

ASSEMBLY BILL NO. 324—ASSEMBLYMEN GOLDWATER, DINI, CEGAVSKE,
PARKS, MANENDO, BERMAN, BUCKLEY, FREEMAN, LEE
AND SMITH

MARCH 12, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises various provisions regarding regulation of mortgage brokers,
mortgage agents and mortgage companies. (BDR 54-491)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 financial institutions; creating the mortgage industry commission;
prescribing the powers and duties of the mortgage industry commission and its
executive director; transferring the responsibilities of regulating mortgage
brokers, mortgage agents and mortgage companies from the commissioner of
financial institutions to the mortgage industry commission and its executive
director; revising various provisions relating to the regulation of mortgage
brokers and mortgage agents; revising provisions concerning certain powers of
attorney; eliminating the advisory council on mortgage investments and mortgage
lending; 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 645B of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 to 14, inclusive, of this act.
3 **Sec. 2.** *“Executive director” means the executive director of the*
4 *commission.*
5 **Sec. 3.** *“Loan secured by a lien on real property” includes, without*
6 *limitation, any loan associated with a mobile home, a manufactured*
7 *home or other similar home if the loan is secured, in whole or in part, by*
8 *a lien on real property.*
9 **Sec. 4.** *“Mortgage company” has the meaning ascribed to it in*
10 *NRS 645E.100.*
11 **Sec. 5.** *For the purposes of this chapter:*
12 1. *The southern district of Nevada consists of the counties of Clark,*
13 *Esmeralda, Lincoln and Nye; and*
14 2. *The northern district of Nevada consists of all other counties of*
15 *this state.*



- 1 **Sec. 6.** 1. *The mortgage industry commission is hereby created.*
2 2. *The commission consists of five members appointed by the*
3 *governor. The governor shall appoint to the commission:*
4 (a) *Three members who are residents of the southern district of*
5 *Nevada; and*
6 (b) *Two members who are residents of the northern district of Nevada.*
7 3. *If, during his term, a member changes his residency to a location*
8 *outside of the district from which he was appointed, the member shall be*
9 *deemed to have resigned from his office, and the office shall be deemed*
10 *to be vacant.*
11 4. *A person may not be appointed to the commission unless the*
12 *person:*
13 (a) *Is a citizen of the United States;*
14 (b) *Has been a resident of this state for at least 5 years immediately*
15 *preceding the date of his appointment; and*
16 (c) *For at least 3 years immediately preceding the date of his*
17 *appointment:*
18 (1) *Has held a valid license issued by this state as a mortgage*
19 *broker or mortgage company or has been a general partner, director or*
20 *officer of such a mortgage broker or mortgage company; or*
21 (2) *Has been actively and legally engaged in this state in the*
22 *business of mortgage lending or in the activities of a mortgage agent.*
23 5. *Before entering upon the duties of his office, a member shall take:*
24 (a) *The constitutional oath of office; and*
25 (b) *An oath that he is legally qualified to serve as a member of the*
26 *commission.*
27 **Sec. 7.** 1. *After the initial terms, the members of the commission*
28 *must be appointed to terms of 3 years. Upon the expiration of his term, a*
29 *member continues to serve on the commission until a qualified person*
30 *has been appointed as his successor.*
31 2. *Members of the commission may not be appointed to serve more*
32 *than two consecutive terms, excluding any appointment to:*
33 (a) *An initial term of less than 3 years; and*
34 (b) *An unexpired term that does not exceed 18 months.*
35 3. *A person who has been appointed to serve two consecutive terms*
36 *on the commission may be appointed to the commission if, on the date of*
37 *his most recent appointment, more than 3 years have elapsed since the*
38 *expiration of his last term.*
39 4. *Any vacancy in the membership of the commission must be filled*
40 *for the remainder of the unexpired term in the same manner as the*
41 *original appointment.*
42 **Sec. 8.** 1. *The commission shall:*
43 (a) *Operate on the basis of a fiscal year beginning on July 1 and*
44 *ending on June 30.*
45 (b) *At the first meeting of each fiscal year, select one member as*
46 *chairman and one member as vice chairman. The chairmanship of the*
47 *commission must alternate each fiscal year between a member who is a*
48 *resident of the southern district of Nevada and a member who is a*
49 *resident of the northern district of Nevada. The vice chairman may not*



- 1 *be a resident of the same district as the chairman. If a vacancy occurs in*
2 *the chairmanship or vice chairmanship, the vacancy must be filled for*
3 *the remainder of the unexpired term by a member who is a resident of*
4 *the same district as his predecessor. The vice chairman shall perform the*
5 *duties of the chairman during any absence of the chairman.*
- 6 *2. The commission:*
7 *(a) Shall hold at least two meetings each year, one in the southern*
8 *district of Nevada and one in the northern district of Nevada; and*
9 *(b) May hold additional meetings each year at the call of the*
10 *chairman or upon a written request submitted to the executive director by*
11 *two members of the commission.*
- 12 *3. The chairman shall designate the time and place for each meeting*
13 *of the commission. Not later than 3 working days before each meeting,*
14 *the executive director shall give each member of the commission written*
15 *notice of the time, place and purpose of the meeting.*
- 16 *4. Three members of the commission constitute a quorum. A*
17 *majority of the members present during a quorum may take any action or*
18 *make any decision as the commission.*
- 19 *5. The commission shall:*
20 *(a) Prepare and maintain a record of its transactions and*
21 *proceedings; and*
22 *(b) Adopt a seal of which each court of this state shall take judicial*
23 *notice.*
- 24 *6. While engaged in the business of the commission, each member of*
25 *the commission is entitled to receive:*
26 *(a) A salary of not more than \$80 per day, as fixed by the commission;*
27 *and*
28 *(b) A per diem allowance and travel expenses at a rate fixed by the*
29 *commission. The rate must not exceed the rate provided for officers and*
30 *employees of this state generally.*
- 31 **Sec. 9.** *1. The commission shall designate the location of the*
32 *principal office of the commission. If the principal office of the*
33 *commission is located in:*
34 *(a) The southern district of Nevada, the commission shall establish at*
35 *least one branch office in the northern district of Nevada.*
36 *(b) The northern district of Nevada, the commission shall establish at*
37 *least one branch office in the southern district of Nevada.*
- 38 *2. Within the limits of legislative appropriation, the commission may*
39 *establish such additional branch offices in this state as it considers*
40 *necessary to carry out its functions and duties.*
- 41 *3. The executive director shall conduct business primarily in the*
42 *principal office of the commission.*
- 43 **Sec. 10.** *The commission may delegate to the executive director:*
44 *1. The authority of the commission to take any disciplinary action*
45 *and to impose any fines and penalties; and*
46 *2. Any other authority conferred on the commission by this chapter,*
47 *chapter 645E of NRS and any other specific statute relating to the*
48 *powers and duties of the commission.*



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- 1 **Sec. 11.** 1. *The commission shall appoint an executive director*
2 *who:*
3 (a) *Within the limits of legislative appropriation, is entitled to receive*
4 *such compensation as is fixed by the commission;*
5 (b) *Is in the unclassified service of the state; and*
6 (c) *Serves at the pleasure of the commission.*
7 2. *The executive director may not be:*
8 (a) *A member of the commission; or*
9 (b) *A licensed mortgage broker or mortgage company, a partner,*
10 *director or officer of a licensed mortgage broker or mortgage company*
11 *or, directly or indirectly, interested in, employed by or associated with a*
12 *licensed mortgage broker or mortgage company.*
13 3. *Except as otherwise provided in NRS 284.143, the executive*
14 *director shall devote his entire time and attention to the business of his*
15 *office and shall not pursue any other business or occupation or hold any*
16 *other office of profit.*
17 4. *The executive director:*
18 (a) *Is subject to the supervision of the commission;*
19 (b) *Is responsible for administering and carrying out the policies and*
20 *administrative functions of the commission;*
21 (c) *Shall direct and supervise all the technical and administrative*
22 *functions of the commission;*
23 (d) *Shall report to the commission all relevant and important matters*
24 *concerning the administration of the office of the commission;*
25 (e) *Shall perform the duties set forth in this chapter, chapter 645E of*
26 *NRS and any other specific statute and the duties prescribed or delegated*
27 *by the commission; and*
28 (f) *Shall perform any lawful act which he considers necessary or*
29 *desirable to carry out the purposes and provisions of this chapter,*
30 *chapter 645E of NRS and any other specific statute relating to the*
31 *powers and duties of the commission.*
32 **Sec. 12.** 1. *Within the limits of legislative appropriation, the*
33 *executive director may employ such persons as he deems necessary to*
34 *carry out the functions and duties of the commission.*
35 2. *A person employed by the executive director may not be:*
36 (a) *A member of the commission; or*
37 (b) *A licensed mortgage broker or mortgage company, a partner,*
38 *director or officer of a licensed mortgage broker or mortgage company*
39 *or, directly or indirectly, interested in, employed by or associated with a*
40 *licensed mortgage broker or mortgage company.*
41 3. *While engaged in the business of the commission, the executive*
42 *director and each person employed by the executive director is entitled to*
43 *receive a per diem allowance and travel expenses at a rate fixed by the*
44 *commission. The rate must not exceed the rate provided for officers and*
45 *employees of this state generally.*
46 **Sec. 13.** *The commission, the commissioner of financial institutions*
47 *and the division of financial institutions shall cooperate with, share*
48 *records and information with and assist each other to the extent*
49 *necessary to carry out the provisions of this chapter, chapter 645E of*



1 *NRS and any other specific statute relating to the powers and duties of*
2 *the commission, the commissioner of financial institutions and the*
3 *division of financial institutions.*

4 **Sec. 14.** 1. *The attorney general is the attorney for the commission*
5 *and the executive director.*

6 2. *The attorney general shall designate one or more of his deputies to*
7 *conduct actions, proceedings and hearings for the commission and the*
8 *executive director. Such deputies shall advise the commission and the*
9 *executive director on all matters relating to the commission.*

10 **Sec. 15.** NRS 645B.010 is hereby amended to read as follows:

11 645B.010 As used in this chapter, unless the context otherwise
12 requires, the words and terms defined in NRS 645B.0103 to 645B.0135,
13 inclusive, *and sections 2, 3 and 4 of this act* have the meanings ascribed to
14 them in those sections.

15 **Sec. 16.** NRS 645B.0105 is hereby amended to read as follows:

16 645B.0105 ~~“Commissioner” means the commissioner of financial~~
17 ~~institutions.”~~ *“Commission” means:*

18 1. *The mortgage industry commission created pursuant to section 6*
19 *of this act; and*

20 2. *The executive director if the mortgage industry commission has*
21 *delegated its authority to the executive director pursuant to section 10 of*
22 *this act.*

23 **Sec. 17.** NRS 645B.0111 is hereby amended to read as follows:

24 645B.0111 “Division ~~of~~ *of financial institutions*” means the division
25 of financial institutions of the department of business and industry.

26 **Sec. 18.** NRS 645B.0127 is hereby amended to read as follows:

27 645B.0127 1. “Mortgage broker” means a person who, directly or
28 indirectly:

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

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

34 (c) Holds himself out as being able to make loans secured by liens on
35 real property;

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

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

41 2. The term does not include a person who is licensed as a mortgage
42 company ~~as defined in NRS 645E.100,~~ *pursuant to chapter 645E of*
43 *NRS*, unless the person is also licensed as a mortgage broker pursuant to
44 this chapter.

45 **Sec. 19.** NRS 645B.016 is hereby amended to read as follows:

46 645B.016 Except as otherwise provided in NRS 645B.690:

47 1. A person who claims an exemption from the provisions of this
48 chapter pursuant to subsection 1 or 6 of NRS 645B.015 must:



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- 1 (a) File a written application for a certificate of exemption with the
2 office of the ~~commissioner;~~ *commission;*
3 (b) Pay the fee required pursuant to NRS 645B.050; and
4 (c) Include with the written application satisfactory proof that the
5 person meets the requirements of subsection 1 or 6 of NRS 645B.015.
- 6 2. The ~~commissioner;~~ *commission* may require a person who claims
7 an exemption from the provisions of this chapter pursuant to subsections 2
8 to 5, inclusive, or 7 to 10, inclusive, of NRS 645B.015 to:
- 9 (a) File a written application for a certificate of exemption with the
10 office of the ~~commissioner;~~ *commission;*
11 (b) Pay the fee required pursuant to NRS 645B.050; and
12 (c) Include with the written application satisfactory proof that the
13 person meets the requirements of at least one of those exemptions.
- 14 3. A certificate of exemption expires automatically if, at any time, the
15 person who claims the exemption no longer meets the requirements of at
16 least one exemption set forth in the provisions of NRS 645B.015.
- 17 4. If a certificate of exemption expires automatically pursuant to this
18 section, the person shall not provide any of the services of a mortgage
19 broker or otherwise engage in, carry on or hold himself out as engaging in
20 or carrying on the business of a mortgage broker, unless the person applies
21 for and is issued:
- 22 (a) A license as a mortgage broker pursuant to this chapter; or
23 (b) Another certificate of exemption.
- 24 5. The ~~commissioner;~~ *commission* may impose upon a person who is
25 required to apply for a certificate of exemption or who holds a certificate of
26 exemption an administrative fine of not more than \$10,000 for each
27 violation that he commits, if the person:
- 28 (a) Has knowingly made or caused to be made to the ~~commissioner;~~
29 *commission* any false representation of material fact;
30 (b) Has suppressed or withheld from the ~~commissioner;~~ *commission*
31 any information which the person possesses and which, if submitted by
32 him, would have rendered the person ineligible to hold a certificate of
33 exemption; or
34 (c) Has violated any provision of this chapter, a regulation adopted
35 pursuant to this chapter or an order of the ~~commissioner;~~ *commission* that
36 applies to a person who is required to apply for a certificate of exemption
37 or who holds a certificate of exemption.
- 38 **Sec. 20.** NRS 645B.018 is hereby amended to read as follows:
39 645B.018 1. A person may apply to the ~~commissioner;~~ *commission*
40 for an exemption from the provisions of this chapter governing the making
41 of a loan of money.
- 42 2. The ~~commissioner;~~ *commission* may grant the exemption if ~~the~~
43 *the commission* finds that:
- 44 (a) The making of the loan would not be detrimental to the financial
45 condition of the lender, the debtor or the person who is providing the
46 money for the loan;
47 (b) The lender, the debtor or the person who is providing the money for
48 the loan has established a record of sound performance, efficient
49 management, financial responsibility and integrity;



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- 1 (c) The making of the loan is likely to increase the availability of capital
2 for a sector of the state economy; and
3 (d) The making of the loan is not detrimental to the public interest.
- 4 3. The ~~commissioner~~ **commission**:
5 (a) May revoke an exemption unless the loan for which the exemption
6 was granted has been made; and
7 (b) Shall issue a written statement setting forth the reasons for ~~this~~ **its**
8 decision to grant, deny or revoke an exemption.
- 9 **Sec. 21.** NRS 645B.020 is hereby amended to read as follows:
10 645B.020 1. A person who wishes to be licensed as a mortgage
11 broker must file a written application for a license with the office of the
12 ~~commissioner~~ **commission** and pay the fee required pursuant to
13 NRS 645B.050. An application for a license as a mortgage broker must:
14 (a) Be verified.
15 (b) State the name, residence address and business address of the
16 applicant and the location of each principal office and branch office at
17 which the mortgage broker will conduct business within this state.
18 (c) State the name under which the applicant will conduct business as a
19 mortgage broker.
20 (d) List the name, residence address and business address of each
21 person who will:
22 (1) If the applicant is not a natural person, have an interest in the
23 mortgage broker as a principal, partner, officer, director or trustee,
24 specifying the capacity and title of each such person.
25 (2) Be associated with or employed by the mortgage broker as a
26 mortgage agent.
27 (e) If the applicant is a natural person, include the social security
28 number of the applicant.
29 (f) Include a general business plan and a ~~manual for policies and~~
30 ~~procedures for the mortgage broker and his mortgage agents that includes,~~
31 ~~without limitation, the underwriting standards, restrictions and~~ **description**
32 of the policies and procedures that the mortgage broker and his mortgage
33 agents will follow to arrange and service loans and to conduct business
34 pursuant to this chapter.
35 (g) State the length of time the applicant has been engaged in the
36 business of a broker.
37 (h) Include a financial statement of the applicant and, if applicable,
38 satisfactory proof that the applicant will be able to maintain continuously
39 the net worth required pursuant to NRS 645B.115.
40 (i) Include any other information required pursuant to the regulations
41 adopted by the ~~commissioner~~ **commission** or an order of the
42 ~~commissioner~~ **commission**.
43 2. If a mortgage broker will conduct business at one or more branch
44 offices within this state, the mortgage broker must apply for a license for
45 each such branch office.
46 3. Except as otherwise provided in this chapter, the ~~commissioner~~
47 **commission** shall issue a license to an applicant as a mortgage broker if:
48 (a) The application complies with the requirements of this chapter;



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

3 (c) The applicant and each general partner, officer or director of the
4 applicant, if the applicant is a partnership, corporation or unincorporated
5 association:

6 (1) Has a good reputation for honesty, trustworthiness and integrity
7 and displays competence to transact the business of a mortgage broker in a
8 manner which safeguards the interests of the general public. The applicant
9 must submit satisfactory proof of these qualifications to the
10 ~~commissioner~~ **commission**.

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

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

15 (4) Has not had a license that was issued pursuant to the provisions of
16 this chapter or chapter 645E of NRS suspended or revoked within the 10
17 years immediately preceding the date of his application.

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

21 (6) Has not violated any provision of this chapter or chapter 645E of
22 NRS, a regulation adopted pursuant thereto or an order of the
23 ~~commissioner~~ **commission**.

24 **Sec. 22.** NRS 645B.023 is hereby amended to read as follows:

25 645B.023 1. A natural person who applies for the issuance or
26 renewal of a license as a mortgage broker shall submit to the
27 ~~commissioner~~ **commission** the statement prescribed by the welfare
28 division of the department of human resources pursuant to NRS 425.520.
29 The statement must be completed and signed by the applicant.

30 2. The ~~commissioner~~ **commission** shall include the statement
31 required pursuant to subsection 1 in:

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

34 (b) A separate form prescribed by the ~~commissioner~~ **commission**.

35 3. A license as a mortgage broker may not be issued or renewed by the
36 ~~commissioner~~ **commission** if the applicant is a natural person who:

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

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

43 4. If an applicant indicates on the statement submitted pursuant to
44 subsection 1 that he is subject to a court order for the support of a child and
45 is not in compliance with the order or a plan approved by the district
46 attorney or other public agency enforcing the order for the repayment of
47 the amount owed pursuant to the order, the ~~commissioner~~ **commission**
48 shall advise the applicant to contact the district attorney or other public



1 agency enforcing the order to determine the actions that the applicant may
2 take to satisfy the arrearage.

3 **Sec. 23.** NRS 645B.0243 is hereby amended to read as follows:
4 645B.0243 The ~~commissioner~~ *commission* may refuse to issue a
5 license to an applicant if the ~~commissioner~~ *commission* has reasonable
6 cause to believe that the applicant or any general partner, officer or director
7 of the applicant has, after October 1, 1999, employed or proposed to
8 employ a person as a mortgage agent or authorized or proposed to
9 authorize a person to be associated with a mortgage broker as a mortgage
10 agent at a time when the applicant or the general partner, officer or director
11 knew or, in light of all the surrounding facts and circumstances, reasonably
12 should have known that the person:

13 1. Had been convicted of, or entered a plea of nolo contendere to, a
14 felony or any crime involving fraud, misrepresentation or moral turpitude;
15 or

16 2. Had a financial services license or registration suspended or revoked
17 within the immediately preceding 10 years.

18 **Sec. 24.** NRS 645B.0245 is hereby amended to read as follows:
19 645B.0245 1. If an applicant is a natural person, the ~~commissioner~~
20 *commission* may refuse to issue a license to the applicant if the
21 ~~commissioner~~ *commission* has reasonable cause to believe that the
22 applicant would be subject to control by a relative who would be ineligible
23 to be licensed pursuant to this chapter.

24 2. If an applicant is a partnership, corporation or unincorporated
25 association, the ~~commissioner~~ *commission* may refuse to issue a license
26 to the applicant if:

27 (a) Any member of the partnership or any officer or director of the
28 corporation or unincorporated association has committed any act or
29 omission that would be cause for refusing to issue a license to a natural
30 person; or

31 (b) The ~~commissioner~~ *commission* has reasonable cause to believe
32 that any member of the partnership or any officer or director of the
33 corporation or unincorporated association would be subject to control by a
34 relative who would be ineligible to be licensed pursuant to this chapter.

35 **Sec. 25.** NRS 645B.0247 is hereby amended to read as follows:
36 645B.0247 The provisions of NRS 645B.0243 and 645B.0245 do not
37 limit the authority of the ~~commissioner~~ *commission* to refuse to issue a
38 license to an applicant for any other lawful reason or pursuant to any other
39 provision of law.

40 **Sec. 26.** NRS 645B.025 is hereby amended to read as follows:
41 645B.025 1. A mortgage broker shall post each license in a
42 conspicuous place in the office to which it pertains.

43 2. A mortgage broker may not transfer or assign a license to another
44 person, unless the ~~commissioner gives his~~ *commission gives its* written
45 approval.

46 **Sec. 27.** NRS 645B.035 is hereby amended to read as follows:
47 645B.035 1. A license entitles a licensee to engage only in ~~the~~ :
48 *(a) The* activities authorized by this chapter ~~it~~ ; *and*



1 *(b) The activities authorized by chapter 645E of NRS, unless the*
2 *licensee engages in such activities with the intent to circumvent or avoid*
3 *the provisions of this chapter. A licensee who engages in activities*
4 *authorized by chapter 645E of NRS remains subject to the provisions of*
5 *this chapter while engaged in such activities.*

6 2. The provisions of this chapter do not prohibit a licensee from:

7 (a) Holding a license as a mortgage company pursuant to chapter 645E
8 of NRS; or

9 (b) Conducting the business of a mortgage company and the business of
10 a mortgage broker in the same office or place of business.

11 **Sec. 28.** NRS 645B.050 is hereby amended to read as follows:

12 645B.050 1. A license issued pursuant to this chapter expires each
13 year on June 30, unless it is renewed. To renew a license, the licensee must
14 submit to the ~~commissioner~~ *commission* on or before June 30 of each
15 year:

16 (a) An application for renewal;

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

18 (c) If the licensee is a natural person, the statement required pursuant to
19 NRS 645B.023.

20 2. If the licensee fails to submit any item required pursuant to
21 subsection 1 to the ~~commissioner~~ *commission* on or before June 30 of
22 any year, the license is canceled. The ~~commissioner~~ *commission* may
23 reinstate a canceled license if the licensee submits to the ~~commissioner~~;
24 *commission*:

25 (a) An application for renewal;

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

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

29 (d) A reinstatement fee of \$200.

30 3. Except as otherwise provided in NRS 645B.016, a certificate of
31 exemption issued pursuant to this chapter expires each year on December
32 31, unless it is renewed. To renew a certificate of exemption, a person must
33 submit to the ~~commissioner~~ *commission* on or before December 31 of
34 each year:

35 (a) An application for renewal that includes satisfactory proof that the
36 person meets the requirements for an exemption from the provisions of this
37 chapter; and

38 (b) The fee required to renew the certificate of exemption.

39 4. If the person fails to submit any item required pursuant to
40 subsection 3 to the ~~commissioner~~ *commission* on or before December 31
41 of any year, the certificate of exemption is canceled. Except as otherwise
42 provided in NRS 645B.016, the ~~commissioner~~ *commission* may reinstate
43 a canceled certificate of exemption if the person submits to the
44 ~~commissioner~~ *commission*:

45 (a) An application for renewal that includes satisfactory proof that the
46 person meets the requirements for an exemption from the provisions of this
47 chapter;

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

49 (c) A reinstatement fee of \$100.



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1 5. A person must pay the following fees to apply for, to be issued or to
2 renew a license as a mortgage broker pursuant to this chapter:

3 (a) To file an original application or a license, \$1,500 for the principal
4 office and \$40 for each branch office. The person must also pay such
5 additional expenses incurred in the process of investigation as the
6 ~~commissioner~~ **commission** deems necessary. All money received by the
7 ~~commissioner~~ **commission** pursuant to this paragraph must be placed in
8 the investigative account created by NRS 232.545.

9 (b) To be issued a license, \$1,000 for the principal office and \$60 for
10 each branch office.

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

13 6. A person must pay the following fees to apply for or to renew a
14 certificate of exemption pursuant to this chapter:

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

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

17 7. To be issued a duplicate copy of any license or certificate of
18 exemption, a person must make a satisfactory showing of its loss and pay a
19 fee of \$10.

20 8. Except as otherwise provided in this chapter, all fees received
21 pursuant to this chapter must be deposited in the state treasury for credit to
22 the state general fund.

23 **Sec. 29.** NRS 645B.060 is hereby amended to read as follows:

24 645B.060 1. Subject to the administrative control of the director of
25 the department of business and industry, the ~~commissioner~~ **commission**
26 shall exercise general supervision and control over mortgage brokers doing
27 business in this state.

28 2. In addition to the other duties imposed upon ~~him~~ **the commission**
29 by law, the ~~commissioner~~ **commission** shall:

30 (a) Adopt **any** regulations ~~prescribing standards for determining~~
31 ~~whether a mortgage broker has maintained adequate supervision of a~~
32 ~~mortgage agent pursuant to this chapter.~~

33 ~~—(b) Adopt any other regulations~~ that are necessary to carry out the
34 provisions of this chapter, except as to loan brokerage fees.

35 ~~(e)~~ **(b)** Conduct such investigations as may be necessary to determine
36 whether any person has violated any provision of this chapter, a regulation
37 adopted pursuant to this chapter or an order of the ~~commissioner~~.

38 ~~(d)~~ **commission.**

39 **(c)** Conduct an annual examination of each mortgage broker doing
40 business in this state.

41 ~~(e)~~ **The annual examination must include, without limitation, a**
42 **formal exit review with the mortgage broker. The commission shall adopt**
43 **regulations prescribing:**

44 **(1) Standards for determining the rating of each mortgage broker**
45 **based upon the results of the annual examination; and**

46 **(2) Procedures for resolving any objections made by the mortgage**
47 **broker to the results of the annual examination. The results of the**
48 **annual examination may not be opened to public inspection pursuant to**



1 *NRS 645B.090 until any objections made by the mortgage broker have*
2 *been decided by the commission.*

3 (d) Conduct such other examinations, periodic or special audits,
4 investigations and hearings as may be necessary and proper for the
5 efficient administration of the laws of this state regarding mortgage brokers
6 and mortgage agents. The ~~commissioner~~ *commission* shall adopt
7 regulations specifying the general guidelines that will be followed when a
8 periodic or special audit of a mortgage broker is conducted pursuant to this
9 chapter.

10 ~~(e)~~ (e) Classify as confidential certain records and information
11 obtained by the ~~division~~ *commission* when those matters are obtained
12 from a governmental agency upon the express condition that they remain
13 confidential. This paragraph does not limit examination by the legislative
14 auditor.

15 ~~(f)~~ (f) Conduct such examinations and investigations as are necessary
16 to ensure that mortgage brokers meet the requirements of this chapter for
17 obtaining a license, both at the time of the application for a license and
18 thereafter on a continuing basis.

19 3. For each special audit, investigation or examination, a mortgage
20 broker shall pay a fee based on the ~~rate established~~ *rates that the*
21 *commission establishes by regulation. In establishing such rates, the*
22 *commission shall consider:*

23 (a) *The complexity of the various audits, investigations and*
24 *examinations to which the rates apply;*

25 (b) *The skill required to conduct the audits, investigations and*
26 *examinations;*

27 (c) *The expenses associated with conducting the audits, investigations*
28 *and examinations and preparing reports;*

29 (d) *The rates established by the commissioner of financial institutions*
30 *pursuant to NRS 658.101 ~~for~~ for supervision and examination of other*
31 *financial institutions; and*

32 (e) *Any other factors the commission deems relevant.*

33 **Sec. 30.** NRS 645B.070 is hereby amended to read as follows:

34 645B.070 1. In the conduct of any examination, periodic or special
35 audit, investigation or hearing, the ~~commissioner~~ *commission* may:

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

37 (b) Administer oaths.

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

42 2. Any person subpoenaed under the provisions of this section who
43 willfully refuses or willfully neglects to appear at the time and place named
44 in the subpoena or to produce books, records or papers required by the
45 ~~commissioner~~ *commission*, or who refuses to be sworn or answer as a
46 witness, is guilty of a misdemeanor and shall be punished as provided in
47 NRS 645B.950.

48 3. The ~~commissioner~~ *commission* may assess against and collect
49 from a person all costs, including, without limitation, reasonable attorney's



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1 fees, that are attributable to any examination, periodic or special audit,
2 investigation or hearing that is conducted to examine or investigate the
3 conduct, activities or business of the person pursuant to this chapter.

4 **Sec. 31.** NRS 645B.075 is hereby amended to read as follows:

5 645B.075 1. *The commission shall employ a certified public*
6 *accountant to review and conduct independent audits and examinations*
7 *of mortgage brokers. The commission shall levy an assessment upon*
8 *each mortgage broker to cover all the costs related to the employment of*
9 *the certified public accountant and the performance of the audits and*
10 *examinations.*

11 2. Each mortgage broker shall pay the assessment levied pursuant to
12 ~~NRS 658.055~~ *this section.*

13 3. Each mortgage broker and mortgage agent shall cooperate fully with
14 the audits and examinations performed pursuant ~~thereto~~ *to this section.*

15 4. *The assessments collected by the commission pursuant to this*
16 *section must be deposited in the state treasury for credit to the account*
17 *for auditing mortgage brokers and mortgage companies, which is hereby*
18 *created in the state general fund. The commission shall use the money in*
19 *the account, and may advance money from the account, for the purposes*
20 *set forth in this section and NRS 645E.320.*

21 **Sec. 32.** NRS 645B.080 is hereby amended to read as follows:

22 645B.080 1. Each mortgage broker shall keep and maintain at all
23 times at each location where the mortgage broker conducts business in this
24 state complete and suitable records of all mortgage transactions made by
25 the mortgage broker at that location. Each mortgage broker shall also keep
26 and maintain at all times at each such location all original books, papers
27 and data, or copies thereof, clearly reflecting the financial condition of the
28 business of the mortgage broker.

29 2. Each mortgage broker shall submit to the ~~commissioner~~
30 *commission* each month a report of the mortgage broker's activity for the
31 previous month. The report must:

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

34 (b) Include any information required pursuant to NRS 645B.260 or
35 pursuant to the regulations adopted by the ~~commissioner~~ *commission*;
36 and

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

39 3. The ~~commissioner~~ *commission* may adopt regulations prescribing
40 accounting procedures for mortgage brokers handling trust accounts and
41 the requirements for keeping records relating to such accounts.

42 **Sec. 33.** NRS 645B.085 is hereby amended to read as follows:

43 645B.085 1. Except as otherwise provided in this section, not later
44 than 60 days after the last day of each fiscal year for a mortgage broker, the
45 mortgage broker shall submit to the ~~commissioner~~ *commission* a
46 financial statement that:

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

48 (b) Has been prepared from the books and records of the mortgage
49 broker by an independent public accountant who holds a permit to engage



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1 in the practice of public accounting in this state that has not been revoked
2 or suspended.

3 2. The ~~feommisioner~~ *commission* may grant a reasonable extension
4 for the submission of a financial statement pursuant to this section if a
5 mortgage broker requests such an extension before the date on which the
6 financial statement is due.

7 3. If a mortgage broker maintains any accounts described in subsection
8 1 of NRS 645B.175, the financial statement submitted pursuant to this
9 section must be audited. If a mortgage broker maintains any accounts
10 described in subsection 4 of NRS 645B.175, those accounts must be
11 audited. The public accountant who prepares the report of an audit shall
12 submit a copy of the report to the ~~feommisioner~~ *commission* at the same
13 time that he submits the report to the mortgage broker.

14 4. The ~~feommisioner~~ *commission* shall adopt regulations prescribing
15 the scope of an audit conducted pursuant to subsection 3.

16 **Sec. 34.** NRS 645B.090 is hereby amended to read as follows:

17 645B.090 1. Except as otherwise provided in this section or by
18 specific statute, all papers, documents, reports and other written
19 instruments filed with the ~~feommisioner~~ *commission* pursuant to this
20 chapter are open to public inspection.

21 2. Except as otherwise provided in subsection 3, the ~~feommisioner~~
22 *commission* may withhold from public inspection or refuse to disclose to a
23 person, for such time as the ~~feommisioner~~ *commission* considers
24 necessary, any information that, in ~~this judgment,~~ *the judgment of the*
25 *commission*, would:

26 (a) Impede or otherwise interfere with an investigation that is currently
27 pending against a mortgage broker;

28 (b) Have an undesirable effect on the welfare of the public or the
29 welfare of any mortgage broker or mortgage agent; or

30 (c) Give any mortgage broker a competitive advantage over any other
31 mortgage broker.

32 3. The ~~feommisioner~~ *commission* shall disclose the following
33 information concerning a mortgage broker to any person who requests it:

34 (a) The findings and results of any investigation which has been
35 completed during the immediately preceding 5 years against the mortgage
36 broker pursuant to the provisions of this chapter and which has resulted in
37 a finding by the ~~feommisioner~~ *commission* that the mortgage broker
38 committed a violation of a provision of this chapter, a regulation adopted
39 pursuant to this chapter or an order of the ~~feommisioner~~ *commission*;
40 and

41 (b) The nature of any disciplinary action that has been taken during the
42 immediately preceding 5 years against the mortgage broker pursuant to the
43 provisions of this chapter.

44 **Sec. 35.** NRS 645B.095 is hereby amended to read as follows:

45 645B.095 1. As used in this section, "change of control" means:

46 (a) A transfer of voting stock which results in giving a person, directly
47 or indirectly, the power to direct the management and policy of a mortgage
48 broker; or



1 (b) A transfer of at least 25 percent of the outstanding voting stock of a
2 mortgage broker.

3 2. The ~~feommisioner~~ *commission* must be notified of a transfer of 5
4 percent or more of the outstanding voting stock of a mortgage broker and
5 must approve a transfer of voting stock of a mortgage broker which
6 constitutes a change of control.

7 3. The person who acquires stock resulting in a change of control of
8 the mortgage broker shall apply to the ~~feommisioner~~ *commission* for
9 approval of the transfer. The application must contain information which
10 shows that the requirements of this chapter for obtaining a license will be
11 satisfied after the change of control. Except as otherwise provided in
12 subsection 4, the ~~feommisioner~~ *commission* shall conduct an
13 investigation to determine whether those requirements will be satisfied. If,
14 after the investigation, the ~~feommisioner~~ *commission* denies the
15 application, ~~he~~ *the commission* may forbid the applicant from
16 participating in the business of the mortgage broker.

17 4. A mortgage broker may submit a written request to the
18 ~~feommisioner~~ *commission* to waive an investigation pursuant to
19 subsection 3. The ~~feommisioner~~ *commission* may grant a waiver if the
20 applicant has undergone a similar investigation by a state or federal agency
21 in connection with the licensing of or his employment with a financial
22 institution.

23 **Sec. 36.** NRS 645B.115 is hereby amended to read as follows:

24 645B.115 1. If a mortgage broker maintains any accounts described
25 in NRS 645B.175, the mortgage broker and his mortgage agents shall not
26 engage in any activity that is authorized pursuant to this chapter, unless the
27 mortgage broker maintains continuously a minimum net worth in the
28 following amount based upon the average monthly balance of the accounts
29 maintained by the mortgage broker pursuant to NRS 645B.175:

30 AVERAGE MONTHLY BALANCE	31 MINIMUM NET 32 WORTH REQUIRED
33 \$100,000 or less	34 \$25,000
35 More than \$100,000 but not more than \$250,000	36 50,000
37 More than \$250,000 but not more than \$500,000	38 100,000
39 More than \$500,000 but not more than \$1,000,000	40 200,000
41 More than \$1,000,000	42 250,000

43 The ~~feommisioner~~ *commission* shall determine the appropriate initial
44 minimum net worth that must be maintained by the mortgage broker
45 pursuant to this section based upon the expected average monthly balance
46 of the accounts maintained by the mortgage broker pursuant to
47 NRS 645B.175. After determining the initial minimum net worth that must
48 be maintained by the mortgage broker, the ~~feommisioner~~ *commission*
49 shall, on an annual basis, determine the appropriate minimum net worth
that must be maintained by the mortgage broker pursuant to this section
based upon the average monthly balance of the accounts maintained by the
mortgage broker pursuant to NRS 645B.175.

2. If requested by the ~~feommisioner~~ *commission*, a mortgage broker
who is subject to the provisions of this section and his mortgage agents
shall submit to the ~~feommisioner~~ *commission* or allow the



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1 ~~commissioner~~ **commission** to examine any documentation or other
2 evidence that is related to determining the net worth of the mortgage
3 broker.

4 3. The ~~commissioner~~ **commission**:

5 (a) Shall adopt regulations prescribing standards for determining the net
6 worth of a mortgage broker; and

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

9 **Sec. 37.** NRS 645B.170 is hereby amended to read as follows:

10 645B.170 1. All money paid to a mortgage broker and his mortgage
11 agents for payment of taxes or insurance premiums on real property which
12 secures any loan arranged by the mortgage broker must be deposited in an
13 insured depository financial institution and kept separate, distinct and apart
14 from money belonging to the mortgage broker. Such money, when
15 deposited, is to be designated as an "impound trust account" or under some
16 other appropriate name indicating that the accounts are not the money of
17 the mortgage broker.

18 2. The mortgage broker has a fiduciary duty to each debtor with
19 respect to the money in an impound trust account.

20 3. The mortgage broker shall, upon reasonable notice, account to any
21 debtor whose real property secures a loan arranged by the mortgage broker
22 for any money which that person has paid to the mortgage broker for the
23 payment of taxes or insurance premiums on the real property.

24 4. The mortgage broker shall, upon reasonable notice, account to the
25 ~~commissioner~~ **commission** for all money in an impound trust account.

26 5. A mortgage broker shall:

27 (a) Require contributions to an impound trust account in an amount
28 reasonably necessary to pay the obligations as they become due.

29 (b) Within 30 days after the completion of the annual review of an
30 impound trust account, notify the debtor:

31 (1) Of the amount by which the contributions exceed the amount
32 reasonably necessary to pay the annual obligations due from the account;
33 and

34 (2) That the debtor may specify the disposition of the excess money
35 within 20 days after receipt of the notice. If the debtor fails to specify such
36 a disposition within that time, the mortgage broker shall maintain the
37 excess money in the account.

38 This subsection does not prohibit a mortgage broker from requiring
39 additional amounts to be paid into an impound trust account to recover a
40 deficiency that exists in the account.

41 6. A mortgage broker shall not make payments from an impound trust
42 account in a manner that causes a policy of insurance to be canceled or
43 causes property taxes or similar payments to become delinquent.

44 **Sec. 38.** NRS 645B.175 is hereby amended to read as follows:

45 645B.175 1. Except as otherwise provided in this section, all money
46 received by a mortgage broker and his mortgage agents from an investor to
47 acquire ownership of or a beneficial interest in a loan secured by a lien on
48 real property must:

49 (a) Be deposited in:



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- 1 (1) An insured depository financial institution; or
2 (2) An escrow account which is controlled by a person who is
3 independent of the parties and subject to instructions regarding the account
4 which are approved by the parties.
5 (b) Be kept separate from money:
6 (1) Belonging to the mortgage broker in an account appropriately
7 named to indicate that the money does not belong to the mortgage broker.
8 (2) Received pursuant to subsection 4.
9 2. Except as otherwise provided in this section, the amount held in
10 trust pursuant to subsection 1 must be released:
11 (a) Upon completion of the loan, including proper recordation of the
12 respective interests or release, or upon completion of the transfer of the
13 ownership or beneficial interest therein, to the debtor or his designee less
14 the amount due the mortgage broker for the payment of any fee or service
15 charge;
16 (b) If the loan or the transfer thereof is not consummated, to each
17 investor who furnished the money held in trust; or
18 (c) Pursuant to any instructions regarding the escrow account.
19 3. The amount held in trust pursuant to subsection 1 must not be
20 released to the debtor or his designee unless:
21 (a) The amount released is equal to the total amount of money which is
22 being loaned to the debtor for that loan, less the amount due the mortgage
23 broker for the payment of any fee or service charge; and
24 (b) The mortgage broker has provided a written instruction to a title
25 agent or title insurer requiring that a lender's policy of title insurance or
26 appropriate title endorsement, which names as an insured each investor
27 who owns a beneficial interest in the loan, be issued for the real property
28 securing the loan.
29 4. Except as otherwise provided in this section, all money paid to a
30 mortgage broker and his mortgage agents by a person in full or in partial
31 payment of a loan secured by a lien on real property **†** must:
32 (a) Be deposited in:
33 (1) An insured depository financial institution; or
34 (2) An escrow account which is controlled by a person who is subject
35 to instructions regarding the account which are approved by the parties.
36 (b) Be kept separate from money:
37 (1) Belonging to the mortgage broker in an account appropriately
38 named to indicate that it does not belong to the mortgage broker.
39 (2) Received pursuant to subsection 1.
40 5. Except as otherwise provided in this section, the amount held in
41 trust pursuant to subsection 4:
42 (a) Must be released, upon the deduction and payment of any fee or
43 service charge due the mortgage broker, to each investor who owns a
44 beneficial interest in the loan in exact proportion to the beneficial interest
45 that he owns in the loan; and
46 (b) Must not be released, in any proportion, to an investor who owns a
47 beneficial interest in the loan, unless the amount described in paragraph (a)
48 is also released to every other investor who owns a beneficial interest in
49 the loan.



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1 6. An investor may waive, in writing, the right to receive one or more
2 payments, or portions thereof, that are released to other investors in the
3 manner set forth in subsection 5. A mortgage broker or mortgage agent
4 shall not act as the attorney in fact or the agent of an investor with respect
5 to the giving of a written waiver pursuant to this subsection. Any such
6 written waiver applies only to the payment or payments, or portions
7 thereof, that are included in the written waiver and does not affect the right
8 of the investor to:

9 (a) Receive the waived payment or payments, or portions thereof, at a
10 later date; or

11 (b) Receive all other payments in full and in accordance with the
12 provisions of subsection 5.

13 7. Upon reasonable notice, any mortgage broker described in this
14 section shall:

15 (a) Account to any investor or debtor who has paid to the mortgage
16 broker or his mortgage agents money that is required to be deposited in a
17 trust account pursuant to this section; and

18 (b) Account to the ~~commissioner~~ *commission* for all money which the
19 mortgage broker and his mortgage agents have received from each investor
20 or debtor and which the mortgage broker is required to deposit in a trust
21 account pursuant to this section.

22 8. Money received by a mortgage broker and his mortgage agents
23 pursuant to this section from a person who is not associated with the
24 mortgage broker may be held in trust for not more than 45 days before an
25 escrow account must be opened in connection with the loan. If, within this
26 45-day period, the loan or the transfer therefor is not consummated, the
27 money must be returned within 24 hours. If the money is so returned, it
28 may not be reinvested with the mortgage broker for at least 15 days.

29 9. If a mortgage broker or a mortgage agent receives any money
30 pursuant to this section, the mortgage broker or mortgage agent, after the
31 deduction and payment of any fee or service charge due the mortgage
32 broker, shall not release the money to:

33 (a) Any person who does not have a contractual or legal right to receive
34 the money; or

35 (b) Any person who has a contractual right to receive the money if the
36 mortgage broker or mortgage agent knows or, in light of all the
37 surrounding facts and circumstances, reasonably should know that the
38 person's contractual right to receive the money violates any provision of
39 this chapter or a regulation adopted pursuant to this chapter.

40 **Sec. 39.** NRS 645B.185 is hereby amended to read as follows:

41 645B.185 1. A mortgage broker or mortgage agent shall not accept
42 money from an investor to acquire ownership of or a beneficial interest in a
43 loan secured by a lien on real property unless:

44 (a) The investor and the mortgage broker or mortgage agent sign and
45 date a disclosure form that complies with the provisions of this section; and

46 (b) The mortgage broker or mortgage agent gives the investor the
47 original disclosure form that has been signed and dated.

48 2. An investor and a mortgage broker or mortgage agent must sign and
49 date a separate disclosure form pursuant to subsection 1 for each loan in



1 which the investor invests his money. A mortgage broker or mortgage
2 agent shall not act as the attorney in fact or the agent of an investor with
3 respect to the signing or dating of any disclosure form.

4 3. In addition to the requirements of subsections 1 and 2, a mortgage
5 broker or mortgage agent shall not accept money from an investor to
6 acquire ownership of or a beneficial interest in a loan secured by a lien on
7 real property, unless the mortgage broker or mortgage agent gives the
8 investor a written form by which the investor may request that the
9 mortgage broker authorize the ~~fe commissioner~~ *commission* to release the
10 mortgage broker's financial statement to the investor. Such a form must be
11 given to the investor for each loan. If the investor, before giving money to
12 the mortgage broker for the loan, requests that the mortgage broker
13 authorize the release of a financial statement pursuant to this subsection,
14 the mortgage broker and his mortgage agents shall not accept money from
15 the investor for that loan until the mortgage broker receives notice from the
16 ~~fe commissioner~~ *commission* that the financial statement has been released
17 to the investor.

18 4. An investor and a mortgage broker or mortgage agent may not agree
19 to alter or waive the provisions of this section by contract or other
20 agreement. Any such contract or agreement is void and must not be given
21 effect to the extent that it violates the provisions of this section.

22 5. A mortgage broker shall retain a copy of each disclosure form that is
23 signed and dated pursuant to subsection 1 for the period that is prescribed
24 in the regulations adopted by the ~~fe commissioner~~ *commission*.

25 6. The standard provisions for each such disclosure form must include,
26 without limitation, statements:

27 (a) Explaining the risks of investing through the mortgage broker,
28 including, without limitation:

- 29 (1) The possibility that the debtor may default on the loan;
30 (2) The nature of the losses that may result through foreclosure;
31 (3) The fact that payments of principal and interest are not guaranteed
32 and that the investor may lose the entire amount of principal that he has
33 invested;
34 (4) The fact that the mortgage broker is not a depository financial
35 institution and that the investment is not insured by any depository
36 insurance and is not otherwise insured or guaranteed by the federal or state
37 government; and

38 (5) Any other information required pursuant to the regulations
39 adopted by the ~~fe commissioner~~ *commission*; and

40 (b) Disclosing to the investor the following information if the
41 information is known or, in light of all the surrounding facts and
42 circumstances, reasonably should be known to the mortgage broker:

- 43 (1) Whether the real property that will secure the loan is encumbered
44 by any other liens and, if so, the priority of each such lien, the amount of
45 debt secured by each such lien and the current status of that debt,
46 including, without limitation, whether the debt is being paid or is in
47 default;



- 1 (2) Whether the mortgage broker or any general partner, officer,
2 director or mortgage agent of the mortgage broker has any direct or indirect
3 interest in the debtor;
- 4 (3) Whether any disciplinary action has been taken by the
5 ~~commissioner~~ *commission* against the mortgage broker or any general
6 partner, officer or director of the mortgage broker within the preceding 12
7 months, and the nature of any such disciplinary action;
- 8 (4) Whether the mortgage broker or any general partner, officer or
9 director of the mortgage broker has been convicted within the preceding 12
10 months for violating any law, ordinance or regulation that involves fraud,
11 misrepresentation or a deceitful, fraudulent or dishonest business practice;
12 and
- 13 (5) Any other information required pursuant to the regulations
14 adopted by the ~~commissioner~~ *commission*.
- 15 7. Whether or not a mortgage broker is required to disclose any
16 information to investors through a disclosure form that complies with the
17 provisions of this section, the ~~commissioner~~ *commission* may order the
18 mortgage broker to disclose to investors or to the general public any
19 information concerning the mortgage broker, any general partner, officer,
20 director or mortgage agent of the mortgage broker or any loan in which the
21 mortgage broker is or has been involved ~~if, if the commissioner, in his~~
22 ~~judgment, if, in the judgment of the commission, it~~ believes that the
23 information:
- 24 (a) Would be of material interest to a reasonable investor who is
25 deciding whether to invest money with the mortgage broker; or
- 26 (b) Is necessary to protect the welfare of the public.
- 27 8. In carrying out the provisions of subsection 7, the ~~commissioner~~
28 *commission* may, without limitation, order a mortgage broker to include
29 statements of disclosure prescribed by the ~~commissioner~~ *commission*:
- 30 (a) In the disclosure form that must be given to investors pursuant to
31 subsection 1;
- 32 (b) In additional disclosure forms that must be given to investors before
33 or after they have invested money through the mortgage broker; or
- 34 (c) In any advertisement that the mortgage broker uses in carrying on
35 his business.
- 36 9. The ~~commissioner~~ *commission*:
- 37 (a) Shall adopt regulations prescribing the period for which a mortgage
38 broker must retain a copy of each disclosure form that is given to investors;
39 and
- 40 (b) May adopt any other regulations that are necessary to carry out the
41 provisions of this section, including, without limitation, regulations
42 specifying the size of print and any required formatting or typesetting that a
43 mortgage broker must use in any form that is given to investors.
- 44 **Sec. 40.** NRS 645B.189 is hereby amended to read as follows:
45 645B.189 1. Each mortgage broker shall include in each
46 advertisement that the mortgage broker uses in carrying on his business:
47 (a) A statement of disclosure in substantially the following form:



1 Money invested through a mortgage broker is not guaranteed to earn
2 any interest or return and is not insured.

3
4 (b) Any other statements of disclosure required pursuant to the
5 regulations adopted by the ~~feommissioner~~ *commission* or required
6 pursuant to an order of the ~~feommissioner~~ *commission* entered in
7 accordance with subsections 7 and 8 of NRS 645B.185.

8 2. Each mortgage broker shall submit any proposed advertisement that
9 the mortgage broker intends to use in carrying on his business to the
10 ~~feommissioner~~ *commission* for approval.

11 3. In addition to the requirements set forth in this chapter, each
12 advertisement that a mortgage broker uses in carrying on his business must
13 comply with the requirements of:

14 (a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade
15 practices; and

16 (b) Any applicable federal statute or regulation concerning deceptive
17 advertising and the advertising of interest rates.

18 4. If a mortgage broker violates any provision of NRS 598.0903 to
19 598.0999, inclusive, concerning deceptive trade practices or any federal
20 statute or regulation concerning deceptive advertising or the advertising of
21 interest rates, in addition to any sanction or penalty imposed by state or
22 federal law upon the mortgage broker for the violation, the ~~feommissioner~~
23 *commission* may take any disciplinary action set forth in subsection 2 of
24 NRS 645B.670 against the mortgage broker.

25 5. The ~~feommissioner~~ *commission* may adopt any regulations that are
26 necessary to carry out the provisions of this section.

27 **Sec. 41.** NRS 645B.260 is hereby amended to read as follows:

28 645B.260 1. If a mortgage broker maintains any accounts described
29 in subsection 4 of NRS 645B.175 in which the mortgage broker deposits
30 payments from a debtor on a loan secured by a lien on real property and, on
31 the last day of any month, the debtor has failed to make two or more
32 consecutive payments in accordance with the terms of the loan, the
33 mortgage broker shall:

34 (a) Include in the report that the mortgage broker submits to the
35 ~~feommissioner~~ *commission* pursuant to subsection 2 of NRS 645B.080
36 the information relating to delinquencies in payments and defaults that is
37 required by the regulations adopted pursuant to subsection 2;

38 (b) Not later than 15 days after the last day of each such month, mail to
39 the last known address of each investor who owns a beneficial interest in
40 the loan a notice containing the information relating to delinquencies in
41 payments and defaults that is required by the regulations adopted pursuant
42 to subsection 2; and

43 (c) Comply with the provisions of this section each month on a
44 continuing basis until:

45 (1) The debtor or his designee remedies the delinquency in payments
46 and any default; or

47 (2) The lien securing the loan is extinguished.

48 2. The ~~feommissioner~~ *commission*:



1 (a) Shall adopt regulations prescribing the information relating to
2 delinquencies in payments and defaults that a mortgage broker must
3 include in his report to the ~~commissioner~~ *commission* and in the notice
4 mailed to investors pursuant to subsection 1. Such regulations may provide
5 for variations between the information that a mortgage broker must include
6 in his report to the ~~commissioner~~ *commission* and the information that a
7 mortgage broker must include in the notice mailed to investors.

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

10 **Sec. 42.** NRS 645B.300 is hereby amended to read as follows:

11 645B.300 1. Except as otherwise provided in subsection 4, a
12 mortgage broker or mortgage agent shall not accept money from an
13 investor to acquire ownership of or a beneficial interest in a loan secured
14 by a lien on real property, unless the mortgage broker has obtained a
15 written appraisal of the real property securing the loan.

16 2. The written appraisal of the real property:

17 (a) Must be performed by an appraiser who is authorized to perform
18 appraisals in this state; and

19 (b) Must not be performed by the mortgage broker or a mortgage agent,
20 unless the mortgage broker or mortgage agent is certified or licensed to
21 perform such an appraisal pursuant to chapter 645C of NRS.

22 3. A copy of the written appraisal of the real property must be:

23 (a) Maintained at each office of the mortgage broker where money is
24 accepted from an investor to acquire ownership of or a beneficial interest in
25 a loan secured by a lien on the real property; and

26 (b) Made available during normal business hours for inspection by each
27 such investor and the ~~commissioner~~ *commission*.

28 4. A mortgage broker is not required to obtain a written appraisal of
29 the real property pursuant to this section if the mortgage broker obtains a
30 written waiver of the appraisal from each investor who acquires ownership
31 of or a beneficial interest in a loan secured by a lien on the real property. A
32 mortgage broker or mortgage agent shall not act as the attorney in fact or
33 the agent of an investor with respect to the giving of a written waiver
34 pursuant to this subsection.

35 5. As used in this section, "appraisal" has the meaning ascribed to it in
36 NRS 645C.030.

37 **Sec. 43.** NRS 645B.330 is hereby amended to read as follows:

38 645B.330 1. A mortgage broker or mortgage agent shall not engage
39 in any act or transaction on behalf of an investor pursuant to a power of
40 attorney unless:

41 (a) The power of attorney is executed for the sole purpose of providing
42 services for ~~loans~~ *not more than one specific loan* in which the investor
43 owns a beneficial interest; and

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

45 (1) Have been approved by the ~~commissioner~~ *commission*;

46 (2) Expressly prohibit the mortgage broker and his mortgage agents
47 from engaging in any act or transaction that subordinates the priority of a
48 recorded deed of trust unless, before such an act or transaction, the



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1 mortgage broker obtains written approval for the subordination from
2 the investor;

3 (3) Expressly prohibit the mortgage broker and his mortgage agents
4 from using or releasing any money in which the investor owns a beneficial
5 interest with regard to ~~the~~ *the* specific loan for a purpose that is not directly
6 related to providing services for the loan unless, before any such money is
7 used or released for another purpose, the mortgage broker obtains written
8 approval from the investor to use or release the money for the other
9 purpose; and

10 (4) Expressly provide that the power of attorney is effective *only* for
11 ~~for a period of not more than 6 months unless, before the date on which the~~
12 ~~period expires, the mortgage broker obtains written approval from the~~
13 ~~investor to extend the power of attorney for an additional period of not~~
14 ~~more than 6 months. The mortgage broker may, on a continuing basis,~~
15 ~~obtain written approval from the investor to extend the power of attorney~~
16 ~~for one or more consecutive periods of not more than 6 months each,~~
17 ~~except that the investor may execute only one written approval for an~~
18 ~~extension during each such 6 month period.~~ *the term of the specific loan.*

19 2. A mortgage broker or mortgage agent shall not act as the attorney in
20 fact or the agent of an investor with respect to the giving of written
21 approval pursuant to paragraph (b) of subsection 1. An investor and a
22 mortgage broker or mortgage agent may not agree to alter or waive the
23 provisions of this section by contract or other agreement. Any such
24 contract or agreement is void and must not be given effect to the extent that
25 it violates the provisions of this section.

26 3. ~~the~~ *Except as otherwise provided in subsection 4, a* power of
27 attorney which designates a mortgage broker or mortgage agent as the
28 attorney in fact or the agent of an investor and which violates the
29 provisions of this section is void and must not be given effect with regard
30 to any act or transaction that occurs on or after October 1, 1999, whether or
31 not the power of attorney is or has been executed by the investor before, on
32 or after October 1, 1999.

33 4. *The provisions of subsection 3 do not apply to a power of attorney*
34 *that designates a mortgage broker or mortgage agent as the attorney in*
35 *fact or the agent of an investor if the power of attorney:*

36 (a) *Was executed before July 1, 2001; and*

37 (b) *Complied with the provisions of this section that were in effect on*
38 *October 1, 1999.*

39 5. The provisions of this section do not limit the right of an investor to
40 include provisions in a power of attorney that are more restrictive than the
41 provisions set forth in subsection 1.

42 **Sec. 44.** NRS 645B.450 is hereby amended to read as follows:

43 645B.450 1. A person shall not act as or provide any of the services
44 of a mortgage agent or otherwise engage in, carry on or hold himself out as
45 engaging in or carrying on the activities of a mortgage agent if the person:

46 (a) Has been convicted of, or entered a plea of nolo contendere to, a
47 felony or any crime involving fraud, misrepresentation or moral turpitude;
48 or



- 1 (b) Has had a financial services license or registration suspended or
2 revoked within the immediately preceding 10 years.
- 3 2. A mortgage agent may not be associated with or employed by more
4 than one mortgage broker at the same time.
- 5 3. A mortgage broker shall register with the ~~{division}~~ **commission**
6 each person who will be associated with or employed by the mortgage
7 broker as a mortgage agent. To register a person as a mortgage agent, a
8 mortgage broker must:
- 9 (a) Submit to the ~~{division}~~ **commission** a registration form which is
10 provided by the ~~{division}~~ **commission** and which:
- 11 (1) States the name, residence address and business address of the
12 person;
- 13 (2) Is signed by the person;
- 14 (3) Includes a provision by which the person gives his written
15 consent to an investigation of his credit history, criminal history and
16 background; and
- 17 (4) Includes any other information or supporting materials required
18 by the regulations adopted by the ~~{commissioner}~~ **commission**. Such
19 information or supporting materials may include, without limitation, a
20 complete set of fingerprints from the person, the social security number of
21 the person and other forms of identification of the person; and
- 22 (b) Pay the actual costs and expenses incurred by the ~~{division}~~
23 **commission** to investigate the credit history, criminal history and
24 background of the person. All money received pursuant to this paragraph
25 must be placed in the investigative account created by NRS 232.545.
- 26 4. A mortgage broker shall not employ a person as a mortgage agent or
27 authorize a person to be associated with the mortgage broker as a mortgage
28 agent if the mortgage broker has not registered the person with the
29 ~~{division}~~ **commission** pursuant to subsection 3 or if the person:
- 30 (a) 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 or
- 33 (b) Has had a financial services license or registration suspended or
34 revoked within the immediately preceding 10 years.
- 35 5. If a mortgage agent terminates his association or employment with a
36 mortgage broker for any reason, the mortgage broker shall, not later than
37 the ~~{end of the next}~~ **third** business day following the date of termination:
- 38 (a) Deliver to the mortgage agent or send by certified mail to the last
39 known residence address of the mortgage agent a written statement which
40 advises him that his termination is being reported to the ~~{division}~~
41 **commission**; and
- 42 (b) Deliver or send by certified mail to the ~~{division}~~ **commission**:
- 43 (1) A written statement of the circumstances surrounding the
44 termination; and
- 45 (2) A copy of the written statement that the mortgage broker delivers
46 or mails to the mortgage agent pursuant to paragraph (a).



1 **Sec. 45.** NRS 645B.460 is hereby amended to read as follows:

2 645B.460 1. A mortgage broker shall ~~1.~~

3 ~~1. Teach his mortgage agents the fundamentals of mortgage lending~~

4 ~~and the ethics of the profession; and~~

5 ~~2. Supervise~~ *exercise reasonable supervision over* the activities of his

6 mortgage agents . ~~and the operation of his business.~~ *Such reasonable*

7 *supervision must include, as appropriate:*

8 (a) *The establishment of written or oral policies and procedures for*

9 *his mortgage agents;*

10 (b) *Continuing education and training for his mortgage agents in the*

11 *requirements of this chapter and the regulations of the commission and*

12 *other forms of continuing education and training for his mortgage*

13 *agents; and*

14 (c) *The establishment of a system to review, oversee and inspect the*

15 *activities of his mortgage agents, including, without limitation:*

16 (1) *Transactions handled by his mortgage agents pursuant to this*

17 *chapter;*

18 (2) *Communications between his mortgage agents and a party to*

19 *such a transaction;*

20 (3) *Documents prepared by his mortgage agents that may have a*

21 *material effect upon the rights or obligations of a party to such a*

22 *transaction; and*

23 (4) *The handling by his mortgage agents of any fee, deposit or*

24 *money paid to the mortgage broker or his mortgage agents or held in*

25 *trust by the mortgage broker or his mortgage agents pursuant to this*

26 *chapter.*

27 2. *The commission shall allow a mortgage broker to take into*

28 *consideration the total number of mortgage agents associated with or*

29 *employed by the mortgage broker when the mortgage broker determines*

30 *the form and extent of the policies and procedures for those mortgage*

31 *agents, the continuing education and training for those mortgage agents,*

32 *and the system to review, oversee and inspect the activities of those*

33 *mortgage agents.*

34 3. *The commission may adopt regulations prescribing standards for*

35 *determining whether a mortgage broker has exercised reasonable*

36 *supervision over the activities of a mortgage agent pursuant to this*

37 *section.*

38 **Sec. 46.** NRS 645B.600 is hereby amended to read as follows:

39 645B.600 1. A person may ~~1. in accordance with the regulations~~

40 ~~adopted pursuant to subsection 2.~~ file *with the commission* a complaint

41 ~~with the commissioner.~~ alleging that another person has violated a

42 provision of this chapter, a regulation adopted pursuant to this chapter or

43 an order of the ~~commissioner.~~

44 ~~2. The commissioner shall adopt regulations prescribing:~~

45 ~~(a) The form that such a complaint must take;~~

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

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

48 *commission.*

49 2. *A complaint filed pursuant to this section must:*



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- 1 (a) *Be in writing;*
- 2 (b) *Be signed by the person filing the complaint or the authorized*
- 3 *representative of the person filing the complaint;*
- 4 (c) *Contain an address and a telephone number for the person filing*
- 5 *the complaint or the authorized representative of the person filing the*
- 6 *complaint;*
- 7 (d) *Describe the nature of the alleged violation in as much detail as*
- 8 *possible;*
- 9 (e) *Include as exhibits copies of all documentation supporting the*
- 10 *complaint; and*
- 11 (f) *Include any other information or supporting materials required by*
- 12 *the regulations adopted by the commission or by an order of the*
- 13 *commission.*

14 **Sec. 47.** NRS 645B.610 is hereby amended to read as follows:

- 15 645B.610 1. If a person properly files a complaint with the
- 16 ~~commissioner~~ *commission* pursuant to NRS 645B.600, the
- 17 ~~commissioner~~ *commission* shall investigate each violation alleged in the
- 18 complaint, unless the ~~commissioner~~ *commission* has previously
- 19 investigated the alleged violation.
- 20 2. Except as otherwise provided in subsection 2 of NRS 645B.090, if
- 21 the ~~commissioner~~ *commission* does not conduct an investigation of an
- 22 alleged violation pursuant to subsection 1 because ~~he~~ *the commission*
- 23 previously has investigated the alleged violation, the ~~commissioner~~
- 24 *commission* shall provide to the person who filed the complaint a written
- 25 summary of the previous investigation and the nature of any disciplinary
- 26 action that was taken as a result of the previous investigation.
- 27 3. If the ~~commissioner~~ *commission* conducts an investigation of an
- 28 alleged violation pursuant to subsection 1, the ~~commissioner~~ *commission*
- 29 shall determine from the investigation whether there is reasonable cause to
- 30 believe that the person committed the alleged violation.
- 31 4. If, upon investigation, the ~~commissioner~~ *commission* determines
- 32 that there is not reasonable cause to believe that the person committed the
- 33 alleged violation, the ~~commissioner~~ *commission* shall provide the reason
- 34 for ~~this~~ *its* determination, in writing, to the person who filed the complaint
- 35 and to the person alleged to have committed the violation.
- 36 5. Except as otherwise provided in subsection 6, if, upon investigation,
- 37 the ~~commissioner~~ *commission* determines that there is reasonable cause
- 38 to believe that the person committed the alleged violation, the
- 39 ~~commissioner~~ *commission* shall:
- 40 (a) Schedule a hearing concerning the alleged violation;
- 41 (b) Mail to the last known address of the person who filed the complaint
- 42 written notice that must include, without limitation:
- 43 (1) The date, time and place of the hearing; and
- 44 (2) A statement of each alleged violation that will be considered at
- 45 the hearing; and
- 46 (c) By personal service in accordance with the Nevada Rules of Civil
- 47 Procedure and any applicable provision of NRS, serve written notice of the
- 48 hearing to the person alleged to have committed the violation. The written



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1 notice that is served pursuant to this paragraph must include, without
2 limitation:

- 3 (1) The date, time and place of the hearing;
4 (2) A copy of the complaint and a statement of each alleged violation
5 that will be considered at the hearing; and
6 (3) A statement informing the person that, pursuant to
7 NRS 645B.760, if he fails to appear, without reasonable cause, at the
8 hearing:

9 (I) He is guilty of a misdemeanor; and

10 (II) The ~~commissioner~~ *commission* is authorized to conduct the
11 hearing in his absence, draw any conclusions that the ~~commissioner~~
12 *commission* deems appropriate from his failure to appear and render a
13 decision concerning each alleged violation.

14 6. The ~~commissioner~~ *commission* is not required to schedule or
15 conduct a hearing concerning an alleged violation pursuant to subsection 5
16 if the ~~commissioner~~ *commission* and the person alleged to have
17 committed the violation enter into a written consent agreement settling or
18 resolving the alleged violation. If such a written consent agreement is
19 executed, the ~~commissioner~~ *commission* shall provide a copy of the
20 written consent agreement to the person who filed the complaint.

21 7. The ~~commissioner~~ *commission* may:

22 (a) Investigate and conduct a hearing concerning any alleged violation,
23 whether or not a complaint has been filed.

24 (b) Hear and consider more than one alleged violation against a person
25 at the same hearing.

26 **Sec. 48.** NRS 645B.620 is hereby amended to read as follows:

27 645B.620 1. Whether or not a complaint has been filed, the
28 ~~commissioner~~ *commission* shall investigate a mortgage broker or other
29 person if, for any reason, it appears that:

30 (a) The mortgage broker is conducting business in an unsafe and
31 injurious manner or in violation of any provision of this chapter, a
32 regulation adopted pursuant to this chapter or an order of the
33 ~~commissioner~~ *commission*;

34 (b) The person is offering or providing any of the services of a
35 mortgage broker or otherwise engaging in, carrying on or holding himself
36 out as engaging in or carrying on the business of a mortgage broker
37 without being licensed or exempt from licensing pursuant to the provisions
38 of this chapter; or

39 (c) The person is violating any other provision of this chapter, a
40 regulation adopted pursuant to this chapter or an order of the
41 ~~commissioner~~ *commission*.

42 2. If, upon investigation, the ~~commissioner~~ *commission* has
43 reasonable cause to believe that the mortgage broker or other person has
44 engaged in any conduct or committed any violation described in
45 subsection 1:

46 (a) The ~~commissioner~~ *commission* shall notify the attorney general of
47 the conduct or violation and, if applicable, the ~~commissioner~~ *commission*
48 shall immediately take possession of the property of the mortgage broker
49 pursuant to NRS 645B.630; and



- 1 (b) The attorney general shall, if appropriate:
2 (1) Investigate and prosecute the mortgage broker or other person
3 pursuant to NRS 645B.800; and
4 (2) Bring a civil action to:
5 (I) Enjoin the mortgage broker or other person from engaging in
6 the conduct, operating the business or committing the violation; and
7 (II) Enjoin any other person who has encouraged, facilitated, aided
8 or participated in the conduct, the operation of the business or the
9 commission of the violation, or who is likely to engage in such acts, from
10 engaging in or continuing to engage in such acts.
11 3. If the attorney general brings a civil action pursuant to subsection 2,
12 the district court of any county of this state is hereby vested with the
13 jurisdiction in equity to enjoin the conduct, the operation of the business or
14 the commission of the violation and may grant any injunctions that are
15 necessary to prevent and restrain the conduct, the operation of the business
16 or the commission of the violation. During the pendency of the proceedings
17 before the district court:
18 (a) The court may issue any temporary restraining orders as may appear
19 to be just and proper;
20 (b) The findings of the ~~commissioner~~ *commission* shall be deemed to
21 be prima facie evidence and sufficient grounds, in the discretion of the
22 court, for the ex parte issuance of a temporary restraining order; and
23 (c) The attorney general may apply for and on due showing is entitled to
24 have issued the court's subpoena requiring forthwith the appearance of any
25 person to:
26 (1) Produce any documents, books and records as may appear
27 necessary for the hearing of the petition; and
28 (2) Testify and give evidence concerning the conduct complained of
29 in the petition.
30 **Sec. 49.** NRS 645B.630 is hereby amended to read as follows:
31 645B.630 1. In addition to any other action that is required or
32 permitted pursuant to this chapter, if the ~~commissioner~~ *commission* has
33 reasonable cause to believe that:
34 (a) The assets or capital of a mortgage broker are impaired; or
35 (b) A mortgage broker is conducting business in an unsafe and injurious
36 manner that may result in danger to the public,
37 the ~~commissioner~~ *commission* shall immediately take possession of all
38 the property, business and assets of the mortgage broker that are located in
39 this state and shall retain possession of them pending further proceedings
40 provided for in this chapter.
41 2. If the licensee, the board of directors or any officer or person in
42 charge of the offices of the mortgage broker refuses to permit the
43 ~~commissioner~~ *commission* to take possession of the property of the
44 mortgage broker pursuant to subsection 1:
45 (a) The ~~commissioner~~ *commission* shall notify the attorney general;
46 and
47 (b) The attorney general shall immediately bring such proceedings as
48 may be necessary to place the ~~commissioner~~ *commission* in immediate
49 possession of the property of the mortgage broker.



1 3. If the ~~feommisioner~~ *commission* takes possession of the property
2 of the mortgage broker, the ~~feommisioner~~ *commission* shall:
3 (a) Make or have made an inventory of the assets and known liabilities
4 of the mortgage broker;
5 (b) File one copy of the inventory in ~~this~~ *the* office *of the commission*
6 and one copy in the office of the clerk of the district court of the county in
7 which the principal office of the mortgage broker is located and shall mail
8 one copy to each stockholder, partner, officer, director or associate of the
9 mortgage broker at his last known address; and
10 (c) If the mortgage broker maintains any accounts described in
11 NRS 645B.175, not later than 5 business days after the date on which the
12 ~~feommisioner~~ *commission* takes possession of the property of the
13 mortgage broker, mail notice of ~~this~~ *that* possession to the last known
14 address of each person whose money is deposited in such an account or
15 whose money was or should have been deposited in such an account during
16 the preceding 12 months.
17 4. The clerk of the court with which the copy of the inventory is filed
18 shall file it as any other case or proceeding pending in the court and shall
19 give it a docket number.
20 **Sec. 50.** NRS 645B.640 is hereby amended to read as follows:
21 645B.640 1. If the ~~feommisioner~~ *commission* takes possession of
22 the property of a mortgage broker pursuant to NRS 645B.630, the licensee,
23 officers, directors, partners, associates or stockholders of the mortgage
24 broker may, within 60 days after the date on which the ~~feommisioner~~
25 *commission* takes possession of the property, make good any deficit in the
26 assets or capital of the mortgage broker or remedy any unsafe and injurious
27 conditions or practices of the mortgage broker.
28 2. At the expiration of the 60-day period, if the deficiency in assets or
29 capital has not been made good or the unsafe and injurious conditions or
30 practices remedied, the ~~feommisioner~~ *commission* may apply to the court
31 to be appointed receiver and proceed to liquidate the assets of the mortgage
32 broker which are located in this state in the same manner as now provided
33 by law for liquidation of a private corporation in receivership.
34 3. No other person may be appointed receiver by any court without
35 first giving the ~~feommisioner~~ *commission* ample notice of his
36 application.
37 4. The inventory made by the ~~feommisioner~~ *commission* and all
38 claims filed by creditors are open at all reasonable times for inspection, and
39 any action taken by the receiver upon any of the claims is subject to the
40 approval of the court before which the cause is pending.
41 5. The expenses of the receiver and compensation of counsel, as well
42 as all expenditures required in the liquidation proceedings, must be fixed
43 by the ~~feommisioner~~ *commission* subject to the approval of the court and,
44 upon certification of the ~~feommisioner,~~ *commission*, must be paid out of
45 the money in ~~this~~ *the* hands *of the commission* as the receiver.



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1 **Sec. 51.** NRS 645B.670 is hereby amended to read as follows:
2 645B.670 Except as otherwise provided in NRS 645B.690:
3 1. For each violation committed by an applicant, whether or not he is
4 issued a license, the ~~commissioner~~ **commission** may impose upon the
5 applicant an administrative fine of not more than \$10,000, if the applicant:
6 (a) Has knowingly made or caused to be made to the ~~commissioner~~
7 **commission** any false representation of material fact;
8 (b) Has suppressed or withheld from the ~~commissioner~~ **commission**
9 any information which the applicant possesses and which, if submitted by
10 him, would have rendered the applicant ineligible to be licensed pursuant
11 to the provisions of this chapter; or
12 (c) Has violated any provision of this chapter, a regulation adopted
13 pursuant to this chapter or an order of the ~~commissioner~~ **commission** in
14 completing and filing his application for a license or during the course of
15 the investigation of his application for a license.
16 2. For each violation committed by a licensee, the ~~commissioner~~
17 **commission** may impose upon the licensee an administrative fine of not
18 more than \$10,000, may suspend, revoke or place conditions upon his
19 license, or may do both, if the licensee, whether or not acting as such:
20 (a) Is insolvent;
21 (b) Is grossly negligent or incompetent in performing any act for which
22 he is required to be licensed pursuant to the provisions of this chapter;
23 (c) Does not conduct his business in accordance with law or has
24 violated any provision of this chapter, a regulation adopted pursuant to this
25 chapter or an order of the ~~commissioner~~ **commission**;
26 (d) Is in such financial condition that he cannot continue in business
27 with safety to his customers;
28 (e) Has made a material misrepresentation in connection with any
29 transaction governed by this chapter;
30 (f) Has suppressed or withheld from a client any material facts, data or
31 other information relating to any transaction governed by the provisions of
32 this chapter which the licensee knew or, by the exercise of reasonable
33 diligence, should have known;
34 (g) Has knowingly made or caused to be made to the ~~commissioner~~
35 **commission** any false representation of material fact or has suppressed or
36 withheld from the ~~commissioner~~ **commission** any information which the
37 licensee possesses and which, if submitted by him, would have rendered
38 the licensee ineligible to be licensed pursuant to the provisions of this
39 chapter;
40 (h) Has failed to account to persons interested for all money received
41 for a trust account;
42 (i) Has refused to permit an examination by the ~~commissioner~~
43 **commission** of his books and affairs or has refused or failed, within a
44 reasonable time, to furnish any information or make any report that may be
45 required by the ~~commissioner~~ **commission** pursuant to the provisions of
46 this chapter or a regulation adopted pursuant to this chapter;
47 (j) Has been convicted of, or entered a plea of nolo contendere to, a
48 felony or any crime involving fraud, misrepresentation or moral turpitude;



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- 1 (k) Has refused or failed to pay, within a reasonable time, any fees,
2 assessments, costs or expenses that the licensee is required to pay pursuant
3 to this chapter or a regulation adopted pursuant to this chapter;
4 (l) Has failed to satisfy a claim made by a client which has been reduced
5 to judgment;
6 (m) 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 (n) 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;
10 (o) Has engaged in any other conduct constituting a deceitful,
11 fraudulent or dishonest business practice;
12 (p) Has repeatedly violated the policies and procedures of the mortgage
13 broker;
14 (q) Has failed to ~~maintain adequate~~ *exercise reasonable* supervision
15 *over the activities* of a mortgage agent ~~as required by NRS 645B.460;~~
16 (r) Has instructed a mortgage agent to commit an act that would be
17 cause for the revocation of the license of the mortgage broker, whether or
18 not the mortgage agent commits the act;
19 (s) Has employed a person as a mortgage agent or authorized a person
20 to be associated with the licensee as a mortgage agent at a time when the
21 licensee knew or, in light of all the surrounding facts and circumstances,
22 reasonably should have known that the person:
23 (1) Had been convicted of, or entered a plea of nolo contendere to, a
24 felony or any crime involving fraud, misrepresentation or moral turpitude;
25 or
26 (2) Had a financial services license or registration suspended or
27 revoked within the immediately preceding 10 years; or
28 (t) Has not conducted verifiable business as a mortgage broker for 12
29 consecutive months, except in the case of a new applicant. The
30 ~~commissioner~~ *commission* shall determine whether a mortgage broker is
31 conducting business by examining the monthly reports of activity
32 submitted by the licensee or by conducting an examination of the licensee.
33 **Sec. 52.** NRS 645B.680 is hereby amended to read as follows:
34 645B.680 1. If the ~~commissioner~~ *commission* receives a copy of a
35 court order issued pursuant to NRS 425.540 that provides for the
36 suspension of all professional, occupational and recreational licenses,
37 certificates and permits issued to a person who is the holder of a license as
38 a mortgage broker, the ~~commissioner~~ *commission* shall deem the license
39 issued to that person to be suspended at the end of the 30th day after the
40 date on which the court order was issued unless the ~~commissioner~~
41 *commission* receives a letter issued to the holder of the license by the
42 district attorney or other public agency pursuant to NRS 425.550 stating
43 that the holder of the license has complied with the subpoena or warrant or
44 has satisfied the arrearage pursuant to NRS 425.560.
45 2. The ~~commissioner~~ *commission* shall reinstate a license as a
46 mortgage broker that has been suspended by a district court pursuant to
47 NRS 425.540 if the ~~commissioner~~ *commission* receives a letter issued by
48 the district attorney or other public agency pursuant to NRS 425.550 to the
49 person whose license was suspended stating that the person whose license



1 was suspended has complied with the subpoena or warrant or has satisfied
2 the arrearage pursuant to NRS 425.560.

3 **Sec. 53.** NRS 645B.690 is hereby amended to read as follows:

4 645B.690 1. If a person offers or provides any of the services of a
5 mortgage broker or otherwise engages in, carries on or holds himself out as
6 engaging in or carrying on the business of a mortgage broker and, at the
7 time:

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

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

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

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

29 3. If a mortgage broker violates any provision of subsection 1 of
30 NRS 645B.080 and the mortgage broker fails, without reasonable cause, to
31 remedy the violation within 20 business days after being ordered by the
32 ~~commissioner~~ *commission* to do so or within such later time as
33 prescribed by the ~~commissioner~~ *commission*, or if the ~~commissioner~~
34 *commission* orders a mortgage broker to provide information, make a
35 report or permit an examination of his books or affairs pursuant to this
36 chapter and the mortgage broker fails, without reasonable cause, to comply
37 with the order within 20 business days or within such later time as
38 prescribed by the ~~commissioner, the commissioner~~ *commission, the*
39 *commission* shall:

40 (a) Impose upon the mortgage broker an administrative fine of not more
41 than \$10,000 for each violation;

42 (b) Suspend or revoke the license of the mortgage broker; and

43 (c) Conduct a hearing to determine whether the mortgage broker is
44 conducting business in an unsafe and injurious manner that may result in
45 danger to the public and whether it is necessary for the ~~commissioner~~
46 *commission* to take possession of the property of the mortgage broker
47 pursuant to NRS 645B.630.



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1 **Sec. 54.** NRS 645B.700 is hereby amended to read as follows:
2 645B.700 1. Except as otherwise provided in subsection 2, for each
3 violation that may be committed by a person pursuant to this chapter or the
4 regulations adopted pursuant to this chapter, the ~~commissioner shall~~
5 ~~commissioner~~ *commission* may adopt regulations:

6 (a) Categorizing the violation as a major violation or a minor violation;
7 and

8 (b) Specifying the disciplinary action that will be taken by the
9 ~~commissioner~~ *commission* pursuant to this chapter against a person who
10 commits:

11 (1) A major violation. The disciplinary action taken by the
12 ~~commissioner~~ *commission* for a major violation ~~must~~ *may* include,
13 without limitation, suspension or revocation of the person's license.

14 (2) More than two minor violations. The ~~commissioner~~ *commission*
15 may establish graduated sanctions for a person who commits more than
16 two minor violations based upon the number, the frequency and the
17 severity of the minor violations and whether the person previously has
18 committed any major violations.

19 2. The provisions of this section do not apply to a violation for which
20 the ~~commissioner~~ *commission* is required to take disciplinary action in
21 accordance with NRS 645B.690.

22 **Sec. 55.** NRS 645B.710 is hereby amended to read as follows:

23 645B.710 If a person is a partnership, corporation or unincorporated
24 association, the ~~commissioner~~ *commission* shall take any disciplinary
25 action required pursuant to NRS 645B.690 and may take any other
26 disciplinary action set forth in this chapter against the person if any
27 member of the partnership or any officer or director of the corporation or
28 unincorporated association has committed any act or omission that would
29 be cause for taking such disciplinary action against a natural person.

30 **Sec. 56.** NRS 645B.720 is hereby amended to read as follows:

31 645B.720 Before conducting a hearing, the ~~commissioner~~
32 ~~commissioner~~ *commission* may, to the fullest extent permitted by the Constitution of the
33 United States and the constitution of this state:

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

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

38 **Sec. 57.** NRS 645B.750 is hereby amended to read as follows:

39 645B.750 1. If the ~~commissioner~~ *commission* enters an order
40 taking any disciplinary action against a person or denying a person's
41 application for a license, the ~~commissioner~~ *commission* shall cause
42 written notice of the order to be served personally or sent by certified mail
43 or telegraph to the person.

44 2. Unless a hearing has already been conducted concerning the matter,
45 the person, upon application, is entitled to a hearing. If the person does not
46 make such an application within 20 days after the date of the initial order,
47 the ~~commissioner~~ *commission* shall enter a final order concerning
48 the matter.



1 3. A person may appeal a final order of the ~~commissioner~~
2 **commission** in accordance with the provisions of chapter 233B of
3 NRS that apply to a contested case.

4 **Sec. 58.** NRS 645B.760 is hereby amended to read as follows:

5 645B.760 If a person is alleged to have engaged in any conduct or
6 committed any violation that is described in NRS 645B.620, 645B.630 or
7 645B.670 or is alleged to have committed a violation of any other
8 provision of this chapter, a regulation adopted pursuant to this chapter or
9 an order of the ~~commissioner~~ **commission**, and the person fails to appear,
10 without reasonable cause, at a hearing before the ~~commissioner~~
11 **commission** concerning the alleged conduct or violation:

12 1. The ~~commissioner~~ **commission** shall notify the attorney general
13 that the person failed to appear;

14 2. The person is guilty of a misdemeanor and shall be punished as
15 provided in NRS 645B.950; and

16 3. The ~~commissioner~~ **commission** may conduct the hearing in the
17 person's absence, draw any conclusions that the ~~commissioner~~
18 **commission** deems appropriate from his failure to appear and render a
19 decision concerning the alleged conduct or violation.

20 **Sec. 59.** NRS 645B.800 is hereby amended to read as follows:

21 645B.800 1. The attorney general has primary jurisdiction for the
22 enforcement of this chapter. The attorney general shall, if appropriate,
23 investigate and prosecute a person who violates:

24 (a) Any provision of this chapter, a regulation adopted pursuant to this
25 chapter or an order of the ~~commissioner~~ **commission**, including, without
26 limitation, a violation of any provision of NRS 645B.620 or 645B.670; or

27 (b) Any other law or regulation if the violation is committed by the
28 person in the course of committing a violation described in paragraph (a).

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

32 (a) The ~~commissioner~~ **commission** notifies the attorney general of the
33 alleged violation;

34 (b) The ~~commissioner~~ **commission** takes any disciplinary action
35 against the person alleged to have committed the violation;

36 (c) Any other person files a complaint against the person alleged to have
37 committed the violation; or

38 (d) A civil action is commenced against the person alleged to have
39 committed the violation.

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

44 4. Except as otherwise provided by the Constitution of the United
45 States, the constitution of this state or a specific statute, a person shall, if
46 requested, provide the attorney general with information that would assist
47 in the prosecution of any other person who is alleged to have committed a
48 violation described in subsection 1. If a person fails, without reasonable
49 cause, to provide the attorney general with such information upon request,



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1 the person is guilty of a misdemeanor and shall be punished as provided in
2 NRS 645B.950.

3 **Sec. 60.** NRS 645B.810 is hereby amended to read as follows:

4 645B.810 1. The attorney general may bring any appropriate civil
5 action against a person to enforce any provision of this chapter, a
6 regulation adopted pursuant to this chapter or an order of the
7 ~~commissioner~~ **commission**, including, without limitation, an order of the
8 ~~commissioner~~ **commission**:

9 (a) Imposing an administrative fine; or

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

11 2. If the attorney general prevails in any civil action brought pursuant
12 to this chapter, the court shall order the person against whom the civil
13 action was brought to pay:

14 (a) Court costs; and

15 (b) Reasonable costs of the investigation and prosecution of the civil
16 action.

17 3. Whether or not the attorney general brings a civil action against a
18 person pursuant to this chapter, the attorney general may prosecute the
19 person for a criminal violation pursuant to this chapter.

20 **Sec. 61.** NRS 645B.950 is hereby amended to read as follows:

21 645B.950 1. Except as otherwise provided in NRS 645B.960, a
22 person, or any general partner, director, officer, agent or employee of a
23 person, who violates any provision of this chapter, a regulation adopted
24 pursuant to this chapter or an order of the ~~commissioner~~ **commission** is
25 guilty of a misdemeanor.

26 2. In addition to any other penalty, if a person is convicted of or enters
27 a plea of nolo contendere to a violation described in subsection 1, the court
28 shall order the person to pay:

29 (a) Court costs; and

30 (b) Reasonable costs of the investigation and prosecution of the
31 violation.

32 **Sec. 62.** Chapter 645E of NRS is hereby amended by adding thereto a
33 new section to read as follows:

34 ***"Loan secured by a lien on real property" includes, without limitation,***
35 ***any loan associated with a mobile home, a manufactured home or other***
36 ***similar home if the loan is secured, in whole or in part, by a lien on real***
37 ***property.***

38 **Sec. 63.** NRS 645E.010 is hereby amended to read as follows:

39 645E.010 As used in this chapter, unless the context otherwise
40 requires, the words and terms defined in NRS 645E.020 to 645E.100,
41 inclusive, ***and section 62 of this act*** have the meanings ascribed to them in
42 those sections.

43 **Sec. 64.** NRS 645E.050 is hereby amended to read as follows:

44 645E.050 ~~["Commissioner" means the commissioner of financial~~
45 ~~institutions.] "Commission" means:~~

46 1. ***The mortgage industry commission created pursuant to section 6***
47 ***of this act; and***



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1 2. *The executive director if the mortgage industry commission has*
2 *delegated its authority to the executive director pursuant to section 10 of*
3 *this act.*

4 **Sec. 65.** NRS 645E.070 is hereby amended to read as follows:
5 645E.070 ~~["Division" means the division of financial institutions of~~
6 ~~the department of business and industry.] "Executive director" means the~~
7 ~~executive director of the commission.~~

8 **Sec. 66.** NRS 645E.160 is hereby amended to read as follows:
9 645E.160 1. A person who claims an exemption from the provisions
10 of this chapter pursuant to subsection 1 or 6 of NRS 645E.150 must:

- 11 (a) File a written application for a certificate of exemption with the
12 office of the ~~commissioner;~~ *commission;*
13 (b) Pay the fee required pursuant to NRS 645E.280; and
14 (c) Include with the written application satisfactory proof that the
15 person meets the requirements of subsection 1 or 6 of NRS 645E.150.

16 2. The ~~commissioner~~ *commission* may require a person who claims
17 an exemption from the provisions of this chapter pursuant to subsections 2
18 to 5, inclusive, or 7 to 10, inclusive, of NRS 645E.150 to:

- 19 (a) File a written application for a certificate of exemption with the
20 office of the ~~commissioner;~~ *commission;*
21 (b) Pay the fee required pursuant to NRS 645E.280; and
22 (c) Include with the written application satisfactory proof that the
23 person meets the requirements of at least one of those exemptions.

24 3. A certificate of exemption expires automatically if, at any time, the
25 person who claims the exemption no longer meets the requirements of at
26 least one exemption set forth in the provisions of NRS 645E.150.

27 4. If a certificate of exemption expires automatically pursuant to this
28 section, the person shall not provide any of the services of a mortgage
29 company or otherwise engage in, carry on or hold himself out as engaging
30 in or carrying on the business of a mortgage company, unless the person
31 applies for and is issued:

- 32 (a) A license as a mortgage company pursuant to this chapter; or
33 (b) Another certificate of exemption.

34 5. The ~~commissioner~~ *commission* may impose upon a person who is
35 required to apply for a certificate of exemption or who holds a certificate of
36 exemption an administrative fine of not more than \$10,000 for each
37 violation that he commits, if the person:

- 38 (a) Has knowingly made or caused to be made to the ~~commissioner~~
39 *commission* any false representation of material fact;
40 (b) Has suppressed or withheld from the ~~commissioner~~ *commission*
41 any information which the person possesses and which, if submitted by
42 him, would have rendered the person ineligible to hold a certificate of
43 exemption; or
44 (c) Has violated any provision of this chapter, a regulation adopted
45 pursuant to this chapter or an order of the ~~commissioner~~ *commission* that
46 applies to a person who is required to apply for a certificate of exemption
47 or who holds a certificate of exemption.



1 **Sec. 67.** NRS 645E.170 is hereby amended to read as follows:
2 645E.170 1. A person may apply to the ~~feommisioner~~ *commission*
3 for an exemption from the provisions of this chapter governing the making
4 of a loan of money.

5 2. The ~~feommisioner~~ *commission* may grant the exemption if ~~the~~
6 *the commission* finds that:

7 (a) The making of the loan would not be detrimental to the financial
8 condition of the lender or the debtor;

9 (b) The lender or the debtor has established a record of sound
10 performance, efficient management, financial responsibility and integrity;

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

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

14 3. The ~~feommisioner~~ *commission*:

15 (a) May revoke an exemption unless the loan for which the exemption
16 was granted has been made; and

17 (b) Shall issue a written statement setting forth the reasons for ~~this~~ *its*
18 decision to grant, deny or revoke an exemption.

19 **Sec. 68.** NRS 645E.200 is hereby amended to read as follows:

20 645E.200 1. A person who wishes to be licensed as a mortgage
21 company must file a written application for a license with the office of the
22 ~~feommisioner~~ *commission* and pay the fee required pursuant to
23 NRS 645E.280. An application for a license as a mortgage company must:

24 (a) Be verified.

25 (b) State the name, residence address and business address of the
26 applicant and the location of each principal office and branch office at
27 which the mortgage company will conduct business within this state.

28 (c) State the name under which the applicant will conduct business as a
29 mortgage company.

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

34 (e) Indicate the general plan and character of the business.

35 (f) State the length of time the applicant has been engaged in the
36 business of a mortgage company.

37 (g) Include a financial statement of the applicant.

38 (h) Include any other information required pursuant to the regulations
39 adopted by the ~~feommisioner~~ *commission* or an order of the
40 ~~feommisioner~~ *commission*.

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

44 3. Except as otherwise provided in this chapter, the ~~feommisioner~~
45 *commission* shall issue a license to an applicant as a mortgage company if:

46 (a) The application complies with the requirements of this chapter; and

47 (b) The applicant and each general partner, officer or director of the
48 applicant, if the applicant is a partnership, corporation or unincorporated
49 association:



1 (1) Has a good reputation for honesty, trustworthiness and integrity
2 and displays competence to transact the business of a mortgage company in
3 a manner which safeguards the interests of the general public. The
4 applicant must submit satisfactory proof of these qualifications to the
5 ~~commissioner~~ **commission**.

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

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

10 (4) Has not had a license that was issued pursuant to the provisions of
11 this chapter or chapter 645B of NRS suspended or revoked within the 10
12 years immediately preceding the date of his application.

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

16 (6) Has not violated any provision of this chapter or chapter 645B of
17 NRS, a regulation adopted pursuant thereto or an order of the
18 ~~commissioner~~ **commission**.

19 4. If an applicant is a partnership, corporation or unincorporated
20 association, the ~~commissioner~~ **commission** may refuse to issue a license
21 to the applicant if any member of the partnership or any officer or director
22 of the corporation or unincorporated association has committed any act or
23 omission that would be cause for refusing to issue a license to a natural
24 person.

25 **Sec. 69.** NRS 645E.210 is hereby amended to read as follows:

26 645E.210 1. In addition to the requirements set forth in
27 NRS 645E.200 and 645E.280, a natural person who applies for the
28 issuance or renewal of a license as a mortgage company shall submit to the
29 ~~commissioner~~ **commission**:

30 (a) In any application for issuance of a license, the social security
31 number of the applicant and the statement prescribed by the welfare
32 division of the department of human resources pursuant to NRS 425.520.
33 The statement must be completed and signed by the applicant.

34 (b) In any application for renewal of a license, the statement prescribed
35 by the welfare division of the department of human resources pursuant to
36 NRS 425.520. The statement must be completed and signed by
37 the applicant.

38 2. The ~~commissioner~~ **commission** shall include the statement
39 required pursuant to subsection 1 in:

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

42 (b) A separate form prescribed by the ~~commissioner~~ **commission**.

43 3. The ~~commissioner~~ **commission** shall not issue or renew a license
44 as a mortgage company if the applicant is a natural person who:

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

46 (b) Indicates on the statement submitted pursuant to subsection 1 that he
47 is subject to a court order for the support of a child and is not in
48 compliance with the order or a plan approved by the district attorney or



1 other public agency enforcing the order for the repayment of the amount
2 owed pursuant to the order.

3 4. If an applicant indicates on the statement submitted pursuant to
4 subsection 1 that he is subject to a court order for the support of a child and
5 is not in compliance with the order or a plan approved by the district
6 attorney or other public agency enforcing the order for the repayment of
7 the amount owed pursuant to the order, the ~~commissioner~~ *commission*
8 shall advise the applicant to contact the district attorney or other public
9 agency enforcing the order to determine the actions that the applicant may
10 take to satisfy the arrearage.

11 **Sec. 70.** NRS 645E.220 is hereby amended to read as follows:

12 645E.220 1. A mortgage company shall post each license in a
13 conspicuous place in the office for which the license has been issued.

14 2. A mortgage company may not transfer or assign a license to another
15 person, unless the ~~commissioner gives his~~ *commission gives its* written
16 approval.

17 **Sec. 71.** NRS 645E.280 is hereby amended to read as follows:

18 645E.280 1. A license issued to a mortgage company pursuant to this
19 chapter expires each year on December 31, unless it is renewed. To renew
20 a license, the licensee must submit to the ~~commissioner~~ *commission* on
21 or before December 31 of each year:

22 (a) An application for renewal that complies with the requirements of
23 this chapter; and

24 (b) The fee required to renew the license pursuant to this section.

25 2. If the licensee fails to submit any item required pursuant to
26 subsection 1 to the ~~commissioner~~ *commission* on or before December 31
27 of any year, the license is canceled. The ~~commissioner~~ *commission* may
28 reinstate a canceled license if the licensee submits to the ~~commissioner~~
29 *commission*:

30 (a) An application for renewal that complies with the requirements of
31 this chapter;

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

33 (c) A reinstatement fee of \$200.

34 3. Except as otherwise provided in NRS 645E.160, a certificate of
35 exemption issued pursuant to this chapter expires each year on
36 December 31, unless it is renewed. To renew a certificate of exemption, a
37 person must submit to the ~~commissioner~~ *commission* on or before
38 December 31 of each year:

39 (a) An application for renewal that complies with the requirements of
40 this chapter; and

41 (b) The fee required to renew the certificate of exemption.

42 4. If the person fails to submit any item required pursuant to
43 subsection 3 to the ~~commissioner~~ *commission* on or before December 31
44 of any year, the certificate of exemption is canceled. Except as otherwise
45 provided in NRS 645E.160, the ~~commissioner~~ *commission* may reinstate
46 a canceled certificate of exemption if the person submits to the
47 ~~commissioner~~ *commission*:

48 (a) An application for renewal that complies with the requirements of
49 this chapter;



- 1 (b) The fee required to renew the certificate of exemption; and
- 2 (c) A reinstatement fee of \$100.

3 5. A person must pay the following fees to apply for, to be issued or to
4 renew a license as a mortgage company pursuant to this chapter:

5 (a) To file an original application for a license, \$1,500 for the principal
6 office and \$40 for each branch office. The person must also pay such
7 additional expenses incurred in the process of investigation as the
8 ~~commissioner~~ *commission* deems necessary. All money received by the
9 ~~commissioner~~ *commission* pursuant to this paragraph must be placed in
10 the investigative account created by NRS 232.545.

11 (b) To be issued a license, \$1,000 for the principal office and \$60 for
12 each branch office.

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

15 6. A person must pay the following fees to apply for or to renew a
16 certificate of exemption pursuant to this chapter:

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

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

19 7. To be issued a duplicate copy of any license or certificate of
20 exemption, a person must make a satisfactory showing of its loss and pay a
21 fee of \$10.

22 8. Except as otherwise provided in this chapter, all fees received
23 pursuant to this chapter must be deposited in the state treasury for credit to
24 the state general fund.

25 **Sec. 72.** NRS 645E.300 is hereby amended to read as follows:

26 645E.300 1. Subject to the administrative control of the director of
27 the department of business and industry, the ~~commissioner~~ *commission*
28 shall exercise general supervision and control over mortgage companies
29 doing business in this state.

30 2. In addition to the other duties imposed upon ~~him~~ *the commission*
31 by law, the ~~commissioner~~ *commission* shall:

32 (a) Adopt any regulations that are necessary to carry out the provisions
33 of this chapter, except as to loan fees.

34 (b) Conduct such investigations as may be necessary to determine
35 whether any person has violated any provision of this chapter, a regulation
36 adopted pursuant to this chapter or an order of the ~~commissioner~~ *commission*.
37

38 (c) Conduct an annual examination of each mortgage company doing
39 business in this state.

40 (d) Conduct such other examinations, periodic or special audits,
41 investigations and hearings as may be necessary and proper for the
42 efficient administration of the laws of this state regarding mortgage
43 companies.

44 (e) Classify as confidential certain records and information obtained by
45 the ~~division~~ *commission* when those matters are obtained from a
46 governmental agency upon the express condition that they remain
47 confidential. This paragraph does not limit examination by the legislative
48 auditor.



1 (f) Conduct such examinations and investigations as are necessary to
2 ensure that mortgage companies meet the requirements of this chapter for
3 obtaining a license, both at the time of the application for a license and
4 thereafter on a continuing basis.

5 3. For each special audit, investigation or examination, a mortgage
6 company shall pay a fee based on the ~~rate established~~ *rates that the*
7 *commission establishes by regulation. In establishing such rates, the*
8 *commission shall consider:*

9 (a) *The complexity of the various audits, investigations and*
10 *examinations to which the rates apply;*

11 (b) *The skill required to conduct the audits, investigations and*
12 *examinations;*

13 (c) *The expenses associated with conducting the audits, investigations*
14 *and examinations and preparing reports;*

15 (d) *The rates established by the commissioner of financial institutions*
16 *pursuant to NRS 658.101 ~~for~~ for supervision and examination of other*
17 *financial institutions; and*

18 (e) *Any other factors the commission deems relevant.*

19 **Sec. 73.** NRS 645E.310 is hereby amended to read as follows:

20 645E.310 1. In the conduct of any examination, periodic or special
21 audit, investigation or hearing, the ~~commissioner~~ *commission* may:

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

23 (b) Administer oaths.

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

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

33 3. The ~~commissioner~~ *commission* may assess against and collect
34 from a person all costs, including, without limitation, reasonable attorney's
35 fees, that are attributable to any examination, periodic or special audit,
36 investigation or hearing that is conducted to examine or investigate the
37 conduct, activities or business of the person pursuant to this chapter.

38 **Sec. 74.** NRS 645E.320 is hereby amended to read as follows:

39 645E.320 1. *The commission shall employ a certified public*
40 *accountant to review and conduct independent audits and examinations*
41 *of mortgage companies. The commission shall levy an assessment upon*
42 *each mortgage company to cover all the costs related to the employment*
43 *of the certified public accountant and the performance of the audits and*
44 *examinations.*

45 2. Each mortgage company shall pay the assessment levied pursuant to
46 ~~NRS 658.055 and~~ *this section.*

47 3. *Each mortgage company shall* cooperate fully with the audits and
48 examinations performed pursuant ~~thereto~~ *to this section.*



1 4. *The assessments collected by the commission pursuant to this*
2 *section must be deposited in the state treasury for credit to the account*
3 *for auditing mortgage brokers and mortgage companies which is created*
4 *pursuant to NRS 645B.075. The commission shall use the money in the*
5 *account, and may advance money from the account, for the purposes set*
6 *forth in this section and NRS 645B.075.*

7 **Sec. 75.** NRS 645E.350 is hereby amended to read as follows:

8 645E.350 1. Each mortgage company shall keep and maintain at all
9 times at each location where the mortgage company conducts business in
10 this state complete and suitable records of all mortgage transactions made
11 by the mortgage company at that location. Each mortgage company shall
12 also keep and maintain at all times at each such location all original books,
13 papers and data, or copies thereof, clearly reflecting the financial condition
14 of the business of the mortgage company.

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

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

20 (b) Include any information required pursuant to the regulations adopted
21 by the ~~commissioner~~ *commission*; and

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

24 3. The ~~commissioner~~ *commission* may adopt regulations prescribing
25 accounting procedures for mortgage companies handling trust accounts and
26 the requirements for keeping records relating to such accounts.

27 **Sec. 76.** NRS 645E.360 is hereby amended to read as follows:

28 645E.360 1. Except as otherwise provided in this section, not later
29 than 60 days after the last day of each fiscal year for a mortgage company,
30 the mortgage company shall submit to the ~~commissioner~~ *commission* a
31 financial statement that:

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

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

37 2. The ~~commissioner~~ *commission* may grant a reasonable extension
38 for the submission of a financial statement pursuant to this section if a
39 mortgage company requests such an extension before the date on which the
40 financial statement is due.

41 3. If a mortgage company maintains any accounts described in
42 NRS 645E.430, the financial statement submitted pursuant to this section
43 must be audited. The public accountant who prepares the report of an audit
44 shall submit a copy of the report to the ~~commissioner~~ *commission* at the
45 same time that he submits the report to the mortgage company.

46 4. The ~~commissioner~~ *commission* shall adopt regulations prescribing
47 the scope of an audit conducted pursuant to subsection 3.



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1 **Sec. 77.** NRS 645E.370 is hereby amended to read as follows:
2 645E.370 1. Except as otherwise provided in this section or by
3 specific statute, all papers, documents, reports and other written
4 instruments filed with the ~~commissioner~~ *commission* pursuant to this
5 chapter are open to public inspection.

6 2. The ~~commissioner~~ *commission* may withhold from public
7 inspection or refuse to disclose to a person, for such time as the
8 ~~commissioner~~ *commission* considers necessary, any information that, in
9 ~~his judgment,~~ *the judgment of the commission,* would:

10 (a) Impede or otherwise interfere with an investigation that is currently
11 pending against a mortgage company; or

12 (b) Have an undesirable effect on the welfare of the public or the
13 welfare of any mortgage company.

14 **Sec. 78.** NRS 645E.390 is hereby amended to read as follows:

15 645E.390 1. The ~~commissioner~~ *commission* must be notified of a
16 transfer of 5 percent or more of the outstanding voting stock of a mortgage
17 company and must approve a transfer of voting stock of a mortgage
18 company which constitutes a change of control.

19 2. The person who acquires stock resulting in a change of control of
20 the mortgage company shall apply to the ~~commissioner~~ *commission* for
21 approval of the transfer. The application must contain information which
22 shows that the requirements of this chapter for obtaining a license will be
23 satisfied after the change of control. Except as otherwise provided in
24 subsection 3, the ~~commissioner~~ *commission* shall conduct an
25 investigation to determine whether those requirements will be satisfied. If,
26 after the investigation, the ~~commissioner~~ *commission* denies the
27 application, he may forbid the applicant from participating in the business
28 of the mortgage company.

29 3. A mortgage company may submit a written request to the
30 ~~commissioner~~ *commission* to waive an investigation pursuant to
31 subsection 2. The ~~commissioner~~ *commission* may grant a waiver if the
32 applicant has undergone a similar investigation by a state or federal agency
33 in connection with the licensing of or his employment with a financial
34 institution.

35 4. As used in this section, “change of control” means:

36 (a) A transfer of voting stock which results in giving a person, directly
37 or indirectly, the power to direct the management and policy of a mortgage
38 company; or

39 (b) A transfer of at least 25 percent of the outstanding voting stock of a
40 mortgage company.

41 **Sec. 79.** NRS 645E.430 is hereby amended to read as follows:

42 645E.430 1. All money paid to a mortgage company for payment of
43 taxes or insurance premiums on real property which secures any loan made
44 by the mortgage company must be deposited in an insured depository
45 financial institution and kept separate, distinct and apart from money
46 belonging to the mortgage company. Such money, when deposited, is to be
47 designated as an “impound trust account” or under some other appropriate
48 name indicating that the accounts are not the money of the mortgage
49 company.



1 2. The mortgage company has a fiduciary duty to each debtor with
2 respect to the money in an impound trust account.

3 3. The mortgage company shall, upon reasonable notice, account to
4 any debtor whose real property secures a loan made by the mortgage
5 company for any money which that person has paid to the mortgage
6 company for the payment of taxes or insurance premiums on the real
7 property.

8 4. The mortgage company shall, upon reasonable notice, account to the
9 ~~commissioner~~ **commission** for all money in an impound trust account.

10 5. A mortgage company shall:

11 (a) Require contributions to an impound trust account in an amount
12 reasonably necessary to pay the obligations as they become due.

13 (b) Within 30 days after the completion of the annual review of an
14 impound trust account, notify the debtor:

15 (1) Of the amount by which the contributions exceed the amount
16 reasonably necessary to pay the annual obligations due from the account;
17 and

18 (2) That the debtor may specify the disposition of the excess money
19 within 20 days after receipt of the notice. If the debtor fails to specify such
20 a disposition within that time, the mortgage company shall maintain the
21 excess money in the account.

22 This subsection does not prohibit a mortgage company from requiring
23 additional amounts to be paid into an impound trust account to recover a
24 deficiency that exists in the account.

25 6. A mortgage company shall not make payments from an impound
26 trust account in a manner that causes a policy of insurance to be canceled
27 or causes property taxes or similar payments to become delinquent.

28 **Sec. 80.** NRS 645E.620 is hereby amended to read as follows:

29 645E.620 1. Whether or not a complaint has been filed, the
30 ~~commissioner~~ **commission** may investigate a mortgage company or other
31 person if, for any reason, it appears that:

32 (a) The mortgage company is conducting business in an unsafe and
33 injurious manner or in violation of any provision of this chapter, a
34 regulation adopted pursuant to this chapter or an order of the
35 ~~commissioner~~ **commission**;

36 (b) The person is offering or providing any of the services of a
37 mortgage company or otherwise engaging in, carrying on or holding
38 himself out as engaging in or carrying on the business of a mortgage
39 company without being licensed or exempt from licensing pursuant to the
40 provisions of this chapter; or

41 (c) The person is violating any other provision of this chapter, a
42 regulation adopted pursuant to this chapter or an order of the
43 ~~commissioner~~ **commission**.

44 2. If, upon investigation, the ~~commissioner~~ **commission** has
45 reasonable cause to believe that the mortgage company or other person has
46 engaged in any conduct or committed any violation described in subsection
47 1, the ~~commissioner~~ **commission** may:

48 (a) Advise the district attorney of the county in which the conduct or
49 violation occurred, and the district attorney shall cause the appropriate



1 legal action to be taken against the mortgage company or other person to
2 enjoin the conduct or the operation of the business or prosecute the
3 violation; and

4 (b) Bring a civil action to:

5 (1) Enjoin the mortgage company or other person from engaging in
6 the conduct, operating the business or committing the violation; and

7 (2) Enjoin any other person who has encouraged, facilitated, aided or
8 participated in the conduct, the operation of the business or the commission
9 of the violation, or who is likely to engage in such acts, from engaging in
10 or continuing to engage in such acts.

11 3. If the ~~commissioner~~ **commission** brings a civil action pursuant to
12 subsection 2, the district court of any county of this state is hereby vested
13 with the jurisdiction in equity to enjoin the conduct, the operation of the
14 business or the commission of the violation and may grant any injunctions
15 that are necessary to prevent and restrain the conduct, the operation of the
16 business or the commission of the violation. During the pendency of the
17 proceedings before the district court:

18 (a) The court may issue any temporary restraining orders as may appear
19 to be just and proper;

20 (b) The findings of the ~~commissioner~~ **commission** shall be deemed to
21 be prima facie evidence and sufficient grounds, in the discretion of the
22 court, for the ex parte issuance of a temporary restraining order; and

23 (c) The ~~commissioner~~ **commission** may apply for and on due showing
24 is entitled to have issued the court's subpoena requiring forthwith the
25 appearance of any person to:

26 (1) Produce any documents, books and records as may appear
27 necessary for the hearing of the petition; and

28 (2) Testify and give evidence concerning the conduct complained of
29 in the petition.

30 **Sec. 81.** NRS 645E.630 is hereby amended to read as follows:

31 645E.630 1. In addition to any other action that is permitted pursuant
32 to this chapter, if the ~~commissioner~~ **commission** has reasonable cause to
33 believe that:

34 (a) The assets or capital of a mortgage company are impaired; or

35 (b) A mortgage company is conducting business in an unsafe and
36 injurious manner that may result in danger to the
37 public,

38 the ~~commissioner~~ **commission** may immediately take possession of all
39 the property, business and assets of the mortgage company that are located
40 in this state and retain possession of them pending further proceedings
41 provided for in this chapter.

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

46 (a) The ~~commissioner~~ **commission** shall notify the attorney general;
47 and



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

4 3. If the ~~the commissioner~~ *commission* takes possession of the property
5 of the mortgage company, the ~~the commissioner~~ *commission* shall:

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

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

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

16 **Sec. 82.** NRS 645E.640 is hereby amended to read as follows:

17 645E.640 1. If the ~~the commissioner~~ *commission* takes possession of
18 the property of a mortgage company pursuant to NRS 645E.630, the
19 licensee, officers, directors, partners, associates or stockholders of the
20 mortgage company may, within 60 days after the date on which the
21 ~~the commissioner~~ *commission* takes possession of the property, make good
22 any deficit in the assets or capital of the mortgage company or remedy any
23 unsafe and injurious conditions or practices of the mortgage company.

24 2. At the expiration of the 60-day period, if the deficiency in assets or
25 capital has not been made good or the unsafe and injurious conditions or
26 practices remedied, the ~~the commissioner~~ *commission* may apply to the court
27 to be appointed receiver and proceed to liquidate the assets of the mortgage
28 company which are located in this state in the same manner as now
29 provided by law for liquidation of a private corporation in receivership.

30 3. No other person may be appointed receiver by any court without
31 first giving the ~~the commissioner~~ *commission* ample notice of his
32 application.

33 4. The inventory made by the ~~the commissioner~~ *commission* and all
34 claims filed by creditors are open at all reasonable times for inspection, and
35 any action taken by the receiver upon any of the claims is subject to the
36 approval of the court before which the cause is pending.

37 5. The expenses of the receiver and compensation of counsel, as well
38 as all expenditures required in the liquidation proceedings, must be fixed
39 by the ~~the commissioner~~ *commission* subject to the approval of the court and,
40 upon certification of the ~~the commissioner~~ *commission*, must be paid out of
41 the money in ~~his~~ *the* hands *of the commission* as the receiver.

42 **Sec. 83.** NRS 645E.670 is hereby amended to read as follows:

43 645E.670 1. For each violation committed by an applicant, whether
44 or not he is issued a license, the ~~the commissioner~~ *commission* may impose
45 upon the applicant an administrative fine of not more than \$10,000, if the
46 applicant:

47 (a) Has knowingly made or caused to be made to the ~~the commissioner~~
48 *commission* any false representation of material fact;



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- 1 (b) Has suppressed or withheld from the ~~commissioner~~ *commission*
2 any information which the applicant possesses and which, if submitted by
3 him, would have rendered the applicant ineligible to be licensed pursuant
4 to the provisions of this chapter; or
5 (c) Has violated any provision of this chapter, a regulation adopted
6 pursuant to this chapter or an order of the ~~commissioner~~ *commission* in
7 completing and filing his application for a license or during the course of
8 the investigation of his application for a license.
- 9 2. For each violation committed by a licensee, the ~~commissioner~~
10 *commission* may impose upon the licensee an administrative fine of not
11 more than \$10,000, may suspend, revoke or place conditions upon his
12 license, or may do both, if the licensee, whether or not acting as such:
- 13 (a) Is insolvent;
14 (b) Is grossly negligent or incompetent in performing any act for which
15 he is required to be licensed pursuant to the provisions of this chapter;
16 (c) Does not conduct his business in accordance with law or has
17 violated any provision of this chapter, a regulation adopted pursuant to this
18 chapter or an order of the ~~commissioner~~ *commission*;
19 (d) Is in such financial condition that he cannot continue in business
20 with safety to his customers;
21 (e) Has made a material misrepresentation in connection with any
22 transaction governed by this chapter;
23 (f) Has suppressed or withheld from a client any material facts, data or
24 other information relating to any transaction governed by the provisions of
25 this chapter which the licensee knew or, by the exercise of reasonable
26 diligence, should have known;
27 (g) Has knowingly made or caused to be made to the ~~commissioner~~
28 *commission* any false representation of material fact or has suppressed or
29 withheld from the ~~commissioner~~ *commission* any information which the
30 licensee possesses and which, if submitted by him, would have rendered
31 the licensee ineligible to be licensed pursuant to the provisions of this
32 chapter;
33 (h) Has failed to account to persons interested for all money received
34 for a trust account;
35 (i) Has refused to permit an examination by the ~~commissioner~~
36 *commission* of his books and affairs or has refused or failed, within a
37 reasonable time, to furnish any information or make any report that may be
38 required by the ~~commissioner~~ *commission* pursuant to the provisions of
39 this chapter or a regulation adopted pursuant to this chapter;
40 (j) Has been convicted of, or entered a plea of nolo contendere to, a
41 felony or any crime involving fraud, misrepresentation or moral turpitude;
42 (k) Has refused or failed to pay, within a reasonable time, any fees,
43 assessments, costs or expenses that the licensee is required to pay pursuant
44 to this chapter or a regulation adopted pursuant to this chapter;
45 (l) Has failed to satisfy a claim made by a client which has been reduced
46 to judgment;
47 (m) Has failed to account for or to remit any money of a client within a
48 reasonable time after a request for an accounting or remittal;



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- 1 (n) Has commingled the money or other property of a client with his
2 own or has converted the money or property of others to his own use; or
3 (o) Has engaged in any other conduct constituting a deceitful,
4 fraudulent or dishonest business practice.

5 **Sec. 84.** NRS 645E.680 is hereby amended to read as follows:

6 645E.680 1. If the ~~commissioner~~ **commission** receives a copy of a
7 court order issued pursuant to NRS 425.540 that provides for the
8 suspension of all professional, occupational and recreational licenses,
9 certificates and permits issued to a person who is the holder of a license as
10 a mortgage company, the ~~commissioner~~ **commission** shall deem the
11 license issued to that person to be suspended at the end of the 30th day
12 after the date on which the court order was issued unless the
13 ~~commissioner~~ **commission** receives a letter issued to the holder of the
14 license by the district attorney or other public agency pursuant to
15 NRS 425.550 stating that the holder of the license has complied with the
16 subpoena or warrant or has satisfied the arrearage pursuant to
17 NRS 425.560.

18 2. The ~~commissioner~~ **commission** shall reinstate a license as a
19 mortgage company that has been suspended by a district court pursuant to
20 NRS 425.540 if the ~~commissioner~~ **commission** receives a letter issued by
21 the district attorney or other public agency pursuant to NRS 425.550 to the
22 person whose license was suspended stating that the person whose license
23 was suspended has complied with the subpoena or warrant or has satisfied
24 the arrearage pursuant to NRS 425.560.

25 **Sec. 85.** NRS 645E.710 is hereby amended to read as follows:

26 645E.710 If a person is a partnership, corporation or unincorporated
27 association, the ~~commissioner~~ **commission** may take any disciplinary
28 action set forth in this chapter against the person if any member of the
29 partnership or any officer or director of the corporation or unincorporated
30 association has committed any act or omission that would be cause for
31 taking such disciplinary action against a natural person.

32 **Sec. 86.** NRS 645E.750 is hereby amended to read as follows:

33 645E.750 1. If the ~~commissioner~~ **commission** enters an order
34 taking any disciplinary action against a person or denying a person's
35 application for a license, the ~~commissioner~~ **commission** shall cause
36 written notice of the order to be served personally or sent by certified mail
37 or telegram to the person.

38 2. Unless a hearing has already been conducted concerning the matter,
39 the person, upon application, is entitled to a hearing. If the person does not
40 make such an application within 20 days after the date of the initial order,
41 the ~~commissioner~~ **commission** shall enter a final order concerning the
42 matter.

43 3. A person may appeal a final order of the ~~commissioner~~
44 **commission** in accordance with the provisions of chapter 233B of
45 NRS that apply to a contested case.

46 **Sec. 87.** NRS 645E.950 is hereby amended to read as follows:

47 645E.950 Except as otherwise provided in NRS 645E.960, a person, or
48 any general partner, director, officer, agent or employee of a person, who
49 violates any provision of this chapter, a regulation adopted pursuant to this



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1 chapter or an order of the ~~commissioner~~ *commission* is guilty of a
2 misdemeanor.

3 **Sec. 88.** NRS 78.045 is hereby amended to read as follows:

4 78.045 1. The secretary of state shall not accept for filing any articles
5 of incorporation or any certificate of amendment of articles of
6 incorporation of any corporation formed pursuant to the laws of this state
7 which provides that the name of the corporation contains the word “bank”
8 or “trust,” unless:

9 (a) It appears from the articles or the certificate of amendment that the
10 corporation proposes to carry on business as a banking or trust company,
11 exclusively or in connection with its business as a bank or savings and loan
12 association; and

13 (b) The articles or certificate of amendment is first approved by the
14 commissioner of financial institutions.

15 2. The secretary of state shall not accept for filing any articles of
16 incorporation or any certificate of amendment of articles of incorporation
17 of any corporation formed pursuant to the provisions of this chapter if it
18 appears from the articles or the certificate of amendment that the business
19 to be carried on by the corporation is subject to supervision by the
20 commissioner of insurance , ~~for by~~ the commissioner of financial
21 institutions, *or the mortgage industry commission*, unless the articles or
22 certificate of amendment is approved by the commissioner *or commission*
23 who will supervise the business of the corporation.

24 3. Except as otherwise provided in subsection 5, the secretary of state
25 shall not accept for filing any articles of incorporation or any certificate or
26 amendment of articles of incorporation of any corporation formed pursuant
27 to the laws of this state if the name of the corporation contains the words
28 “engineer,” “engineered,” “engineering,” “professional engineer,”
29 “registered engineer” or “licensed engineer” unless:

30 (a) The state board of professional engineers and land surveyors
31 certifies that the principals of the corporation are licensed to practice
32 engineering pursuant to the laws of this state; or

33 (b) The state board of professional engineers and land surveyors
34 certifies that the corporation is exempt from the prohibitions of
35 NRS 625.520.

36 4. The secretary of state shall not accept for filing any articles of
37 incorporation or any certificate of amendment of articles of incorporation
38 of any corporation formed pursuant to the laws of this state which provides
39 that the name of the corporation contains the words “accountant,”
40 “accounting,” “accountancy,” “auditor” or “auditing” unless the Nevada
41 state board of accountancy certifies that the corporation:

42 (a) Is registered pursuant to the provisions of chapter 628 of NRS; or

43 (b) Has filed with the state board of accountancy under penalty of
44 perjury a written statement that the corporation is not engaged in the
45 practice of accounting and is not offering to practice accounting in this
46 state.

47 5. The provisions of subsection 3 do not apply to any corporation,
48 whose securities are publicly traded and regulated by the Securities



1 Exchange Act of 1934, which does not engage in the practice of
2 professional engineering.

3 6. The commissioner of financial institutions , *the mortgage industry*
4 *commission* and the commissioner of insurance may approve or disapprove
5 the articles or amendments referred to them pursuant to the provisions of
6 this section.

7 **Sec. 89.** NRS 80.010 is hereby amended to read as follows:

8 80.010 1. Before commencing or doing any business in this state,
9 each corporation organized pursuant to the laws of another state, territory,
10 the District of Columbia, a possession of the United States or a foreign
11 country, that enters this state to do business must:

12 (a) File in the office of the secretary of state of this state:

13 (1) A certificate of corporate existence issued not more than 90 days
14 before the date of filing by an authorized officer of the jurisdiction of its
15 incorporation setting forth the filing of documents and instruments related
16 to the articles of incorporation, or the governmental acts or other
17 instrument or authority by which the corporation was created. If the
18 certificate is in a language other than English, a translation, together with
19 the oath of the translator and his attestation of its accuracy, must be
20 attached to the certificate.

21 (2) A certificate of acceptance of appointment executed by its
22 resident agent, who must be a resident or located in this state. The
23 certificate must set forth the name of the resident agent, his street address
24 for the service of process, and his mailing address if different from his
25 street address. The street address of the resident agent is the registered
26 office of the corporation in this state.

27 (3) A statement executed by an officer of the corporation setting
28 forth:

29 (I) A general description of the purposes of the corporation; and

30 (II) The authorized stock of the corporation and the number and
31 par value of shares having par value and the number of shares having no
32 par value.

33 (b) Lodge in the office of the secretary of state a copy of the document
34 most recently filed by the corporation in the jurisdiction of its
35 incorporation setting forth the authorized stock of the corporation, the
36 number of par-value shares and their par value, and the number of no-par-
37 value shares.

38 2. The secretary of state shall not file the documents required by
39 subsection 1 for any foreign corporation whose name is not distinguishable
40 on the records of the secretary of state from the names of all other artificial
41 persons formed, organized, registered or qualified pursuant to the
42 provisions of this Title that are on file in the office of the secretary of state
43 and all names that are reserved in the office of the secretary of state
44 pursuant to the provisions of this Title, unless the written, acknowledged
45 consent of the holder of the name on file or reserved name to use the same
46 name or the requested similar name accompanies the articles of
47 incorporation.

48 3. The secretary of state shall not accept for filing the documents
49 required by subsection 1 or NRS 80.110 for any foreign corporation if the



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1 name of the corporation contains the words "engineer," "engineered,"
2 "engineering," "professional engineer," "registered engineer" or "licensed
3 engineer" unless the state board of professional engineers and land
4 surveyors certifies that:
5 (a) The principals of the corporation are licensed to practice engineering
6 pursuant to the laws of this state; or
7 (b) The corporation is exempt from the prohibitions of NRS 625.520.
8 4. The secretary of state shall not accept for filing the documents
9 required by subsection 1 or NRS 80.110 for any foreign corporation if it
10 appears from the documents that the business to be carried on by the
11 corporation is subject to supervision by the commissioner of financial
12 institutions ~~H~~ *or the mortgage industry commission*, unless the
13 commissioner *or commission, as appropriate*, certifies that:
14 (a) The corporation has obtained the authority required to do business in
15 this state; or
16 (b) The corporation is not subject to or is exempt from the requirements
17 for obtaining such authority.
18 5. The secretary of state shall not accept for filing the documents
19 required by subsection 1 or NRS 80.110 for any foreign corporation if the
20 name of the corporation contains the words "accountant," "accounting,"
21 "accountancy," "auditor" or "auditing" unless the Nevada state board of
22 accountancy certifies that the foreign corporation:
23 (a) Is registered pursuant to the provisions of chapter 628 of NRS; or
24 (b) Has filed with the state board of accountancy under penalty of
25 perjury a written statement that the foreign corporation is not engaged in
26 the practice of accounting and is not offering to practice accounting in this
27 state.
28 6. The secretary of state may adopt regulations that interpret the
29 requirements of this section.
30 **Sec. 90.** NRS 232.510 is hereby amended to read as follows:
31 232.510 1. The department of business and industry is hereby
32 created.
33 2. The department consists of a director and the following:
34 (a) Consumer affairs division.
35 (b) Division of financial institutions.
36 (c) Housing division.
37 (d) Manufactured housing division.
38 (e) Real estate division.
39 (f) Division of unclaimed property.
40 (g) Division of insurance.
41 (h) Division of industrial relations.
42 (i) Office of labor commissioner.
43 (j) Taxicab authority.
44 (k) Nevada athletic commission.
45 (l) Office of the Nevada attorney for injured workers.
46 (m) Transportation services authority.
47 (n) *Mortgage industry commission*.
48 (o) Any other office, commission, board, agency or entity created or
49 placed within the department pursuant to a specific statute, the budget



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1 approved by the legislature or an executive order, or an entity whose
2 budget or activities have been placed within the control of the department
3 by a specific statute.

4 **Sec. 91.** NRS 232.520 is hereby amended to read as follows:

5 232.520 The director:

6 1. Shall appoint a chief or executive director, or both of them, of each
7 of the divisions, offices, commissions, boards, agencies or other entities of
8 the department, unless the authority to appoint such a chief or executive
9 director, or both of them, is expressly vested in another person, board or
10 commission by a specific statute. In making the appointments, the director
11 may obtain lists of qualified persons from professional organizations,
12 associations or other groups recognized by the department, if any. *The*
13 *chiefs within the department are as follows:*

14 (a) The chief of the consumer affairs division is the commissioner of
15 consumer affairs. ~~the~~

16 (b) *The* chief of the division of financial institutions is the
17 commissioner of financial institutions. ~~the~~

18 (c) *The* chief of the housing division is the administrator of the housing
19 division. ~~the~~

20 (d) *The* chief of the manufactured housing division is the administrator
21 of the manufactured housing division. ~~the~~

22 (e) *The* chief of the real estate division is the real estate administrator .
23 ~~the~~

24 (f) *The* chief of the division of unclaimed property is the administrator
25 of unclaimed property. ~~the~~

26 (g) *The* chief of the division of insurance is the commissioner of
27 insurance. ~~the~~

28 (h) *The* chief of the division of industrial relations is the administrator
29 of the division of industrial relations. ~~the~~

30 (i) *The* chief of the office of labor commissioner is the labor
31 commissioner. ~~the~~

32 (j) *The* chief of the taxicab authority is the taxicab administrator. ~~the~~

33 (k) *The* chief of the transportation services authority is the chairman of
34 the authority. ~~and the~~

35 (l) *The chief of the mortgage industry commission is the chairman of*
36 *the commission.*

37 (m) *The* chief of any other entity of the department has the title
38 specified by the director, unless a different title is specified by a specific
39 statute.

40 2. Is responsible for the administration of all provisions of law relating
41 to the jurisdiction, duties and functions of all divisions and other entities
42 within the department. The director may, if he deems it necessary to carry
43 out his administrative responsibilities, be considered as a member of the
44 staff of any division or other entity of the department for the purpose of
45 budget administration or for carrying out any duty or exercising any power
46 necessary to fulfill the responsibilities of the director pursuant to this
47 subsection. The provisions of this subsection do not authorize the director
48 to preempt any authority or jurisdiction granted by statute to any division



* A B 3 2 4 *

1 or other entity within the department or authorize the director to act or take
2 on a function that would contravene a rule of court or a statute.

3 3. May:

4 (a) Establish uniform policies for the department, consistent with the
5 policies and statutory responsibilities and duties of the divisions and other
6 entities within the department, relating to matters concerning budgeting,
7 accounting, planning, program development, personnel, information
8 services, dispute resolution, travel, workplace safety, the acceptance of
9 gifts or donations, the management of records and any other subject for
10 which a uniform departmental policy is necessary to ensure the efficient
11 operation of the department.

12 (b) Provide coordination among the divisions and other entities within
13 the department, in a manner which does not encroach upon their statutory
14 powers and duties, as they adopt and enforce regulations, execute
15 agreements, purchase goods, services or equipment, prepare legislative
16 requests and lease or use office space.

17 (c) Define the responsibilities of any person designated to carry out the
18 duties of the director relating to financing, industrial development or
19 business support services.

20 4. May, within the limits of the financial resources made available to
21 him, promote, participate in the operation of, and create or cause to be
22 created, any nonprofit corporation, pursuant to chapter 82 of NRS, which
23 he determines is necessary or convenient for the exercise of the powers and
24 duties of the department. The purposes, powers and operation of the
25 corporation must be consistent with the purposes, powers and duties of the
26 department.

27 5. For any bonds which he is otherwise authorized to issue, may issue
28 bonds the interest on which is not exempt from federal income tax or
29 excluded from gross revenue for the purposes of federal income tax.

30 6. May, except as otherwise provided by specific statute, adopt by
31 regulation a schedule of fees and deposits to be charged in connection with
32 the programs administered by him pursuant to chapters 348A and 349 of
33 NRS. Except as otherwise provided, the amount of any such fee or deposit
34 must not exceed 2 percent of the principal amount of the financing.

35 7. May designate any person within the department to perform any of
36 the duties or responsibilities, or exercise any of the authority, of the
37 director on his behalf.

38 8. May negotiate and execute agreements with public or private
39 entities which are necessary to the exercise of the powers and duties of the
40 director or the department.

41 9. May establish a trust account in the state treasury for depositing and
42 accounting for money that is held in escrow or is on deposit with the
43 department for the payment of any direct expenses incurred by the director
44 in connection with any bond programs administered by the director. The
45 interest and income earned on money in the trust account, less any amount
46 deducted to pay for applicable charges, must be credited to the trust
47 account. Any balance remaining in the account at the end of a fiscal year
48 may be:



* A B 3 2 4 *

1 (a) Carried forward to the next fiscal year for use in covering the
2 expense for which it was originally received; or

3 (b) Returned to any person entitled thereto in accordance with
4 agreements or regulations of the director relating to those bond programs.

5 **Sec. 92.** NRS 686A.350 is hereby amended to read as follows:

6 686A.350 1. A license to engage in the business of a company is not
7 required of any:

8 (a) State or federally chartered building association or savings and loan
9 association.

10 (b) State or federally chartered bank.

11 (c) State or federally chartered credit union.

12 (d) Thrift company licensed pursuant to chapter 677 of NRS.

13 (e) Insurance agent financing his own accounts.

14 (f) Insurer authorized to do business in this state financing its own
15 policies or those of an affiliated company.

16 (g) Business, in addition to those included in paragraphs (a) to (d),
17 inclusive, which is licensed and regulated by *the mortgage industry*
18 *commission* or the division of financial institutions of the department of
19 business and industry.

20 2. The provisions of NRS 686A.330 to 686A.520, inclusive, other than
21 those which concern licensing, apply to persons exempt from licensing
22 pursuant to subsection 1.

23 **Sec. 93.** Section 139 of chapter 646, Statutes of Nevada 1999, at page
24 3816, is hereby amended to read as follows:

25 Sec. 139. 1. This section and sections 1 to 101, inclusive, 103,
26 105 to 117, inclusive, 119 to 138, inclusive, of this act become effective
27 upon passage and approval for the purpose of adopting any regulations
28 necessary to carry out the provisions of this act, and on October 1, 1999,
29 for all other purposes.

30 2. Sections 102, 104 and 118 of this act become effective upon
31 passage and approval for the purpose of adopting any regulations
32 necessary to carry out the provisions of this act, and at 12:01 a.m. on
33 October 1, 1999, for all other purposes.

34 3. Sections 15 and 33 of this act expire by limitation on the date on
35 which the provisions of 42 U.S.C. § 666 requiring each state to establish
36 procedures under which the state has authority to withhold or suspend,
37 or to restrict the use of professional, occupational and recreational
38 licenses of persons who:

39 (a) Have failed to comply with a subpoena or warrant relating to a
40 procedure to determine the paternity of a child or to establish or enforce
41 an obligation for the support of a child; or

42 (b) Are in arrears in the payment for the support of one or more
43 children,
44 are repealed by the Congress of the United States.

45 ~~4. Section 78.5 of this act expires by limitation on October 1,~~
46 ~~2001.~~

47 **Sec. 94.** NRS 645B.860, 645B.865 and 645B.870 are hereby repealed.

48 **Sec. 95.** On July 1, 2001, or as soon as practicable thereafter, the
49 governor shall appoint five persons as members of the mortgage industry



* A B 3 2 4 *

1 commission, whose terms commence on July 1, 2001. For the initial terms
2 of the members of the mortgage industry commission, the governor shall
3 appoint:

- 4 1. Two members whose terms expire on June 30, 2002;
- 5 2. Two members whose terms expire on June 30, 2003; and
- 6 3. One member whose term expires on June 30, 2004.

7 **Sec. 96.** 1. Notwithstanding the provisions of this act and except as
8 otherwise provided in subsection 2, the commissioner of financial
9 institutions shall exercise all the power and perform all the duties that are
10 assigned to the mortgage industry commission and its executive director
11 pursuant to the provisions of this act, until the date on which the director of
12 the department of business and industry certifies to the governor that the
13 mortgage industry commission and its executive director are prepared to
14 carry out the provisions of this act, or until January 1, 2002, whichever
15 occurs sooner.

16 2. During the period described in subsection 1, the mortgage industry
17 commission and its executive director may exercise any power and perform
18 any duty assigned to them pursuant to the provisions of this act if the
19 exercise of the power or the performance of the duty is necessary as an
20 organizational, preparatory or preliminary measure to prepare the mortgage
21 industry commission and its executive director to carry out the provisions
22 of this act.

23 **Sec. 97.** 1. Any administrative regulations adopted by an officer or
24 an agency whose name has been changed or whose responsibilities have
25 been transferred pursuant to the provisions of this act to another officer or
26 agency remain in force until amended by the officer or agency to which the
27 responsibility for the adoption of the regulations has been transferred.

28 2. Any contracts or other agreements entered into by an officer or
29 agency whose name has been changed or whose responsibilities have been
30 transferred pursuant to the provisions of this act to another officer or
31 agency are binding upon the officer or agency to which the responsibility
32 for the administration of the provisions of the contract or other agreement
33 has been transferred. Such contracts and other agreements may be enforced
34 by the officer or agency to which the responsibility for the enforcement of
35 the provisions of the contract or other agreement has been transferred.

36 3. Any action taken by an officer or agency whose name has been
37 changed or whose responsibilities have been transferred pursuant to the
38 provisions of this act to another officer or agency remains in effect as if
39 taken by the officer or agency to which the responsibility for the
40 enforcement of such actions has been transferred.

41 **Sec. 98.** This act becomes effective on July 1, 2001.

42 **Sec. 99.** 1. The legislative counsel shall:

43 (a) In preparing the reprint and supplements to the Nevada Revised
44 Statutes, appropriately change any references to an officer or agency whose
45 name is changed or whose responsibilities have been transferred pursuant
46 to the provisions of this act to refer to the appropriate officer or agency.

47 (b) In preparing supplements to the Nevada Administrative Code,
48 appropriately change any references to an officer or agency whose name is



- 1 changed or whose responsibilities have been transferred pursuant to the
- 2 provisions of this act to refer to the appropriate officer or agency.
- 3 2. Any reference in a bill or resolution passed by the 71st session of
- 4 the Nevada legislature to an officer or agency whose name is changed or
- 5 whose responsibilities have been transferred pursuant to the provisions of
- 6 this act to another officer or agency shall be deemed to refer to the officer
- 7 or agency to which the responsibility is transferred.

TEXT OF REPEALED SECTIONS

645B.860 Creation; members; appointment; terms and vacancies; no compensation or per diem allowance; protections afforded members who are public officers or employees.

1. The advisory council on mortgage investments and mortgage lending is hereby created.

2. The advisory council consists of five members appointed by the legislative commission from a list of persons provided by the commissioner.

3. The members of the advisory council:

(a) Must be persons who have experience with, an interest in or a knowledge of issues relating to mortgage investments or mortgage lending. Such persons may include, without limitation, investors, public officers and employees, licensees and persons who have engaged in or been involved with any business, profession or occupation relating to mortgage investments or mortgage lending.

(b) Serve terms of 2 years and at the pleasure of the legislative commission.

(c) May be reappointed.

(d) Serve without compensation and may not receive a per diem allowance or travel expenses.

4. Any vacancy in the membership of the advisory council must be filled for the remainder of the unexpired term in the same manner as the original appointment.

5. A member of the advisory council who is an officer or employee of this state or a political subdivision of this state must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the advisory council and perform any work necessary to carry out the duties of the advisory council in the most timely manner practicable. A state agency or political subdivision of this state shall not require an officer or employee who is a member of the advisory council to make up the time he is absent from work to carry out his duties as a member of the advisory council or use annual vacation or compensatory time for the absence.

6. Notwithstanding any other provision of law, a member of the advisory council:

(a) Is not disqualified from public employment or holding a public office because of his membership on the advisory council; and



* A B 3 2 4 *

(b) Does not forfeit his public office or public employment because of his membership on the advisory council.

645B.865 Chairman and vice chairman; meetings; quorum; subcommittees.

1. The members of the advisory council on mortgage investments and mortgage lending shall elect a chairman and a vice chairman from among their membership. The vice chairman shall perform the duties of the chairman during any absence of the chairman.

2. The advisory council may meet at least once each calendar quarter and at other times on the call of the chairman or a majority of its members.

3. The meetings of the advisory council may be held at any location designated by the chairman or a majority of its members.

4. A majority of the members of the advisory council constitutes a quorum for the transaction of all business.

5. The chairman may appoint subcommittees of the members of the advisory council to consider specific problems relating to mortgage investments or mortgage lending.

645B.870 Purpose. The purpose of the advisory council on mortgage investments and mortgage lending is to:

1. Consult with, advise and make recommendations to the commissioner in all matters relating to mortgage investments and mortgage lending.

2. Make recommendations to the legislature concerning the enactment of any legislation relating to mortgage investments and mortgage lending.

3. Make recommendations to the legislature and the commissioner concerning educational requirements and other qualifications for persons who are engaged in any business, profession or occupation relating to mortgage investments and mortgage lending.

4. Conduct hearings, conferences and special studies on all matters relating to mortgage investments and mortgage lending.

5. Provide a forum for the consideration and discussion of all matters relating to mortgage investments and mortgage lending.

6. Gather and disseminate information relating to mortgage investments and mortgage lending.

7. Engage in other activities that are designed to promote, improve and protect the reliability and stability of mortgage investments and mortgage lending in this state.

