage company
10 remedies the deficiency in its net worth by depositing with the
11 commissioner cash, a corporate surety bond or an irrevocable letter of
12 credit, or any combination thereof, in an aggregate amount that is equal
13 to or exceeds the deficiency in the net worth of the mortgage company.

14 3. If requested by the commissioner, a mortgage company and its
15 mortgage agents shall submit to the commissioner or allow the
16 commissioner to examine any documentation or other evidence that is
17 related to determining the net worth of the mortgage company.

18 4. The commissioner:

19 (a) Shall adopt regulations prescribing standards for determining the
20 net worth of a mortgage company; and

21 (b) May adopt any other regulations that are necessary to carry out
22 the provisions of this section.

23 **Sec. 12. 1.** If a mortgage agent terminates his association or
24 employment with a mortgage company for any reason, the mortgage
25 company shall, not later than the end of the next business day following
26 the date of termination:

27 (a) Deliver to the mortgage agent or send by certified mail to the last
28 known residence address of the mortgage agent a written statement
29 which advises him that his license is being delivered or mailed to the
30 division; and

31 (b) Deliver or send by certified mail to the division:

32 (1) The license of the mortgage agent;

33 (2) A written statement of the circumstances surrounding the
34 termination; and

35 (3) A copy of the written statement that the mortgage company
36 delivers or mails to the mortgage agent pursuant to paragraph (a).

37 2. A mortgage agent who terminates his association or employment
38 with a mortgage company shall not, on or after the date on which the
39 division receives his license from the mortgage company, engage in any
40 activity, directly or indirectly, for which a license as a mortgage agent is
41 required pursuant to this chapter, unless the mortgage agent is

1 specifically authorized by the commissioner to transfer his license to
2 another mortgage company or he otherwise obtains a new license
3 pursuant to this chapter.

4 **Sec. 13. 1.** Except as otherwise provided in this section, not later
5 than 60 days after the last day of each fiscal year for a mortgage
6 company, the mortgage company shall submit to the commissioner a
7 financial statement that:

8 (a) Is dated not earlier than the last day of the fiscal year; and

9 (b) Has been prepared from the books and records of the mortgage
10 company by an independent public accountant who holds a permit to
11 engage in the practice of public accounting in this state that has not been
12 revoked or suspended.

13 2. The commissioner may grant a reasonable extension for the
14 submission of a financial statement pursuant to this section if a mortgage
15 company requests such an extension before the date on which the
16 financial statement is due.

17 3. If a mortgage company maintains any accounts described in
18 subsection 1 of NRS 645B.175, the financial statement submitted
19 pursuant to this section must be audited. If a mortgage company
20 maintains any accounts described in subsection 4 of NRS 645B.175,
21 those accounts must be audited. The public accountant who prepares the
22 report of an audit shall submit a copy of the report to the commissioner
23 at the same time that he submits the report to the mortgage company.

24 4. The commissioner shall adopt regulations prescribing the scope of
25 an audit conducted pursuant to subsection 3.

26 **Sec. 14. 1.** If money from an investor is released to a debtor or his
27 designee pursuant to subsection 2 of NRS 645B.175 upon completion of
28 a loan secured by a lien on real property, the mortgage company that
29 arranged the loan shall, not later than 5 p.m. on the next business day
30 following the date on which the deed of trust for the real property is
31 recorded, mail to the last known address of each investor who owns a
32 beneficial interest in the loan a copy of the recorded deed of trust that
33 includes, in bold-faced and conspicuous print:

34 (a) The date on which the deed of trust was recorded; and

35 (b) The priority of the deed of trust on that date with regard to any
36 other liens encumbering the real property.

37 2. If a deed of trust is recorded in connection with a loan that has
38 been funded, in whole or in part, by money from an investor, the
39 mortgage company that arranged the loan and its mortgage agents shall
40 not engage in any act or transaction that subordinates the priority of the
41 deed of trust, as recorded, unless the mortgage company, before such an
42 act or transaction:

1 (a) Obtains written approval for the subordination from each investor
2 who owns a beneficial interest in the loan; and

3 (b) Submits a copy of each such written approval to the commissioner.

4 **Sec. 15.** If a mortgage company maintains any accounts described
5 in subsection 4 of NRS 645B.175 in which it deposits payments from a
6 debtor on a loan secured by a lien on real property and, on the last day of
7 any month, the debtor has failed to make two or more consecutive
8 payments in accordance with the terms of the loan, the mortgage
9 company shall:

10 1. Include in the report that the mortgage company submits to the
11 commissioner pursuant to subsection 2 of NRS 645B.080:

12 (a) The name, address and telephone number of the debtor;

13 (b) The total number of months and days that the debtor has failed to
14 make a payment;

15 (c) The outstanding balance of the loan and any accrued interest on
16 the last day of the month for which the report is submitted;

17 (d) A statement of whether the loan has been declared to be in default
18 and, if so, the nature of any actions that have been taken because of the
19 default; and

20 (e) Any other information required pursuant to the regulations
21 adopted by the commissioner;

22 2. Not later than 15 days after the last day of each such month, mail
23 a notice containing the information set forth in subsection 1 to the last
24 known address of each investor who owns a beneficial interest in the
25 loan; and

26 3. Comply with the provisions of this section each month on a
27 continuing basis until:

28 (a) The debtor or his designee remedies the delinquency in payments
29 and any default; or

30 (b) The lien securing the loan is extinguished.

31 **Sec. 16.** 1. If a person is required to make a payment to a
32 mortgage company pursuant to the terms of a loan secured by a lien on
33 real property, the mortgage company may not charge the person a late
34 fee, an additional amount of interest or any other penalty in connection
35 with that payment if the payment is delivered to the mortgage company
36 before 5 p.m. on:

37 (a) The day that the payment is due pursuant to the terms of the loan,
38 if an office of the mortgage company is open to customers until 5 p.m. on
39 that day; or

40 (b) The next day that an office of the mortgage company is open to
41 customers until 5 p.m., if the provisions of paragraph (a) do not
42 otherwise apply.

1 2. A mortgage company or a person may not agree to alter or waive
2 the provisions of this section by contract or other agreement, and any
3 such contract or agreement is void and must not be given effect to the
4 extent that it violates the provisions of this section.

5 **Sec. 17.** 1. A mortgage company or mortgage agent shall not
6 engage in any act or transaction on behalf of an investor pursuant to a
7 power of attorney unless:

8 (a) The power of attorney is executed for the sole purpose of providing
9 services for not more than one loan in which the investor owns a
10 beneficial interest; and

11 (b) The provisions of the power of attorney:

12 (1) Have been approved by the commissioner; and

13 (2) Expressly prohibit the mortgage company and its mortgage
14 agents from using or releasing any money in which the investor owns a
15 beneficial interest with regard to that loan for a purpose that is not
16 directly related to providing services for the loan or in any manner that
17 violates the provisions of NRS 645B.175.

18 2. A power of attorney which designates a mortgage company or
19 mortgage agent as the attorney in fact or the agent of an investor and
20 which violates the provisions of this section is void and must not be given
21 effect with regard to any act or transaction that occurs on or after
22 October 1, 1999, whether or not the power of attorney is or has been
23 executed by the investor before, on or after October 1, 1999.

24 **Sec. 18.** 1. A person may, in accordance with the regulations
25 adopted pursuant to subsection 2, file a complaint with the
26 commissioner, alleging that another person has violated a provision of
27 this chapter, a regulation adopted pursuant to this chapter or an order of
28 the commissioner.

29 2. The commissioner shall adopt regulations prescribing:

30 (a) The form that such a complaint must take;

31 (b) The information that must be included in such a complaint; and

32 (c) The procedures that a person must follow to file such a complaint.

33 **Sec. 19.** 1. If a person properly files a complaint with the
34 commissioner pursuant to section 18 of this act, the commissioner shall
35 investigate each violation alleged in the complaint, unless the
36 commissioner has previously investigated the alleged violation.

37 2. Except as otherwise provided in subsection 2 of NRS 645B.090, if
38 the commissioner does not conduct an investigation of an alleged
39 violation pursuant to subsection 1 because he previously has investigated
40 the alleged violation, the commissioner shall provide to the person who
41 filed the complaint a written summary of the previous investigation and
42 the nature of any disciplinary action that was taken as a result of the
43 previous investigation.

1 3. If the commissioner conducts an investigation of an alleged
2 violation pursuant to subsection 1, the commissioner shall determine
3 from the investigation whether there is reasonable cause to believe that
4 the person committed the alleged violation.

5 4. If, upon investigation, the commissioner determines that there is
6 not reasonable cause to believe that the person committed the alleged
7 violation, the commissioner shall provide the reason for his
8 determination, in writing, to the person who filed the complaint and to
9 the person alleged to have committed the violation.

10 5. If, upon investigation, the commissioner determines that there is
11 reasonable cause to believe that the person committed the alleged
12 violation, the commissioner shall:

13 (a) Schedule a hearing concerning the alleged violation;

14 (b) Mail to the last known address of the person who filed the
15 complaint written notice that must include, without limitation:

16 (1) The date, time and place of the hearing; and

17 (2) A statement of each alleged violation that will be considered at
18 the hearing; and

19 (c) By personal service in accordance with the Nevada Rules of Civil
20 Procedure and any applicable provision of NRS, serve written notice of
21 the hearing to the person alleged to have committed the violation. The
22 written notice that is served pursuant to this paragraph must include,
23 without limitation:

24 (1) The date, time and place of the hearing;

25 (2) A copy of the complaint and a statement of each alleged
26 violation that will be considered at the hearing; and

27 (3) A statement informing the person that, pursuant to section 23 of
28 this act, if he fails to appear, without reasonable cause, at the hearing:

29 (I) He is guilty of a misdemeanor;

30 (II) A warrant will be issued for his arrest; and

31 (III) The commissioner is authorized to conduct the hearing in
32 his absence, draw any conclusions that the commissioner deems
33 appropriate from his failure to appear and render a decision concerning
34 each alleged violation.

35 6. The commissioner may investigate and conduct a hearing
36 concerning any alleged violation, whether or not a complaint has been
37 filed.

38 7. The commissioner may hear and consider more than one alleged
39 violation against a person at the same hearing.

40 8. Except as otherwise provided by specific statute, if the
41 commissioner conducts a hearing concerning an alleged violation
42 without a complaint having been filed, the commissioner shall serve

1 written notice of the hearing, pursuant to paragraph (c) of subsection 5,
2 to the person alleged to have committed the violation.

3 **Sec. 20. 1.** *If a person offers or provides any services of a*
4 *mortgage company or mortgage agent or otherwise engages in, carries*
5 *on or holds himself out as engaging in or carrying on the business of a*
6 *mortgage company or mortgage agent and, at the time:*

7 *(a) The person was required to have a license pursuant to this chapter*
8 *and the person did not have such a license; or*

9 *(b) The person's license was suspended or revoked pursuant to this*
10 *chapter,*

11 *the commissioner shall impose upon the person an administrative fine of*
12 *not more than \$10,000 for each violation and, if the person has a license,*
13 *the commissioner shall revoke it.*

14 **2.** *If a person is exempt from the provisions of this chapter pursuant*
15 *to subsection 6 of NRS 645B.015 and the person, while exempt,*
16 *maintains, offers to maintain or holds himself out as maintaining any*
17 *accounts described in subsection 1 of NRS 645B.175 or otherwise*
18 *engages in, offers to engage in or holds himself out as engaging in any*
19 *activity that would remove the person from the exemption set forth in*
20 *subsection 6 of NRS 645B.015, the commissioner shall impose upon the*
21 *person an administrative fine of not more than \$10,000 for each*
22 *violation and the commissioner shall revoke the person's exemption. If*
23 *the commissioner revokes an exemption pursuant to this subsection, the*
24 *person may not again be granted the same or a similar exemption from*
25 *the provisions of this chapter. The person may apply for a license*
26 *pursuant to this chapter unless otherwise prohibited by specific statute.*

27 **3.** *If a mortgage company or mortgage agent violates any provision*
28 *of NRS 645B.175, the commissioner shall impose upon the mortgage*
29 *company or mortgage agent, or both, an administrative fine of not more*
30 *than \$10,000 for each violation and the commissioner shall revoke the*
31 *license of the mortgage company or mortgage agent, or both.*

32 **4.** *If a mortgage company or mortgage agent violates any provision*
33 *of subsection 1 of NRS 645B.080 and the mortgage company or*
34 *mortgage agent fails, without reasonable cause, to remedy the violation*
35 *within 10 days after being ordered by the commissioner to do so, or if the*
36 *commissioner orders a mortgage company or mortgage agent to provide*
37 *information, make a report or permit an examination of his books or*
38 *affairs pursuant to this chapter and the mortgage company or mortgage*
39 *agent fails, without reasonable cause, to comply with the order within 10*
40 *days:*

41 *(a) The commissioner shall impose upon the mortgage company or*
42 *mortgage agent, or both, an administrative fine of not more than \$10,000*

1 *for each violation and the commissioner shall suspend or revoke the*
2 *license of the mortgage company or mortgage agent, or both; and*

3 *(b) If the violation is committed by a mortgage company, the mortgage*
4 *company shall be deemed to be conducting its business in an unsafe and*
5 *injurious manner that may result in danger to the public, and the*
6 *commissioner shall immediately take possession of the property of the*
7 *mortgage company pursuant to NRS 645B.150.*

8 *5. For each violation that may be committed by a person pursuant to*
9 *this chapter or the regulations adopted pursuant to this chapter, other*
10 *than a violation described in this section, the commissioner shall adopt*
11 *regulations:*

12 *(a) Categorizing the violation as a major violation or a minor*
13 *violation; and*

14 *(b) Specifying the disciplinary action that will be taken by the*
15 *commissioner pursuant to this chapter against a person who commits:*

16 *(1) A major violation. The disciplinary action taken by the*
17 *commissioner for a major violation must include, without limitation,*
18 *suspension or revocation of the person's license.*

19 *(2) More than two minor violations. The commissioner may*
20 *establish graduated sanctions for a person who commits more than two*
21 *minor violations based upon the number, the frequency and the severity*
22 *of the minor violations and whether the person previously has committed*
23 *any major violations.*

24 **Sec. 21.** *If a person or licensee is a partnership, corporation or*
25 *unincorporated association, the commissioner shall take the disciplinary*
26 *action set forth in section 20 of this act and may take any other*
27 *disciplinary action set forth in this chapter against the person or licensee*
28 *if any member of the partnership or any officer or director of the*
29 *corporation or unincorporated association has committed any act or*
30 *omission that would be cause for taking such disciplinary action against*
31 *a natural person.*

32 **Sec. 22.** *Before conducting a hearing, the commissioner may, to the*
33 *fullest extent permitted by the Constitution of the United States and the*
34 *constitution of this state:*

35 *1. Order a summary suspension of a license pursuant to subsection 3*
36 *of NRS 233B.127; and*

37 *2. Take any other action against a licensee or other person that is*
38 *necessary to protect the health, safety or welfare of the public.*

39 **Sec. 23.** *If a person is alleged to have engaged in any conduct or*
40 *committed any violation that is described in NRS 645B.100, 645B.120 or*
41 *645B.150 or section 20 of this act or is alleged to have committed a*
42 *violation of any other provision of this chapter, a regulation adopted*
43 *pursuant to this chapter or an order of the commissioner, and the person*

1 *fails to appear, without reasonable cause, at a hearing before the*
2 *commissioner concerning the alleged conduct or violation:*

3 1. *The commissioner shall notify the attorney general that the person*
4 *failed to appear;*

5 2. *The attorney general shall request from the appropriate court a*
6 *warrant for the arrest of the person;*

7 3. *The court shall issue a warrant for the arrest of the person if there*
8 *is probable cause to believe that the person failed to appear without*
9 *reasonable cause;*

10 4. *The person is guilty of a misdemeanor; and*

11 5. *The commissioner may conduct the hearing in the person's*
12 *absence, draw any conclusions that the commissioner deems appropriate*
13 *from his failure to appear and render a decision concerning the alleged*
14 *conduct or violation.*

15 **Sec. 24.** 1. *The attorney general has primary jurisdiction for the*
16 *enforcement of this chapter. The attorney general shall investigate and, if*
17 *appropriate, prosecute a person who violates:*

18 (a) *Any provision of this chapter, a regulation adopted pursuant to*
19 *this chapter or an order of the commissioner, including, without*
20 *limitation, a violation of any provision of NRS 645B.100 or 645B.120 or*
21 *section 20 of this act; or*

22 (b) *Any other law or regulation if the person commits the violation in*
23 *the course of offering or providing any services of a mortgage company*
24 *or mortgage agent or while otherwise engaging in, carrying on or*
25 *holding himself out as engaging in or carrying on the business of a*
26 *mortgage company or mortgage agent.*

27 2. *The attorney general shall investigate and, if appropriate,*
28 *prosecute a person who is alleged to have committed a violation*
29 *described in subsection 1 whether or not:*

30 (a) *The commissioner notifies the attorney general of the alleged*
31 *violation;*

32 (b) *The commissioner takes any disciplinary action against the person*
33 *alleged to have committed the violation;*

34 (c) *Any other person files a complaint against the person alleged to*
35 *have committed the violation; or*

36 (d) *A civil action is commenced against the person alleged to have*
37 *committed the violation.*

38 3. *When acting pursuant to this section, the attorney general may*
39 *commence his investigation and file a criminal action without leave of*
40 *court, and the attorney general has exclusive charge of the conduct of*
41 *the prosecution.*

42 4. *Except as otherwise provided by the Constitution of the United*
43 *States, the constitution of this state or a specific statute, a person shall, if*

1 *requested, provide the attorney general with information that would*
2 *assist in the prosecution of any other person who is alleged to have*
3 *committed a violation described in subsection 1. If a person fails, without*
4 *reasonable cause, to provide the attorney general with such information*
5 *upon request, the person is guilty of a misdemeanor.*

6 **Sec. 25. 1.** *The attorney general may bring any appropriate civil*
7 *action against a person to enforce any provision of this chapter, a*
8 *regulation adopted pursuant to this chapter or an order of the*
9 *commissioner, including, without limitation, an order of the*
10 *commissioner:*

11 *(a) Imposing an administrative fine; or*

12 *(b) Suspending, revoking or placing conditions upon a license.*

13 **2.** *Whether or not the attorney general brings a civil action against a*
14 *person pursuant to this chapter, the attorney general may prosecute the*
15 *person for a criminal violation pursuant to this chapter.*

16 **Sec. 26.** NRS 645B.010 is hereby amended to read as follows:
17 645B.010 As used in this chapter, unless the context otherwise
18 requires:

19 **1.** *“Applicant” means a person who applies for licensure as a*
20 *mortgage company or mortgage agent pursuant to this chapter.*

21 **2.** *“Commissioner” means the commissioner of financial institutions.*

22 ~~[2.]~~ **3.** *“Division” means the division of financial institutions of the*
23 *department of business and industry.*

24 ~~[3.]~~ **4.** *“Depository financial institution” means a bank, savings and*
25 *loan association, thrift company or credit union.*

26 ~~[4.]~~ **5.** *“Investor” means a person who wants to acquire or who*
27 *acquires ownership of or a beneficial interest in a loan secured by a lien*
28 *on real property.*

29 **6.** *“Licensee” means a person who is licensed as a mortgage*
30 *company or mortgage agent pursuant to this chapter.*

31 **7.** *“Mortgage agent” means a person who is as an employee or*
32 *independent contractor of a mortgage company that is subject to the*
33 *provisions of this chapter and who is authorized by the mortgage*
34 *company to engage in, on its behalf, any activity that would require the*
35 *person, if he were not an employee or independent contractor of the*
36 *mortgage company, to be licensed as a mortgage company pursuant to*
37 *this chapter. The term does not include a person who:*

38 *(a) Is licensed as a mortgage company;*

39 *(b) Is a partner, officer, director or trustee of a mortgage company; or*

40 *(c) Performs only clerical or ministerial tasks for a mortgage*
41 *company.*

42 **8.** *“Mortgage company” means any person who, directly or indirectly:*

1 (a) Holds himself out for hire to serve as an agent for any person in an
2 attempt to obtain a loan which will be secured by a lien on real property;

3 (b) Holds himself out for hire to serve as an agent for any person who
4 has money to lend, if the loan is or will be secured by a lien on real
5 property;

6 (c) Holds himself out as being able to make loans secured by liens on
7 real property, unless the loans are made pursuant to subsection 8 or 10 of
8 NRS 645B.015;

9 (d) Holds himself out as being able to buy or sell notes secured by liens
10 on real property; or

11 (e) Offers for sale in this state any security which is exempt from
12 registration under state or federal law and purports to make investments in
13 promissory notes secured by liens on real property.

14 **Sec. 27.** NRS 645B.015 is hereby amended to read as follows:

15 645B.015 Except as otherwise provided in ~~subsection 5 of NRS~~
16 ~~645B.020,~~ **section 10 of this act**, the provisions of this chapter do not
17 apply to:

18 1. Any person doing business under the laws of this state, any other
19 state or the United States relating to banks, savings banks, trust companies,
20 savings and loan associations, consumer finance companies, industrial loan
21 companies, credit unions, thrift companies or insurance companies, unless
22 the business conducted in this state is not subject to supervision by the
23 regulatory authority of the other jurisdiction, in which case licensing
24 pursuant to this chapter is required.

25 2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless
26 the business conducted in this state is not subject to supervision by the
27 regulatory authority of the other jurisdiction, in which case licensing
28 pursuant to this chapter is required.

29 3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the
30 loan is made directly from money in the plan by the plan's trustee.

31 4. An attorney at law rendering services in the performance of his
32 duties as an attorney at law.

33 5. A real estate broker rendering services in the performance of his
34 duties as a real estate broker.

35 6. Except as otherwise provided in this subsection ~~§~~ **and section 20 of**
36 **this act**, any firm or corporation:

37 (a) Whose principal purpose or activity is lending money on real
38 property which is secured by a mortgage;

39 (b) Approved by the Federal National Mortgage Association as a seller
40 and servicer; and

41 (c) Approved by the Department of Housing and Urban Development
42 and the Department of Veterans Affairs.

1 A firm or corporation is not exempt from the provisions of this chapter
2 pursuant to this subsection if it maintains any accounts described in
3 subsection 1 of NRS 645B.175 or offers for sale in this state any
4 unregistered security under state or federal law and purports to make
5 investments in promissory notes secured by liens on real property. A firm
6 or corporation which is exempted pursuant to this subsection must submit
7 annually as a condition of its continued exemption a certified statement by
8 an independent certified public accountant that the firm or corporation
9 does not maintain any such accounts. This subsection does not prohibit an
10 exempt firm or corporation from maintaining accounts described in NRS
11 645B.170 and subsection ~~{3}~~ 4 of NRS 645B.175.

12 7. Any person doing any act under an order of any court.

13 8. Any one natural person, or husband and wife, who provides money
14 for investment in loans secured by a lien on real property, on his own
15 account.

16 9. Agencies of the United States and of this state and its political
17 subdivisions, including the public employees' retirement system.

18 10. A seller of real property who offers credit secured by a mortgage
19 of the property sold.

20 **Sec. 28.** NRS 645B.020 is hereby amended to read as follows:

21 645B.020 1. A ~~{license}~~ *person who wishes to be licensed* as a
22 mortgage company ~~{may be obtained by filing}~~ *or mortgage agent must*
23 *file* a written application ~~{in}~~ *for a license with* the office of the
24 commissioner ~~{~~

25 ~~—2.—The}~~ *and pay the fee required pursuant to NRS 645B.050.*

26 2. *An application for a license as a mortgage company must:*

27 (a) Be verified.

28 (b) State the *name, residence address and business address of the*
29 *applicant and the* location of ~~{the applicant's}~~ *each* principal office and
30 branch ~~{offices in the}~~ *office at which the mortgage company will conduct*
31 *business within this* state.

32 (c) State the name under which the applicant will conduct business ~~{~~
33 *as a mortgage company.*

34 (d) List the ~~{names,}~~ *name*, residence *address* and business ~~{addresses~~
35 ~~of all persons having}~~ *address of each person who will:*

36 (1) *If the applicant is not a natural person, have* an interest in the
37 ~~{business as principals, partners, officers, trustees and directors,}~~ *mortgage*
38 *company as a principal, partner, officer, director or trustee*, specifying
39 the capacity and title of each ~~{~~ *such person.*

40 (2) *Be associated with or employed by the mortgage company as a*
41 *mortgage agent, specifying whether the person has applied for a license*
42 *or is presently licensed as a mortgage agent.*

(e) If the applicant is a natural person, include the social security number of the applicant.

(f) ~~Indicate the~~ *Include a* general *business* plan and ~~character of the business.~~ *a manual of policies and procedures for the mortgage company and its mortgage agents that includes, without limitation, the underwriting standards, restrictions and other policies and procedures that the mortgage company and its mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.*

(g) State the length of time the applicant has been engaged in the mortgage company business.

(h) Include a financial statement of the applicant ~~[-~~ *(i) Include such* and sufficient evidence to establish that the applicant will be able to maintain continuously the net worth required pursuant to section 11 of this act.

(i) Include any other information ~~[-as]~~ *required pursuant to the regulations adopted by the commissioner or an order of* the commissioner ~~. [-determines necessary-]~~ ~~3. The~~

3. An application for a license as a mortgage agent must:

(a) Be verified.

(b) State the name, residence address and business address of the applicant and the name under which the applicant will conduct business as a mortgage agent.

(c) State the name of the mortgage company with whom the applicant will be associated or employed and whether the mortgage company has applied for a license or is presently licensed.

(d) State the location of each office of the mortgage company at which the applicant will conduct business.

(e) If the applicant is not a natural person, list the name, residence address and business address of each person who will have an interest in the mortgage agent as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(f) If the applicant is a natural person, include the social security number of the applicant.

(g) Include a financial statement of the applicant.

(h) Include any other information required pursuant to the regulations adopted by the commissioner or an order of the commissioner.

4. If a mortgage company will conduct business at one or more branch offices within this state, the mortgage company must apply for a license for each such branch office. If a mortgage agent will conduct

1 *business from more than one office of the mortgage company with whom*
2 *he is associated or employed, the mortgage agent must apply for a license*
3 *for each such office.*

4 *5. Except as otherwise provided in this chapter, the* commissioner
5 shall issue a license to an applicant as a mortgage company *or mortgage*
6 *agent* if:

7 (a) The application complies with the requirements of ~~{subsection 2;}~~
8 *this chapter;*

9 (b) The applicant submits the statement required pursuant to NRS
10 645B.023, if the applicant is required to do so; and

11 (c) The applicant and each general partner, officer or director of the
12 applicant, if the applicant is a partnership, corporation or unincorporated
13 association:

14 (1) Has a good reputation for honesty, trustworthiness, integrity and
15 displays competence to transact the business of a mortgage company *or*
16 *mortgage agent* in a manner which safeguards the interests of the general
17 public. The applicant must submit satisfactory proof of these qualifications
18 to the commissioner.

19 (2) Has not been convicted of, or entered a plea of nolo contendere
20 to, a felony or any crime involving fraud, misrepresentation or moral
21 turpitude.

22 (3) Has not made a false statement of material fact on his application.

23 (4) Has not had a license that was issued pursuant to the provisions of
24 this chapter suspended or revoked within the 10 years immediately
25 preceding the date of his application.

26 (5) Has not had a license that was issued in any other state, district or
27 territory of the United States or any foreign country suspended or revoked
28 within the 10 years immediately preceding the date of his application.

29 (6) Has not violated any ~~{of the provisions}~~ *provision* of this chapter
30 ~~{for any}~~, a regulation adopted pursuant ~~{thereto.~~
31 ~~—4.}~~ *to this chapter or an order of the commissioner.*

32 *6. If an applicant is a partnership, corporation or unincorporated*
33 *association, the commissioner may refuse to issue a license to the*
34 *applicant if any member of the partnership or any officer or director of*
35 *the corporation or unincorporated association has committed any act or*
36 *omission that would be cause for refusing to issue a license to a natural*
37 *person.*

38 *7. A license entitles the* ~~{holder}~~ *licensee* to engage only in the
39 activities authorized by this chapter.

40 ~~{5.—A person who claims an exemption from the provisions of this~~
41 ~~chapter must apply to the commissioner for a certificate of exemption and~~
42 ~~pay the fee for application.}~~

1 **Sec. 29.** NRS 645B.023 is hereby amended to read as follows:

2 645B.023 1. A natural person who applies for the issuance or
3 renewal of a license as a mortgage company *or mortgage agent* shall
4 submit to the commissioner the statement prescribed by the welfare
5 division of the department of human resources pursuant to NRS 425.520.
6 The statement must be completed and signed by the applicant.

7 2. The commissioner shall include the statement required pursuant to
8 subsection 1 in:

9 (a) The application or any other forms that must be submitted for the
10 issuance or renewal of the license; or

11 (b) A separate form prescribed by the commissioner.

12 3. A license as a mortgage company *or mortgage agent* may not be
13 issued or renewed by the commissioner if the applicant is a natural person
14 who:

15 (a) Fails to submit the statement required pursuant to subsection 1; or

16 (b) Indicates on the statement submitted pursuant to subsection 1 that he
17 is subject to a court order for the support of a child and is not in
18 compliance with the order or a plan approved by the district attorney or
19 other public agency enforcing the order for the repayment of the amount
20 owed pursuant to the order.

21 4. If an applicant indicates on the statement submitted pursuant to
22 subsection 1 that he is subject to a court order for the support of a child and
23 is not in compliance with the order or a plan approved by the district
24 attorney or other public agency enforcing the order for the repayment of
25 the amount owed pursuant to the order, the commissioner shall advise the
26 applicant to contact the district attorney or other public agency enforcing
27 the order to determine the actions that the applicant may take to satisfy the
28 arrearage.

29 **Sec. 30.** NRS 645B.025 is hereby amended to read as follows:

30 645B.025 1. A ~~licensee~~ *mortgage agent may not be associated*
31 *with or employed by more than one mortgage company at the same time.*

32 2. *The license of a mortgage agent must be delivered or mailed to the*
33 *mortgage company with whom he is associated or employed and kept in*
34 *the custody and control of the mortgage company.*

35 3. *The license of a mortgage company or mortgage agent must:*

36 (a) *Show the name of the licensee, the address of the office for which*
37 *the license has been issued and, if the licensee is a mortgage agent, the*
38 *name of the mortgage company with whom he is associated or employed;*

39 (b) *Be imprinted with the seal of the division; and*

40 (c) *Include any other information required pursuant to the*
41 *regulations adopted by the commissioner or an order of the*
42 *commissioner.*

1 **4. A mortgage company** shall post ~~each~~ **its** license **and the license of**
2 **each of its mortgage agents** in a conspicuous place in the office ~~to which~~
3 ~~it pertains.~~

4 ~~2. A license~~ **for which each license has been issued.**

5 **5. A mortgage company** may not ~~be transferred or assigned~~ **transfer**
6 **or assign a license to another person**, unless the commissioner gives his
7 written approval.

8 **6. A mortgage agent may not change the mortgage company with**
9 **whom he is associated or employed, unless the commissioner gives his**
10 **written approval and the mortgage agent pays the fee required pursuant**
11 **to NRS 645B.050.**

12 **Sec. 31.** NRS 645B.050 is hereby amended to read as follows:

13 645B.050 1. A ~~mortgage company's~~ license **issued pursuant to**
14 **this chapter** expires **each year on** June 30 ~~next after the date of issuance if~~
15 ~~it is not renewed. A license may be renewed by filing an~~ **, unless it is**
16 **renewed. To renew a license, the licensee must submit to the**
17 **commissioner on or before June 30 of each year:**

18 **(a) An** application for renewal ~~[, paying the annual fee for a license for~~
19 ~~the succeeding year and, if]~~ **;**

20 **(b) The fee required to renew the license pursuant to this section; and**

21 **(c) If** the licensee is a natural person, ~~submitting~~ the statement
22 required pursuant to NRS 645B.023. ~~The application, statement and~~
23 ~~payment must be received by the commissioner on or before June 30 next~~
24 ~~preceding the expiration date.]~~

25 **2.** If the ~~application, statement, if required, or payment is not received~~
26 ~~by~~ **licensee fails to submit any item required pursuant to subsection 1 to**
27 **the commissioner on or before** June 30 ~~of any year~~ **, the license is**
28 **canceled. The commissioner may reinstate** ~~the~~ **a canceled** license if the
29 licensee ~~files an application, submits the statement, if required, pays the~~
30 ~~filing fee and pays a~~ **submits to the commissioner:**

31 **(a) An application for renewal;**

32 **(b) The fee required to renew the license pursuant to this section;**

33 **(c) If the licensee is a natural person, the statement required pursuant**
34 **to NRS 645B.023; and**

35 **(d) A reinstatement fee of \$200.**

36 ~~[2.—The commissioner shall require a licensee to deliver a financial~~
37 ~~statement prepared from his books and records by an independent public~~
38 ~~accountant who holds a permit to engage in the practice of public~~
39 ~~accounting in this state which has not been revoked or suspended. The~~
40 ~~financial statement must be dated not earlier than the close of the latest~~
41 ~~fiscal year of the company and must be submitted within 60 days~~
42 ~~thereafter. The commissioner may grant a reasonable extension for the~~

1 submission of the financial statement if requested before the statement is
2 due.

3 ~~—3.— If a licensee maintains any accounts described in subsection 1 of~~
4 ~~NRS 645B.175, the financial statement submitted pursuant to this section~~
5 ~~must be audited. If the licensee maintains any accounts described in~~
6 ~~subsection 3 of NRS 645B.175, those accounts must be audited. The public~~
7 ~~accountant who prepares the report of an audit shall submit a copy of the~~
8 ~~report to the commissioner at the same time as he submits the report to the~~
9 ~~company. The commissioner shall, by regulation, prescribe the scope of~~
10 ~~audits conducted pursuant to this subsection.~~

11 ~~—4.— A}~~

12 **3. Except as otherwise provided in section 10 of this act, a** certificate
13 of exemption issued pursuant to ~~{subsection 5 of NRS 645B.020}~~ **this**
14 **chapter expires each year on** December 31 ~~{next after the date of issuance~~
15 ~~if it is not renewed. A}~~ **, unless it is renewed. To renew a** certificate of
16 exemption ~~{may be renewed by filing an}~~ **, a person must submit to the**
17 **commissioner on or before December 31 of each year:**

18 **(a) An** application for renewal ~~{and paying the annual fee for renewal~~
19 ~~of a}~~ **that includes sufficient evidence to establish that the person meets**
20 **the requirements of at least one exemption set forth in the provisions of**
21 **NRS 645B.015; and**

22 **(b) The fee required to renew the** certificate of exemption . ~~{for the~~
23 ~~succeeding year. The application and payment must be received by the~~
24 ~~commissioner on or before December 31 next preceding the expiration~~
25 ~~date.}~~

26 **4. If the** ~~{application or payment is not received by}~~ **person fails to**
27 **submit any item required pursuant to subsection 3 to the commissioner**
28 **on or before** December 31 ~~{}~~ **of any year, the certificate of exemption is**
29 **canceled. {The} Except as otherwise provided in section 10 of this act, the**
30 **commissioner may reinstate {the} a canceled certificate of exemption if the**
31 **{applicant pays the filing fee and a} person submits to the commissioner:**

32 **(a) An application for renewal that includes sufficient evidence to**
33 **establish that the person meets the requirements of at least one**
34 **exemption set forth in the provisions of NRS 645B.015;**

35 **(b) The fee required to renew the certificate of exemption; and**

36 **(c) A reinstatement fee of \$100.**

37 **5. {The filing fees are:**

38 ~~—(a) For filing}~~ **A person must pay the following fees to apply for, to be**
39 **issued or to renew a license as a mortgage company pursuant to this**
40 **chapter:**

41 **(a) To file** an original application ~~{}~~ **for a license, \$1,500 for the**
42 **principal office and \$40 for each branch office. The {applicant shall}**
43 **person must** also pay such additional expenses incurred in the process of

1 investigation as the commissioner deems necessary. All money received by
2 the commissioner pursuant to this paragraph must be placed in the
3 investigative account created by NRS 232.545.

4 (b) ~~{If the license is approved for issuance,}~~ *To be issued a license,*
5 \$1,000 for the principal office and \$60 for each branch office . ~~{before~~
6 ~~issuance.~~

7 ~~—(c) For filing an application for renewal,}~~

8 (c) *To renew a license,* \$500 for the principal office and \$100 for each
9 branch office.

10 ~~{(d) For filing}~~

11 6. *A person must pay the following fees to apply for, to be issued or*
12 *to renew a license as a mortgage agent pursuant to this chapter or to*
13 *change the mortgage company with whom the person is associated or*
14 *employed as a mortgage agent:*

15 (a) *To file an original application for a license, \$500 for the primary*
16 *office at which the person will conduct business as a mortgage agent and*
17 *\$40 for each additional office at which the person will conduct business*
18 *as a mortgage agent. The person must also pay such additional expenses*
19 *incurred in the process of investigation as the commissioner deems*
20 *necessary. All money received by the commissioner pursuant to this*
21 *paragraph must be placed in the investigative account created by NRS*
22 *232.545.*

23 (b) *To be issued a license, \$250 for the primary office at which the*
24 *person will conduct business as a mortgage agent and \$40 for each*
25 *additional office at which the person will conduct business as a mortgage*
26 *agent.*

27 (c) *To renew a license, \$150 for the primary office at which the person*
28 *will conduct business as a mortgage agent and \$40 for each additional*
29 *office at which the person will conduct business as a mortgage agent.*

30 (d) *To change the mortgage company with whom the person is*
31 *associated or employed as a mortgage agent, \$25 for the primary office at*
32 *which the person will conduct business as a mortgage agent and \$10 for*
33 *each additional office at which the person will conduct business as a*
34 *mortgage agent.*

35 7. *A person must pay the following fees to apply for or to renew a*
36 *certificate of exemption pursuant to this chapter:*

37 (a) *To file* an application for a certificate of exemption, \$200.

38 ~~{(e) For filing an application for renewal of}~~

39 (b) *To renew* a certificate of exemption, \$100.

40 ~~{(f) For filing an application for}~~

41 8. *To be issued* a duplicate copy of any license ~~{, upon}~~ *or certificate*
42 *of exemption, a person must make a* satisfactory showing of its loss ~~{~~
43 ~~\$10.~~

1 ~~–6.1 and pay a fee of \$10.~~

2 **9.** Except as otherwise provided in this chapter, all fees received
3 pursuant to this chapter must be deposited in the state treasury for credit to
4 the state general fund.

5 **Sec. 32.** NRS 645B.060 is hereby amended to read as follows:

6 645B.060 1. Subject to the administrative control of the director of
7 the department of business and industry, the commissioner shall exercise
8 general supervision and control over mortgage companies *and mortgage*
9 *agents* doing business in this state.

10 2. In addition to the other duties imposed upon him by law, the
11 commissioner shall:

12 (a) Adopt ~~reasonable regulations as may be necessary for making~~
13 ~~effective~~ *regulations prescribing standards for determining whether a*
14 *mortgage company has maintained adequate supervision of a mortgage*
15 *agent pursuant to this chapter.*

16 (b) *Adopt any other regulations that are necessary to carry out the*
17 *provisions of this chapter, except as to loan brokerage fees.*

18 ~~[(b)] (c)~~ Conduct such investigations as may be necessary to determine
19 whether any person has violated any provision of this chapter ~~†~~
20 ~~–(c)†, a regulation adopted pursuant to this chapter or an order of the~~
21 *commissioner.*

22 (d) Conduct an annual examination of each mortgage company doing
23 business in this state.

24 ~~[(d)] (e)~~ Conduct such other examinations, periodic or special audits,
25 investigations and hearings as may be necessary and proper for the
26 efficient administration of the laws of this state regarding mortgage
27 companies ~~†~~.

28 ~~–(e)† and mortgage agents.~~

29 (f) Classify as confidential certain records and information obtained by
30 the division when those matters are obtained from a governmental agency
31 upon the express condition that they remain confidential. This paragraph
32 does not limit examination by the legislative auditor.

33 ~~[(f)] (g)~~ Conduct such examinations and investigations as are necessary
34 to ensure that mortgage companies *and mortgage agents* meet the
35 requirements of this chapter for obtaining a license, both at the time of the
36 application for a license and thereafter on a continuing basis.

37 3. For each special audit, investigation or examination a mortgage
38 company shall pay a fee based on the rate established pursuant to NRS
39 658.101.

40 **Sec. 33.** NRS 645B.070 is hereby amended to read as follows:

41 645B.070 1. In the conduct of any examination, periodic or special
42 audit, investigation or hearing, the commissioner may:

43 (a) Compel the attendance of any person by subpoena.

(b) Administer oaths.

(c) Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Every person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

3. The *commissioner may assess against and collect from a person the* cost of any examination, periodic or special audit, investigation or hearing *that is* conducted ~~under~~ *to examine or investigate the conduct, activities or business of the person pursuant to* this chapter . ~~may be assessed to and collected from the mortgage company in question by the commissioner.~~

Sec. 34. NRS 645B.080 is hereby amended to read as follows:

645B.080 1. ~~{All mortgage companies}~~ *Each mortgage company and mortgage agent* shall keep and maintain at all times ~~{in their places of}~~ *at each location where the mortgage company or mortgage agent conducts* business in this state complete and suitable records of all mortgage transactions made by ~~{them}~~ *the mortgage company or mortgage agent* at that location . ~~{, together with}~~ *Each mortgage company shall also keep and maintain at all times at each such location* all original books, papers and data, or copies thereof, clearly reflecting the financial condition of the business of ~~{such companies.}~~ *the mortgage company.*

2. Each mortgage company shall submit to the commissioner each month a report of the *mortgage* company's activity for the previous month. The report must:

(a) Specify the volume of loans arranged by the *mortgage* company for the month or state that no loans were arranged in that month;

(b) Include ~~{such other information as}~~ *any information required pursuant to section 15 of this act or pursuant to the regulations adopted by* the commissioner ; ~~{by regulation requires;}~~ and

(c) Be submitted to the commissioner by the 15th day of the month following the month for which the report is made.

3. The commissioner may adopt regulations prescribing accounting procedures for mortgage companies handling trust accounts and the requirements for keeping records relating thereto.

Sec. 35. NRS 645B.090 is hereby amended to read as follows:

645B.090 1. Except as otherwise provided *in this section or* by ~~law,~~ *specific* *statute:*

1 (a) All papers, documents, reports and other written instruments filed
2 with the commissioner ~~under~~ pursuant to this chapter are open to public
3 inspection . ~~[-except that the]~~

4 (b) The commissioner shall disclose the following information
5 concerning a mortgage company or mortgage agent to any person who
6 requests it:

7 (1) Information concerning any investigation that is currently
8 pending against the mortgage company or mortgage agent pursuant to
9 the provisions of this chapter;

10 (2) The findings and results of any investigation that has been
11 completed during the immediately preceding 5 years against the
12 mortgage company or mortgage agent pursuant to the provisions of this
13 chapter; and

14 (3) The nature of any disciplinary action that has been taken
15 during the immediately preceding 5 years against the mortgage company
16 or mortgage agent pursuant to the provisions of this chapter.

17 2. The commissioner may withhold from public inspection or refuse
18 to disclose to a person, for such time as ~~he~~ the commissioner considers
19 necessary , any information ~~[which]~~ that, in his judgment , would:

20 (a) Impede or otherwise interfere with an investigation that is
21 currently pending against a mortgage company or mortgage agent; or

22 (b) Have an undesirable effect on the ~~[public]~~ welfare of the public or
23 the welfare of any mortgage company . ~~[requires to be so withheld.]~~

24 **Sec. 36.** NRS 645B.100 is hereby amended to read as follows:

25 645B.100 ~~[1.]~~ Except as otherwise provided in section 20 of this
26 act:

27 1. For each violation committed by an applicant, whether or not he is
28 issued a license, the commissioner may impose upon the applicant an
29 administrative fine of not more than \$10,000 if the applicant:

30 (a) Has knowingly made or caused to be made to the commissioner
31 any false representation of material fact;

32 (b) Has suppressed or withheld from the commissioner any
33 information which the applicant possesses and which, if submitted by
34 him, would have rendered the applicant ineligible to be licensed pursuant
35 to the provisions of this chapter; or

36 (c) Has violated any provision of this chapter, a regulation adopted
37 pursuant to this chapter or an order of the commissioner in completing
38 and filing his application for a license or during the course of the
39 investigation of his application for a license.

40 2. The commissioner may ~~[require]~~ impose upon a licensee ~~[to pay]~~
41 who is licensed as a mortgage company an administrative fine of not more
42 than ~~[\$500]~~ \$10,000 for each violation that he commits or suspend, revoke

- 1 or place conditions upon his license, or do both, ~~{at any time}~~ if the
2 licensee, whether or not acting as such:
- 3 (a) Is insolvent;
- 4 (b) Is grossly negligent or incompetent in performing any act for which
5 he is required to be licensed pursuant to the provisions of this chapter;
- 6 (c) Does not conduct his business in accordance with law or has
7 violated any ~~{provisions}~~ *provision* of this chapter ~~{;}~~, *a regulation*
8 *adopted pursuant to this chapter or an order of the commissioner;*
- 9 (d) Is in such financial condition that he cannot continue in business
10 with safety to his customers;
- 11 (e) Has made a material misrepresentation in connection with any
12 transaction governed by this chapter;
- 13 (f) Has suppressed or withheld from a client any material facts, data or
14 other information relating to any transaction governed by the provisions of
15 this chapter which ~~{he knew;}~~ *the licensee knew* or , by the exercise of
16 reasonable diligence, should have known;
- 17 (g) Has knowingly made or caused to be made to the commissioner any
18 false representation of material fact or has suppressed or withheld from the
19 commissioner any information which the ~~{applicant or}~~ licensee possesses
20 ~~{;}~~ and which , if submitted by him , would have rendered the ~~{applicant~~
21 ~~or}~~ licensee ineligible to be licensed pursuant to the provisions of this
22 chapter;
- 23 (h) Has failed to account to persons interested for all money received
24 for the impound trust account;
- 25 (i) Has refused to permit an examination by the commissioner of his
26 books and affairs or has refused or failed, within a reasonable time, to
27 furnish any information or make any report that may be required by the
28 commissioner pursuant to the provisions of this *chapter or a regulation*
29 *adopted pursuant to this* chapter;
- 30 (j) Has been convicted of, or entered a plea of nolo contendere to, a
31 felony or any crime involving fraud, misrepresentation or moral turpitude;
- 32 (k) Has refused or failed to pay, within a reasonable time, those
33 expenses assessed to the mortgage company pursuant to NRS 645B.050 or
34 645B.070;
- 35 (l) Has failed to satisfy a claim made by a client which has been
36 reduced to judgment;
- 37 (m) Has failed to account for or to remit any money of a client within a
38 reasonable time after a request for an accounting or remittal;
- 39 (n) Has commingled the money or other property of a client with his
40 own or has converted the money or property of others to his own use;
- 41 (o) Has engaged in any other conduct constituting a deceitful,
42 fraudulent or dishonest business practice; ~~{or}~~
- 43 (p) *Has failed to maintain adequate supervision of a mortgage agent;*

1 ~~(q) Has instructed a mortgage agent to commit an act that would be~~
2 ~~cause for the revocation of the license of the mortgage company or~~
3 ~~mortgage agent, whether or not the mortgage agent commits the act; or~~

4 ~~(r) Has not conducted verifiable business as a mortgage company for 12~~
5 ~~consecutive months, except in the case of a new applicant. The~~
6 ~~commissioner shall determine whether a mortgage company is conducting~~
7 ~~business by examining the monthly reports of activity submitted by the~~
8 ~~licensee or by conducting an examination of the licensee.~~

9 ~~[2.—It is sufficient cause for refusal or revocation of a license in the~~
10 ~~case of a partnership or corporation or any unincorporated association that~~
11 ~~any member of the partnership or any officer or director of the corporation~~
12 ~~or association has been guilty of any act or omission which would be cause~~
13 ~~for refusing or revoking the registration of a natural person.]~~

14 3. The commissioner may impose upon a licensee who is licensed as
15 a mortgage agent an administrative fine of not more than \$10,000 for
16 each violation that he commits or suspend, revoke or place conditions
17 upon his license, or do both, if the licensee, whether or not acting as
18 such:

19 (a) Is grossly negligent or incompetent in performing any act for
20 which he is required to be licensed pursuant to the provisions of this
21 chapter;

22 (b) Has violated any provision of this chapter, a regulation adopted
23 pursuant to this chapter or an order of the commissioner;

24 (c) Has made a material misrepresentation in connection with any
25 transaction governed by this chapter;

26 (d) Has suppressed or withheld from a client any material facts, data
27 or other information relating to any transaction governed by the
28 provisions of this chapter which the licensee knew or, by the exercise of
29 reasonable diligence, should have known;

30 (e) Has knowingly made or caused to be made to the commissioner
31 any false representation of material fact or has suppressed or withheld
32 from the commissioner any information which the licensee possesses and
33 which, if submitted by him, would have rendered the licensee ineligible to
34 be licensed pursuant to the provisions of this chapter;

35 (f) Has refused to permit an examination by the commissioner of his
36 books and affairs or has refused or failed, within a reasonable time, to
37 furnish any information or make any report that may be required by the
38 commissioner pursuant to the provisions of this chapter or a regulation
39 adopted pursuant to this chapter;

40 (g) Has been convicted of, or entered a plea of nolo contendere to, a
41 felony or any crime involving fraud, misrepresentation or moral
42 turpitude;

1 *(h) Has refused or failed to pay, within a reasonable time, those*
2 *expenses assessed to the licensee pursuant to NRS 645B.050 or*
3 *645B.070;*

4 *(i) Has failed to satisfy a claim made by a client which has been*
5 *reduced to judgment;*

6 *(j) Has failed to account for or to remit any money of a client within a*
7 *reasonable time after a request for an accounting or remittal;*

8 *(k) Has commingled the money or other property of a client with his*
9 *own or has converted the money or property of others to his own use; or*

10 *(l) Has engaged in any other conduct constituting a deceitful,*
11 *fraudulent or dishonest business practice.*

12 **Sec. 37.** NRS 645B.105 is hereby amended to read as follows:

13 645B.105 1. If the commissioner receives a copy of a court order
14 issued pursuant to NRS 425.540 that provides for the suspension of all
15 professional, occupational and recreational licenses, certificates and
16 permits issued to a person who is the holder of a license as a mortgage
17 company ~~{ }~~ *or mortgage agent*, the commissioner shall deem the license
18 issued to that person to be suspended at the end of the 30th day after the
19 date on which the court order was issued unless the commissioner receives
20 a letter issued to the holder of the license by the district attorney or other
21 public agency pursuant to NRS 425.550 stating that the holder of the
22 license has complied with the subpoena or warrant or has satisfied the
23 arrearage pursuant to NRS 425.560.

24 2. The commissioner shall reinstate a license as a mortgage company
25 *or mortgage agent* that has been suspended by a district court pursuant to
26 NRS 425.540 if the commissioner receives a letter issued by the district
27 attorney or other public agency pursuant to NRS 425.550 to the person
28 whose license was suspended stating that the person whose license was
29 suspended has complied with the subpoena or warrant or has satisfied the
30 arrearage pursuant to NRS 425.560.

31 **Sec. 38.** NRS 645B.110 is hereby amended to read as follows:

32 645B.110 1. ~~{Notice of the entry of any order of suspension or of~~
33 ~~refusing a license to any mortgage company must be given in writing,}~~ *If*
34 *the commissioner enters an order suspending or revoking a license or*
35 *denying an application for a license, the commissioner shall cause*
36 *written notice of the order to be* served personally or sent by certified mail
37 or by telegraph to the ~~{company affected.~~

38 ~~—2.— The company,}~~ *licensee or applicant.*

39 2. *Unless a hearing has already been conducted concerning the*
40 *matter, the licensee or applicant*, upon application, is entitled to a hearing

41 *. {; but if no} If the licensee or applicant does not make such an*
42 *application {is made} within 20 days after the {entry of an order of*
43 *suspension* _____ *or* _____ *of*

1 ~~refusing a license of any company,]~~ *date of the initial order*, the
2 commissioner shall enter a final order ~~[in either case.]~~ *concerning the*
3 *matter.*

4 **Sec. 39.** NRS 645B.120 is hereby amended to read as follows:

5 645B.120 1. ~~[The commissioner may investigate either upon~~
6 ~~complaint or otherwise when]~~ *Whether or not a complaint has been filed,*
7 *the commissioner shall investigate a mortgage company, mortgage agent*
8 *or other person if, for any reason, it appears that [a] :*

9 (a) *The mortgage company or mortgage agent is conducting [its]*
10 *business in an unsafe and injurious manner or in violation of any provision*
11 *of this chapter [for the regulations promulgated thereunder by the*
12 ~~commissioner, or when it appears that any]~~ *, a regulation adopted*
13 *pursuant to this chapter or an order of the commissioner;*

14 (b) *The person is offering or providing any services of a mortgage*
15 *company or mortgage agent or otherwise engaging in [the], carrying on*
16 *or holding himself out as engaging in or carrying on the business of a*
17 *mortgage company [business] or mortgage agent without being licensed*
18 ~~[under] or exempt from licensing pursuant to the provisions of [those~~
19 ~~sections.] this chapter; or~~

20 (c) *The person is violating any other provision of this chapter, a*
21 *regulation adopted pursuant to this chapter or an order of the*
22 *commissioner.*

23 2. If, upon investigation ~~[it appears that such company is so~~
24 ~~conducting its business or an unlicensed person is engaged in the mortgage~~
25 ~~company business, the commissioner may:~~

26 ~~—(a) Advise the district attorney of the county in which the business is~~
27 ~~conducted, and the district attorney shall cause the appropriate legal action~~
28 ~~to be taken to enjoin the operation of the business or prosecute the~~
29 ~~violations of this chapter; and~~

30 ~~—(b) Bring suit in the name and on behalf of the State of Nevada against~~
31 ~~such person and any other person concerned in or in any way participating~~
32 ~~in or about to participate in such unsafe or injurious practices or action in~~
33 ~~violation of this chapter or regulations thereunder to enjoin any such~~
34 ~~person from continuing such practices or engaging therein or doing any~~
35 ~~such act.~~

36 ~~—3.—If the commissioner brings suit,]~~ *, the commissioner has reasonable*
37 *cause to believe that the mortgage company, mortgage agent or other*
38 *person has engaged in any conduct or committed any violation described*
39 *in subsection 1:*

40 (a) *The commissioner shall notify the attorney general of the conduct*
41 *or violation and, if applicable, the commissioner shall immediately take*
42 *possession of the property of the mortgage company pursuant to NRS*
43 *645B.150;*

and

(b) *The attorney general shall:*

(1) *Investigate and, if appropriate, prosecute the mortgage company, mortgage agent or other person pursuant to section 24 of this act; and*

(2) *Bring a civil action to enjoin the mortgage company, mortgage agent or other person from engaging in the conduct or committing the violation and to enjoin any other person who has encouraged, facilitated, aided or participated in the conduct or the commission of the violation, or who is likely to engage in such acts, from engaging in or continuing to engage in such acts.*

3. *If the attorney general brings a civil action pursuant to subsection 2, the district court of any county of this state is hereby vested with the jurisdiction in equity to ~~restrain unsafe, injurious or illegal practices or transactions~~ enjoin the conduct or the commission of the violation and may grant any injunctions that are necessary to prevent and restrain ~~such practices or transactions. The court may, during~~ the conduct or the commission of the violation. During the pendency of the proceedings before ~~it, issue such~~ the district court:*

(a) *The court may issue any temporary restraining orders as may appear to be just and proper; ~~and the~~*

(b) *The findings of the commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the ~~issue~~ ex parte issuance of a temporary restraining order ~~[- In any such court proceedings the commissioner] ; and~~*

(c) *The attorney general may apply for and on due showing is entitled to have issued the court's subpoena requiring forthwith the appearance of any ~~defendant and his employees and the production of~~ person to:*

(1) *Produce any documents, books and records as may appear necessary for the hearing of the petition ; ~~[- to testify]~~ and*

(2) *Testify and give evidence concerning the ~~acts or conduct or things~~ conduct complained of in the ~~application for injunction.~~ petition.*

Sec. 40. NRS 645B.150 is hereby amended to read as follows:

645B.150 1. ~~[When]~~ *In addition to any other action that is required or permitted pursuant to this chapter, if the commissioner ~~ascertains by examination or otherwise that~~ has reasonable cause to believe:*

(a) *That the assets or capital of ~~any~~ a mortgage company are impaired ; or ~~that a mortgage company's affairs are in an unsafe condition which~~*

(b) *That a mortgage company is conducting its business in an unsafe and injurious manner that may result in danger to the public, ~~he may~~ the commissioner shall immediately take possession of all the property, business and assets of the mortgage company ~~which~~ that are located in this state and shall retain possession of them pending further proceedings provided for in this chapter.*

2. If the *licensee, the* board of directors or any officer or person in charge of the offices of the *mortgage* company refuses to permit the commissioner to take possession of ~~its property,~~ the *property of the mortgage company pursuant to subsection 1:*

(a) *The* commissioner shall ~~communicate that fact to~~ *notify* the attorney general ~~thereupon~~ ; and

(b) *The* attorney general shall immediately ~~institute~~ *bring* such proceedings as may be necessary to place the commissioner in immediate possession of the property of the *mortgage* company. ~~The commissioner thereupon shall make~~

3. *If the commissioner takes possession of the property of the mortgage company, the commissioner shall:*

(a) *Make* or have made an inventory of the assets and known liabilities of the *mortgage* company ~~;~~

~~3. The commissioner shall file ;~~

(b) *File* one copy of the inventory in his office and one copy in the office of the clerk of the district court of the county in which the principal office of the *mortgage* company is located and shall mail one copy to each stockholder, partner, officer or associate of the mortgage company at his last known address ~~;~~ ; and

(c) *If the mortgage company maintains any accounts described in NRS 645B.175, not later than 5 business days after the date on which the commissioner takes possession of the property of the mortgage company, mail notice of his possession to the last known address of each person whose money is deposited in such an account or whose money was or should have been deposited in such an account during the preceding 12 months.*

4. The clerk of the court with which the copy of the inventory is filed shall file it as any other case or proceeding pending in the court and shall give it a docket number.

Sec. 41. NRS 645B.160 is hereby amended to read as follows:

645B.160 1. ~~The~~ *If the commissioner takes possession of the property of a mortgage company pursuant to NRS 645B.150, the licensee,* officers, directors, partners, associates or stockholders of the mortgage company may, within 60 days ~~from the date when~~ *after the date on which* the commissioner takes possession of the property, ~~business and assets,~~ make good any deficit ~~which may exist~~ *in the assets or capital of the mortgage company* or remedy ~~the unsafe condition of its affairs.~~ *any unsafe and injurious conditions or practices of the mortgage company.*

2. At the expiration of ~~such time,~~ *the 60-day period,* if the deficiency in assets or capital has not been made good or the unsafe ~~condition~~ *and injurious conditions or practices* remedied, the commissioner may apply

1 to the court to be appointed receiver and proceed to liquidate the assets of
2 the **mortgage** company which are located in this state in the same manner
3 as now provided by law for liquidation of a private corporation in
4 receivership.

5 3. No other person may be appointed receiver by any court without
6 first giving the commissioner ample notice of his application.

7 4. The inventory made by the commissioner and all claims filed by
8 creditors are open at all reasonable times for inspection, and any action
9 taken by the receiver upon any of the claims is subject to the approval of
10 the court before which the cause is pending.

11 5. The expenses of the receiver and compensation of counsel, as well
12 as all expenditures required in the liquidation proceedings, must be fixed
13 by the commissioner subject to the approval of the court, and, upon
14 certification of the commissioner, must be paid out of the money in his
15 hands as the receiver.

16 **Sec. 42.** NRS 645B.165 is hereby amended to read as follows:

17 645B.165 1. ~~{The}~~ **Except as otherwise provided in subsection 3,**
18 **the** amount of any advance fee, salary, deposit or money paid to any
19 mortgage company or other person to obtain a loan which will be secured
20 by a lien on real property must be placed in escrow pending completion of
21 the loan or a commitment for the loan.

22 2. The amount held in escrow **pursuant to subsection 1** must be
23 released:

24 (a) Upon completion of the loan or commitment for the loan, to the
25 mortgage company or other person to whom the advance fee, salary,
26 deposit or money was paid.

27 (b) If the loan or commitment for the loan fails, to the person who made
28 the payment.

29 3. Advance payments to cover reasonably estimated costs paid to third
30 persons are excluded from the provisions of subsections 1 and 2 if the
31 person making them first signs a written agreement which specifies the
32 estimated costs by item and the estimated aggregate cost, and which recites
33 that money advanced for costs will not be refunded. If an itemized service
34 is not performed and the estimated cost thereof is not refunded, the
35 recipient of the advance payment is subject to the penalties provided in
36 subsection 4.

37 4. A person who violates the provisions of ~~{subsection 1:}~~ **this section:**

38 (a) Is guilty of a misdemeanor if the amount is less than \$250;

39 (b) Is guilty of a gross misdemeanor if the amount is \$250 or more but
40 less than \$1,000; or

41 (c) Is guilty of a category D felony if the amount is \$1,000 or more, and
42 shall be punished as provided in NRS 193.130.

1 **Sec. 43.** NRS 645B.175 is hereby amended to read as follows:
2 645B.175 1. ~~{All}~~ *Except as otherwise provided in this section, all*
3 money received by a mortgage company *and its mortgage agents* from ~~the~~
4 ~~person to acquire ownership of or a beneficial interest in a loan secured by~~
5 ~~a lien on real property,}~~ *an investor* must:
6 (a) Be deposited in:
7 (1) An insured depository financial institution; or
8 (2) An escrow account which is controlled by a person who is
9 independent of the parties and subject to instructions regarding the account
10 which are approved by the parties.
11 (b) Be kept separate from money:
12 (1) Belonging to the mortgage company in an account appropriately
13 named to indicate that the money does not belong to the mortgage
14 company.
15 (2) Received pursuant to subsection ~~{3.~~
16 ~~2. The}~~ 4.
17 2. *Except as otherwise provided in this section, the* amount held in
18 trust pursuant to subsection 1 must be released:
19 (a) Upon completion of the loan, including proper recordation of the
20 respective interests or release, or upon completion of the transfer of the
21 ownership or beneficial interest therein, to the debtor or his designee less
22 ~~{that} the~~ amount due the mortgage company for the payment of any fee or
23 service charge;
24 (b) If the loan or the transfer thereof is not consummated, to ~~the~~
25 ~~person}~~ *each investor* who furnished the money held in trust; or
26 (c) Pursuant to any instructions regarding the escrow account.
27 3. ~~{All}~~ *The amount held in trust pursuant to subsection 1 must not*
28 *be released to the debtor or his designee unless:*
29 (a) *The amount released is equal to the total amount of money which*
30 *is being loaned to the debtor for that loan, less the amount due the*
31 *mortgage company for the payment of any fee or service charge; and*
32 (b) *A policy of title insurance that names as an insured each investor*
33 *who owns a beneficial interest in the loan has been issued for the real*
34 *property securing the loan.*
35 4. *Except as otherwise provided in this section, all* money paid to a
36 mortgage company *and its mortgage agents* by a person in full or in
37 partial payment of a loan secured by a lien on real property, must:
38 (a) Be deposited in:
39 (1) An insured depository financial institution; or
40 (2) An escrow account which is controlled by a person who is subject
41 to instructions regarding the account which are approved by the parties.
42 (b) Be kept separate from money:

1 (1) Belonging to the mortgage company in an account appropriately
2 named to indicate that it does not belong to the mortgage company.

3 (2) Received pursuant to subsection 1.

4 ~~{4. The}~~

5 **5. Except as otherwise provided in this section, the** amount held in
6 trust pursuant to subsection ~~{3 must}~~ **4:**

7 **(a) Must** be released, upon the deduction and payment of any ~~{fees}~~ **fee**
8 or service charge due the mortgage company, to ~~{the owner of or the}~~
9 ~~person having the~~ **each investor who owns a** beneficial interest in the
10 ~~{note.~~

11 ~~—5.}~~ **loan in exact proportion to the beneficial interest that he owns in**
12 **the loan; and**

13 **(b) Must not be released, in any proportion, to an investor who owns a**
14 **beneficial interest in the loan, unless the amount described in paragraph**
15 **(a) is also released to every other investor who owns a beneficial interest**
16 **in the loan.**

17 **6.** Upon reasonable notice, any mortgage company described in this
18 section shall:

19 (a) Account to any **investor or** debtor ~~{for creditor upon whose behalf}~~
20 ~~money has been}~~ **who has** paid to the mortgage company ~~{and}~~ **or its**
21 **mortgage agents money that is required to be** deposited in ~~{the trust}~~
22 ~~accounts as set forth in}~~ **a trust account pursuant to** this section; and

23 (b) Account to the commissioner for all money ~~{in}~~ **which** the mortgage
24 ~~{company's loan proceeds or loan payments}~~ **company and its mortgage**
25 **agents have received from each investor or debtor and which the**
26 **mortgage company is required to deposit in a** trust account ~~{.~~
27 ~~—6.}~~ **pursuant to this section.**

28 **7.** Money received by a mortgage company **and its mortgage agents**
29 pursuant to this section from a person who is not associated with the
30 **mortgage** company may be held in trust for ~~{no}~~ **not** more than 45 days
31 before an escrow account must be opened in connection with the loan. If,
32 within this 45-day period, the loan or the transfer therefor is not
33 consummated, the money must be returned within 24 hours. If the money
34 is so returned, it may not be reinvested with the mortgage company for at
35 least 15 days.

36 **8. If a mortgage company or its mortgage agents receive any money**
37 **pursuant to this section, the mortgage company and its mortgage agents,**
38 **after the deduction and payment of any fee or service charge due the**
39 **mortgage company, shall not release the money to:**

40 **(a) Any person who does not have a contractual or legal right to**
41 **receive the money; or**

42 **(b) Any person who has a contractual right to receive the money, if**
43 **the mortgage company or mortgage agent knows, or in light of all the**

1 *surrounding facts and circumstances, reasonably should know, that the*
2 *person's contractual right to receive the money violates public policy, any*
3 *provision of this chapter, a regulation adopted pursuant to this chapter,*
4 *an order of the commissioner or any other law, regulation or order.*

5 **Sec. 44.** NRS 645B.180 is hereby amended to read as follows:

6 645B.180 1. Money in an impound trust account is not subject to
7 execution or attachment on any claim against the mortgage company ~~H~~ *or*
8 *a mortgage agent.*

9 2. It is unlawful for ~~any~~ *a* mortgage company *or its mortgage agents*
10 knowingly to keep or cause to be kept any money in any bank under the
11 heading of "impound trust account" or any other name designating such
12 money as belonging to the *investors or* debtors of the mortgage company,
13 ~~except~~ *unless the* money *has been* paid to the mortgage company ~~for the~~
14 ~~payment of taxes and insurance premiums on property securing loans made~~
15 ~~by the company, and money~~ *or its mortgage agents by an investor or*
16 *debtor and is being* held in trust *by the mortgage company* pursuant to
17 NRS ~~645B.170~~ *or* 645B.175.

18 **Sec. 45.** NRS 645B.185 is hereby amended to read as follows:

19 645B.185 1. ~~Before a person invests money through a~~ *A* mortgage
20 company ~~licensed pursuant to this chapter, he must sign a written~~
21 ~~statement received from the company, acknowledging that:~~
22 ~~—(a) The company has explained to him the nature and risks of investing~~
23 ~~through the company, including the possibility of default in payment, the~~
24 ~~fact that payments are not guaranteed, the resulting foreclosure and the~~
25 ~~losses that may result; and~~
26 ~~—(b) He is aware that the company is not a depository financial~~
27 ~~institution.~~ *or mortgage agent shall not accept money from an investor to*
28 *acquire ownership of or a beneficial interest in a loan secured by a lien*
29 *on real property unless:*

30 *(a) The investor and a mortgage agent or other licensee of the*
31 *mortgage company sign and date a disclosure form that complies with*
32 *the provisions of subsection 4; and*

33 *(b) The mortgage agent or other licensee of the mortgage company*
34 *gives the investor the original disclosure form that has been signed and*
35 *dated.*

36 2. The investor ~~must sign such a statement upon his initial investment~~
37 ~~only, and not before each subsequent investment.~~ *and a mortgage agent*
38 *or other licensee of the mortgage company:*

39 *(a) Must sign and date a separate disclosure form pursuant to*
40 *subsection 1 for each loan in which the investor invests his money; and*

41 *(b) May not agree to alter or waive the provisions of this section by*
42 *contract or other agreement. Any such contract or agreement is void and*

1 *must not be given effect to the extent that it violates the provisions of this*
2 *section.*

3 3. The ~~statement must be made on a form prescribed~~ mortgage
4 company shall retain a copy of each disclosure form that is signed and
5 dated pursuant to this section for the period that is prescribed in the
6 regulations adopted by the commissioner ~~[-]~~ pursuant to subsection 7.

7 4. The commissioner shall adopt regulations prescribing the
8 standard provisions that must be included in each such disclosure form.
9 The standard provisions must include, without limitation, statements:

10 (a) Explaining the risks of investing through the mortgage company,
11 including, without limitation:

12 (1) The possibility that the debtor may default on the loan;
13 (2) The nature of the losses that may result through foreclosure;
14 (3) The fact that payments of principal and interest are not
15 guaranteed and that the investor may lose the entire amount of principal
16 that he has invested;

17 (4) The fact that the mortgage company is not a depository
18 financial institution and that the investment is not insured by any
19 depository insurance and is not otherwise insured or guaranteed by the
20 federal or state government; and

21 (5) Any other information required pursuant to the regulations
22 adopted by the commissioner; and

23 (b) Disclosing to the investor the following information, if the
24 information is known or, in light of all the surrounding facts and
25 circumstances, reasonably should be known to the mortgage company:

26 (1) Whether the real property that will secure the loan is
27 encumbered by any other liens and, if so, the priority of each such lien,
28 the amount of debt secured by each such lien and the current status of
29 that debt, including, without limitation, whether the debt is being paid or
30 is in default;

31 (2) Whether the mortgage company or any of its licensees or
32 mortgage agents have any direct or indirect interest in the debtor;

33 (3) Whether the mortgage company or any of its licensees or
34 mortgage agents are currently being investigated by the commissioner,
35 the attorney general or any other law enforcement agency for an alleged
36 violation of:

37 (I) The provisions of this chapter, a regulation adopted pursuant
38 to this chapter or an order of the commissioner; or

39 (II) Any other law, ordinance or regulation that involves fraud,
40 misrepresentation or a deceitful, fraudulent or dishonest business
41 practice;

42 (4) Whether any disciplinary action has been taken by the
43 commissioner against the mortgage company or any of its licensees or

1 *mortgage agents within the preceding 12 months, and the nature of any*
2 *such disciplinary action;*

3 *(5) Whether the mortgage company or any of its licensees or*
4 *mortgage agents have been convicted within the preceding 12 months for*
5 *violating any law, ordinance or regulation that involves fraud,*
6 *misrepresentation or a deceitful, fraudulent or dishonest business*
7 *practice; and*

8 *(6) Any other information required pursuant to the regulations*
9 *adopted by the commissioner.*

10 *5. Whether or not a mortgage company is required to disclose any*
11 *information to investors through a disclosure form that complies with the*
12 *provisions of subsection 4, the commissioner may order the mortgage*
13 *company to disclose to investors or to the general public any information*
14 *concerning the mortgage company, its licensees or mortgage agents, or*
15 *any loan in which the mortgage company is or has been involved, if the*
16 *commissioner, in his judgment, believes that the information:*

17 *(a) Would be of material interest to a reasonable investor who is*
18 *deciding whether to invest money with the mortgage company; or*

19 *(b) Is necessary to protect the welfare of the public.*

20 *6. In carrying out the provisions of subsection 5, the commissioner*
21 *may, without limitation, order a mortgage company to include statements*
22 *of disclosure prescribed by the commissioner:*

23 *(a) In the disclosure form that the mortgage company gives to*
24 *investors pursuant to subsection 1;*

25 *(b) In additional disclosure forms that must be given to investors*
26 *before or after they have invested money through the mortgage company;*
27 *or*

28 *(c) In any advertisement that the mortgage company uses in carrying*
29 *on its business.*

30 *7. The commissioner:*

31 *(a) Shall adopt regulations prescribing the period for which a*
32 *mortgage company must retain a copy of each disclosure form that it*
33 *gives to investors; and*

34 *(b) May adopt any other regulations that are necessary to carry out*
35 *the provisions of this section, including, without limitation, regulations*
36 *specifying the size of print and any required formatting or typesetting*
37 *that a mortgage company must use in any disclosure form that it gives to*
38 *investors.*

39 **Sec. 46.** NRS 645B.187 is hereby amended to read as follows:

40 645B.187 1. If *a mortgage company or mortgage agent solicits or*
41 *receives money from an investor, the mortgage company or mortgage*
42 *agent shall not:*

43 *(a) In any advertisement; or*

1 ***(b) Before, during or after solicitation or receipt of money from the***
2 ***investor,***
3 ***make, or cause or encourage to be made, any explicit or implicit***
4 ***statement, representation or promise, oral or written, which a reasonable***
5 ***person would construe as a guarantee that the investor will be repaid the***
6 ***principal amount of money he invests or will earn a specific rate of***
7 ***return or a specific rate of interest on the principal amount of money he***
8 ***invests.***

9 ***2. If a mortgage company offers to pay or pays*** premium interest ~~is~~
10 ~~paid by a mortgage company~~ on money ***that*** it receives from a person to
11 acquire ownership of or a beneficial interest in a loan secured by a lien on
12 real property or in full or partial payment of such a loan ~~[, that]~~ :

13 ***(a) The premium*** interest must be paid from the assets or income of the
14 mortgage company ; and ~~may not be guaranteed.~~

15 ~~—2. For the purposes of~~

16 ***(b) The mortgage company or a mortgage agent shall not, in any***
17 ***advertisement or before, during or after receipt of money from such a***
18 ***person, make, or cause or encourage to be made, any explicit or implicit***
19 ***statement, representation or promise, oral or written, which a reasonable***
20 ***person would construe as a guarantee that the mortgage company will***
21 ***pay the premium interest.***

22 ***3. A person who violates any provision of this section is guilty of a***
23 ***misdemeanor.***

24 ***4. As used in*** this section, “premium interest” means that amount of
25 interest a mortgage company pays to a person which exceeds the amount
26 which is being obtained from the insured depository financial institution.

27 **Sec. 47.** NRS 645B.188 is hereby amended to read as follows:

28 645B.188 Each mortgage company shall pay the assessment levied
29 pursuant to NRS 658.055 . ~~and~~ ***Each mortgage company and mortgage***
30 ***agent shall*** cooperate fully with the audits and examinations performed
31 pursuant thereto.

32 **Sec. 48.** NRS 645B.189 is hereby amended to read as follows:

33 645B.189 ***1. If a mortgage company maintains any accounts***
34 ***described in NRS 645B.175, the mortgage company shall include in each***
35 ***advertisement that the mortgage company uses in carrying on its***
36 ***business:***

37 ***(a) A statement of disclosure in substantially the following form:***
38 ***“Money invested through a mortgage company is not insured or***
39 ***guaranteed by the federal or state government. An investor is not***
40 ***guaranteed to recover or to be repaid any of the money he invests. An***
41 ***investor is not guaranteed to earn or to be paid any interest or other***
42 ***return on the money he invests. An investor may lose some or all of the***
43 ***money he invests.”***

1 ***(b) Any other statements of disclosure required pursuant to the***
2 ***regulations adopted by the commissioner or required pursuant to an***
3 ***order of the commissioner entered in accordance with subsections 5 and***
4 ***6 of NRS 645B.185.***

5 2. Each mortgage company shall submit any proposed advertisement
6 ***that*** it intends to use ***in carrying on its business*** to the commissioner for
7 approval. ***If the mortgage company is required to include any statements***
8 ***of disclosure in such an advertisement pursuant to subsection 1 and the***
9 ***statements of disclosure will be displayed in printed form:***

10 ***(a) The size of the print must be approved by the commissioner; and***

11 ***(b) If displayed on television or any other video screen, monitor or***
12 ***device, the length of time that the statements are displayed must be***
13 ***approved by the commissioner.***

14 3. The commissioner shall, within 5 working days after receiving ~~the~~
15 ***a proposed*** advertisement, approve or disapprove its use and notify the
16 ***mortgage*** company of that decision.

17 4. ***The commissioner may adopt any regulations that are necessary to***
18 ***carry out the provisions of this section.***

19 **Sec. 49.** NRS 645B.191 is hereby amended to read as follows:

20 645B.191 Except pursuant to a contract for the collection or servicing
21 of a loan which is governed by the requirements established by the
22 Government National Mortgage Association, Federal Home Loan
23 Mortgage Corporation or Federal National Mortgage Association, ~~no~~ ***a***
24 ***mortgage company*** ~~may~~ ***or mortgage agent shall not*** advance payments
25 to an investor on behalf of a person who has obtained a loan secured by a
26 lien on real property and who has defaulted in his payments.

27 **Sec. 50.** NRS 645B.197 is hereby amended to read as follows:

28 645B.197 1. A person may apply to the commissioner for an
29 exemption from the provisions of this chapter governing the making of a
30 loan of money.

31 2. The commissioner may grant the exemption if he finds that:

32 ***(a) The making of the loan would not be detrimental to the financial***
33 ***condition of the lender, ~~borrower~~ the debtor or the person who is***
34 ***providing the money for the loan;***

35 ***(b) The lender, ~~borrower~~ the debtor or the person who is providing***
36 ***the money for the loan has established a record of sound performance,***
37 ***efficient management, financial responsibility and integrity;***

38 ***(c) The making of the loan is likely to increase the availability of capital***
39 ***for a sector of the state economy; and***

40 ***(d) The making of the loan is not detrimental to the public interest.***

41 3. The commissioner:

42 ***(a) May revoke an exemption unless the loan for which the exemption***
43 was granted has been made; and

(b) Shall issue a written statement setting forth the reasons for his decision to grant, deny or revoke an exemption.

Sec. 51. NRS 645B.200 is hereby amended to read as follows:

645B.200 ~~{This chapter does not limit}~~ *The provisions of this chapter do not:*

1. *Limit* any statutory or common law right of ~~{any}~~ *a* person to bring ~~{an action in any court}~~ *a civil action against a mortgage company or mortgage agent* for any act *or omission* involved in the transaction of *business by or on behalf of* the mortgage company ~~{business or the}~~ *or mortgage agent;*

2. *Limit the* right of the state to punish ~~{any}~~ *a* person for ~~{any}~~ *the* violation of any law ~~{,}~~ *, ordinance or regulation; or*

3. *Establish a basis for a person to bring a civil action against the state or its officers or employees for any act or omission in carrying out the provisions of this chapter, including, without limitation, any act or omission relating to the disclosure of information or the failure to disclose information pursuant to the provisions of this chapter.*

Sec. 52. NRS 645B.210 is hereby amended to read as follows:

645B.210 It is unlawful for any person to *offer or* provide any of the services of a mortgage company ~~{, unless he is exempted under NRS 645B.015,}~~ *or mortgage agent or otherwise* to engage in , ~~{or}~~ carry on ~~{,}~~ or hold himself out as engaging in or carrying on ~~{,}~~ the business of a mortgage company *or mortgage agent* without first obtaining a license as a mortgage company ~~{,}~~ *or mortgage agent pursuant to this chapter, unless the person:*

1. *Is exempt from the provisions of this chapter pursuant to NRS 645B.015; and*

2. *Complies with the provisions of section 10 of this act.*

Sec. 53. NRS 645B.220 is hereby amended to read as follows:

645B.220 It is unlawful for any foreign corporation, association or business trust to transact any mortgage business in this state unless it:

1. Qualifies under chapter 80 of NRS; and

2. Complies with the provisions of this chapter ~~{unless exempted by}~~ *or, if it claims an exemption from the provisions of this chapter pursuant to NRS 645B.015 {,}, complies with the provisions of section 10 of this act.*

Sec. 54. NRS 645B.230 is hereby amended to read as follows:

645B.230 ~~{Except as provided in NRS 645B.225, any}~~ *Unless a specific criminal penalty is set forth in another provision of this chapter,* a person, or any director, officer, agent or employee of a person, who violates any ~~{of the provisions}~~ *provision* of this chapter , *a regulation adopted pursuant to this chapter or an order of the commissioner* is guilty of a misdemeanor.

1 **Sec. 55.** NRS 232.545 is hereby amended to read as follows:

2 232.545 1. An investigative account for financial institutions is
3 hereby created in the state general fund. The account consists of money
4 which is:

5 (a) Received by the department of business and industry in connection
6 with the licensing of financial *institutions and persons associated with*
7 *those* institutions; and

8 (b) Required by law to be placed therein.

9 2. The director of the department of business and industry or his
10 designee may authorize expenditures from the investigative account to pay
11 the expenses incurred ~~in~~ :

12 (a) *In* investigating applications for licensing of financial institutions
13 and ~~in~~ *persons associated with those institutions;*

14 (b) *In* conducting special investigations relating to ~~those institutions,~~
15 ~~and expenses incurred in~~ *financial institutions and persons associated*
16 *with those institutions; and*

17 (c) *In* connection with mergers, consolidations, conversions,
18 receiverships and liquidations ~~of~~ *of financial institutions.*

19 3. As used in this section, "financial institution" means an institution
20 for which licensing is required by the provisions of Titles 55 and 56 and
21 chapters 645B and 649 of NRS.

22 **Sec. 56.** Chapter 692A of NRS is hereby amended by adding thereto
23 the provisions set forth as sections 57 to 62, inclusive, of this act.

24 **Sec. 57. 1.** *A person may not be licensed as, conduct business as or*
25 *hold a controlling interest or position in a title agent, title insurer or*
26 *escrow officer if the person or a relative of the person is licensed as,*
27 *conducts business as or holds a controlling interest or position in:*

28 (a) *A mortgage company or mortgage agent that is subject to the*
29 *provisions of chapter 645B of NRS; or*

30 (b) *Any other legal entity, regardless of its purpose, if the legal entity*
31 *holds a controlling interest or position in a mortgage company or*
32 *mortgage agent that is subject to the provisions of chapter 645B of NRS.*

33 2. *For the purposes of this section, a person shall be deemed to hold*
34 *a controlling interest or position if the person:*

35 (a) *Owens or controls a majority of the voting stock or holds any other*
36 *controlling interest, directly or indirectly, that gives him the power to*
37 *direct management or determine policy; or*

38 (b) *Is a partner, officer, director or trustee.*

39 3. *As used in this section, "relative" means a spouse or any other*
40 *person who is related within the second degree by blood or marriage.*

41 **Sec. 58. 1.** *In addition to all other requirements set forth in this*
42 *Title and except as otherwise provided in section 59 of this act, a title*
43 *agent or title insurer shall deposit with the commissioner a corporate*

1 surety bond payable to the State of Nevada, in the amount of \$250,000,
2 which is executed by a corporate surety satisfactory to the commissioner
3 and which names as principals the title agency or title insurer and all
4 escrow officers employed by or associated with the title agent or title
5 insurer.

6 2. The bond must be in substantially the following form:

7
8 Know All Men by These Presents, that, as principal,
9 and, as surety, are held and firmly bound unto the State
10 of Nevada for the use and benefit of any person who suffers damages
11 because of a violation of any of the provisions of chapter 692A of NRS,
12 in the sum of, lawful money of the United States, to be paid to the
13 State of Nevada for such use and benefit, for which payment well and
14 truly to be made, and that we bind ourselves, our heirs, executors,
15 administrators, successors and assigns, jointly and severally, firmly by
16 these presents.

17 The condition of that obligation is such that: Whereas, the
18 commissioner of insurance of the department of business and industry of
19 the State of Nevada has issued the principal a license or certificate of
20 authority as a title agent or title insurer, and the principal is required to
21 furnish a bond, in the amount of \$250,000, which is conditioned as set
22 forth in this bond:

23 Now, therefore, if the principal, his agents and employees, strictly,
24 honestly and faithfully comply with the provisions of chapter 692A of
25 NRS, and pay all damages suffered by any person because of a violation
26 of any of the provisions of chapter 692A of NRS, or by reason of any
27 fraud, dishonesty, misrepresentation or concealment of material facts
28 growing out of any transaction governed by the provisions of chapter
29 692A of NRS, then this obligation is void; otherwise it remains in full
30 force.

31 This bond becomes effective on the(day) of(month)
32 of.....(year), and remains in force until the surety is released from
33 liability by the commissioner of insurance or until this bond is canceled
34 by the surety. The surety may cancel this bond and be relieved of further
35 liability hereunder by giving 60 days' written notice to the principal and
36 to the commissioner of insurance of the department of business and
37 industry of the State of Nevada.

38 In Witness Whereof, the seal and signature of the principal hereto is
39 affixed, and the corporate seal and the name of the surety hereto is

1 *affixed and attested by its authorized officers at, Nevada,*
2 *this(day) of(month) of(year).*

3
4 *(Seal)*

5 *Principal*

6 *(Seal)*

7 *Surety*

8 *By*

9 *Attorney in fact*

10
11 *Licensed resident agent*

12
13 **Sec. 59. 1.** *As a substitute for the surety bond required by section*
14 *58 of this act, a title agent or title insurer may, in accordance with the*
15 *provisions of this section, deposit with any bank or trust company*
16 *authorized to do business in this state, in a form approved by the*
17 *commissioner:*

18 *(a) An obligation of a bank, savings and loan association, thrift*
19 *company or credit union licensed to do business in this state;*

20 *(b) Bills, bonds, notes, debentures or other obligations of the United*
21 *States or any agency or instrumentality thereof, or guaranteed by the*
22 *United States; or*

23 *(c) Any obligation of this state or any city, county, town, township,*
24 *school district or other instrumentality of this state, or guaranteed by this*
25 *state.*

26 **2.** *The obligations of a bank, savings and loan association, thrift*
27 *company or credit union must be held to secure the same obligation as*
28 *would the surety bond. With the approval of the commissioner, the*
29 *depositor may substitute other suitable obligations for those deposited*
30 *which must be assigned to the State of Nevada and are negotiable only*
31 *upon approval by the commissioner.*

32 **3.** *Any interest or dividends earned on the deposit accrue to the*
33 *account of the depositor.*

34 **4.** *The deposit must be in an amount at least equal to the required*
35 *surety bond and must state that the amount may not be withdrawn except*
36 *by direct and sole order of the commissioner. The value of any item*
37 *deposited pursuant to this section must be based upon principal amount*
38 *or market value, whichever is lower.*

39 **Sec. 60. 1.** *The surety may cancel a bond upon giving 60 days'*
40 *notice to the commissioner by certified mail. Upon receipt by the*
41 *commissioner of such a notice, the commissioner immediately shall*
42 *notify the title agent or title insurer who is the principal on the bond of*
43 *the effective date of cancellation of the bond, and that his license or*

1 *certificate of authority will be revoked unless he furnishes an equivalent*
2 *bond or a substitute form of security authorized by section 59 of this act*
3 *before the effective date of the cancellation. The notice must be sent to*
4 *the title agent or title insurer by certified mail to his last address of record*
5 *filed in the office of the division.*

6 *2. If the title agent or title insurer does not comply with the*
7 *requirements set out in the notice from the commissioner, his license or*
8 *certificate of authority must be revoked on the date the bond is canceled.*

9 **Sec. 61.** 1. *Any person claiming against a bond may bring an*
10 *action in a court of competent jurisdiction on the bond for damages to*
11 *the extent covered by the bond. A person who brings an action on a bond*
12 *shall notify the commissioner in writing upon filing the action. An action*
13 *may not be commenced after the expiration of 3 years following the*
14 *commission of the act on which the action is based.*

15 *2. Upon receiving a request from a person for whose benefit a bond*
16 *is required, the commissioner shall notify him:*

17 *(a) That a bond is in effect and the amount of the bond; and*

18 *(b) If there is an action against the bond, the title, court and case*
19 *number of the action and the amount sought by the plaintiff.*

20 *3. If a surety wishes to make payment without awaiting action by a*
21 *court, the amount of the bond must be reduced to the extent of any*
22 *payment made by the surety in good faith under the bond. Any payment*
23 *must be based on written claims received by the surety before any action*
24 *is taken by a court.*

25 *4. The surety may bring an action for interpleader against all*
26 *claimants upon the bond. If it does so, it shall publish notice of the action*
27 *at least once each week for 2 weeks in every issue of a newspaper of*
28 *general circulation in the county where the title agent or title insurer has*
29 *its principal place of business. The surety may deduct its costs of the*
30 *action, including attorney's fees and publication, from its liability under*
31 *the bond.*

32 *5. Claims against a bond have equal priority, and if the bond is*
33 *insufficient to pay all claims in full, they must be paid on a pro rata*
34 *basis. Partial payment of claims is not full payment, and any claimant*
35 *may bring an action against the title agent or title insurer for the unpaid*
36 *balance.*

37 **Sec. 62.** *If a title agent or title insurer issues a policy of title*
38 *insurance in connection with a loan for which a mortgage company has*
39 *received money from an investor pursuant to subsection 1 of NRS*
40 *645B.175, the title agent or title insurer shall give to each investor who*
41 *owns a beneficial interest in the loan a closing letter which guarantees*
42 *that a policy of title insurance has been issued for the real property*
43 *securing the loan.*

1 **Sec. 63.** NRS 692A.103 is hereby amended to read as follows:

2 692A.103 1. A person who wishes to obtain a license as an escrow
3 officer must:

4 (a) File a written application in the office of the commissioner;

5 (b) Except as otherwise provided in subsection 3, demonstrate
6 competency in matters relating to escrows by:

7 (1) Having at least 1 year of recent experience with respect to
8 escrows of a sufficient nature to allow him to fulfill the responsibilities of
9 an escrow officer; or

10 (2) Passing a written examination concerning escrows as prescribed
11 by the commissioner;

12 (c) Submit the name and business address of the title agent who will
13 supervise the escrow officer;

14 (d) Submit the statement required pursuant to NRS 692A.1033; and

15 (e) Pay the fees required by NRS 680B.010.

16 2. ~~{The}~~ *Except as otherwise provided in this chapter, the*

17 commissioner shall issue a license as an escrow officer to any person who
18 satisfies the requirements of subsection 1.

19 3. The commissioner may waive the requirements of paragraph (b) of
20 subsection 1 if the applicant submits with his application satisfactory proof
21 that he, in good standing, currently holds a license, or held a license within
22 1 year before the date he submits his application, which was issued
23 pursuant to the provisions of NRS 645A.020.

24 4. A license issued pursuant to this chapter continues in force for 3
25 years unless it is suspended, revoked or otherwise terminated. The license
26 may be renewed upon submission of the statement required pursuant to
27 NRS 692A.1033 and payment of the applicable fee for renewal to the
28 commissioner on or before the last day of the month in which the license is
29 renewable.

30 5. A license which is not renewed expires at midnight on the last day
31 specified for its renewal. The commissioner may accept a request for
32 renewal received by him within 30 days after the expiration of the license
33 if the request is accompanied by the statement required pursuant to NRS
34 692A.1033 and a fee for renewal of 150 percent of the fee otherwise
35 required.

36 6. The commissioner shall adopt regulations to carry out the
37 provisions of this section.

38 **Sec. 64.** The amendatory provisions of section 16 of this act do not
39 apply to a written contract or agreement that is executed before October 1,
40 1999, if the contract or agreement includes a provision that expressly
41 establishes a specific time before which a payment must be delivered to the
42 mortgage company on the day that it is due to avoid being charged a late
43 fee, an additional amount of interest or any other penalty.

1 **Sec. 65.** The amendatory provisions of this act do not apply to
2 offenses that are committed before October 1, 1999.

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