

**(REPRINTED WITH ADOPTED AMENDMENTS)****SECOND REPRINT****A.B. 324**

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

MARCH 12, 2001

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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 and mortgage agents from the commissioner of financial institutions to the mortgage industry commission and its executive director; authorizing the mortgage industry commission to increase fees by regulation in certain circumstances; 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 14.5, inclusive, of this act.
- 3 **Sec. 2. “Accredited investor” means an investor:**
- 4 **1. Who, on the date of an act or transaction, meets the criteria to be**
- 5 **an accredited investor pursuant to the provisions of Regulation D of the**
- 6 **Securities and Exchange Commission, 17 C.F.R. §§ 230.501 to 230.508,**
- 7 **inclusive; or**
- 8 **2. Whom, on the date of an act or transaction, a mortgage broker or**
- 9 **mortgage agent reasonably believes meets the criteria to be an accredited**
- 10 **investor pursuant to the provisions of Regulation D of the Securities and**
- 11 **Exchange Commission, 17 C.F.R. §§ 230.501 to 230.508, inclusive.**
- 12 **Sec. 3. “Executive director” means the executive director of the**
- 13 **commission.**



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1     *Sec. 4. "Mortgage company" has the meaning ascribed to it in*  
2     *NRS 645E.100.*  
3     *Sec. 5. For the purposes of this chapter:*  
4         *1. The southern district of Nevada consists of the counties of Clark,*  
5         *Esmeralda, Lincoln and Nye; and*  
6         *2. The northern district of Nevada consists of all other counties of*  
7         *this state.*  
8     *Sec. 6. 1. The mortgage industry commission is hereby created.*  
9         *2. The commission consists of five members appointed by the*  
10         *governor. The governor shall appoint to the commission:*  
11             *(a) Three members who are residents of the southern district of*  
12             *Nevada; and*  
13             *(b) Two members who are residents of the northern district of Nevada.*  
14         *3. If, during his term, a member changes his residency to a location*  
15         *outside of the district from which he was appointed, the member shall be*  
16         *deemed to have resigned from his office, and the office shall be deemed*  
17         *to be vacant.*  
18         *4. A person may not be appointed to the commission unless the*  
19         *person:*  
20             *(a) Is a citizen of the United States;*  
21             *(b) Has been a resident of this state for at least 5 years immediately*  
22             *preceding the date of his appointment; and*  
23             *(c) For at least 3 years immediately preceding the date of his*  
24             *appointment:*  
25                 *(1) Has held a valid license issued by this state as a mortgage*  
26                 *broker or mortgage company or has been a general partner, director or*  
27                 *officer of such a mortgage broker or mortgage company; or*  
28                 *(2) Has been actively and legally engaged in this state in the*  
29                 *business of mortgage lending or in the activities of a mortgage agent.*  
30         *5. Before entering upon the duties of his office, a member shall take:*  
31             *(a) The constitutional oath of office; and*  
32             *(b) An oath that he is legally qualified to serve as a member of the*  
33             *commission.*  
34     *Sec. 7. 1. After the initial terms, the members of the commission*  
35     *must be appointed to terms of 3 years. Upon the expiration of his term, a*  
36     *member continues to serve on the commission until a qualified person*  
37     *has been appointed as his successor.*  
38         *2. Members of the commission may not be appointed to serve more*  
39         *than two consecutive terms, excluding any appointment to:*  
40             *(a) An initial term of less than 3 years; and*  
41             *(b) An unexpired term that does not exceed 18 months.*  
42         *3. A person who has been appointed to serve two consecutive terms*  
43         *on the commission may be appointed to the commission if, on the date of*  
44         *his most recent appointment, more than 3 years have elapsed since the*  
45         *expiration of his last term.*  
46         *4. Any vacancy in the membership of the commission must be filled*  
47         *for the remainder of the unexpired term in the same manner as the*  
48         *original appointment.*



1     **Sec. 8. 1. The commission shall:**

2     *(a) Operate on the basis of a fiscal year beginning on July 1 and*  
3     *ending on June 30.*

4     *(b) At the first meeting of each fiscal year, select one member as*  
5     *chairman and one member as vice chairman. The chairmanship of the*  
6     *commission must alternate each fiscal year between a member who is a*  
7     *resident of the southern district of Nevada and a member who is a*  
8     *resident of the northern district of Nevada. The vice chairman may not*  
9     *be a resident of the same district as the chairman. If a vacancy occurs in*  
10    *the chairmanship or vice chairmanship, the vacancy must be filled for*  
11    *the remainder of the unexpired term by a member who is a resident of*  
12    *the same district as his predecessor. The vice chairman shall perform the*  
13    *duties of the chairman during any absence of the chairman.*

14    **2. The commission:**

15    *(a) Shall hold at least two meetings each year, one in the southern*  
16    *district of Nevada and one in the northern district of Nevada; and*

17    *(b) May hold additional meetings each year at the call of the*  
18    *chairman or upon a written request submitted to the executive director by*  
19    *two members of the commission.*

20    **3. The chairman shall designate the time and place for each meeting**  
21    *of the commission. Not later than 3 working days before each meeting,*  
22    *the executive director shall give each member of the commission written*  
23    *notice of the time, place and purpose of the meeting.*

24    **4. Three members of the commission constitute a quorum. A**  
25    *majority of the members present during a quorum may take any action or*  
26    *make any decision as the commission.*

27    **5. The commission shall:**

28    *(a) Prepare and maintain a record of its transactions and*  
29    *proceedings; and*

30    *(b) Adopt a seal of which each court of this state shall take judicial*  
31    *notice.*

32    **6. While engaged in the business of the commission, each member of**  
33    *the commission is entitled to receive:*

34    *(a) A salary of not more than \$80 per day, as fixed by the commission;*  
35    *and*

36    *(b) A per diem allowance and travel expenses at a rate fixed by the*  
37    *commission. The rate must not exceed the rate provided for officers and*  
38    *employees of this state generally.*

39    **Sec. 9. 1. The commission shall designate the location of the**  
40    *principal office of the commission. If the principal office of the*  
41    *commission is located in:*

42    *(a) The southern district of Nevada, the commission shall establish at*  
43    *least one branch office in the northern district of Nevada.*

44    *(b) The northern district of Nevada, the commission shall establish at*  
45    *least one branch office in the southern district of Nevada.*

46    **2. Within the limits of legislative appropriation, the commission may**  
47    *establish such additional branch offices in this state as it considers*  
48    *necessary to carry out its functions and duties.*



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1     3. *The executive director shall conduct business primarily in the*  
2 *principal office of the commission.*

3     **Sec. 10.** *The commission may delegate to the executive director:*

4         1. *The authority of the commission to take any disciplinary action*  
5 *and to impose any fines and penalties; and*

6         2. *Any other authority conferred on the commission by this chapter*  
7 *and any other specific statute relating to the powers and duties of the*  
8 *commission.*

9     **Sec. 11.** *1. The director of the department of business and industry*  
10 *shall appoint an executive director who:*

11         (a) *Within the limits of legislative appropriation, is entitled to receive*  
12 *such compensation as is fixed by the commission;*

13         (b) *Is in the unclassified service of the state; and*

14         (c) *Serves at the pleasure of the director of the department of business*  
15 *and industry.*

16         2. *The executive director may not be:*

17             (a) *A member of the commission; or*

18             (b) *A licensed mortgage broker or mortgage company, a partner,*  
19 *director or officer of a licensed mortgage broker or mortgage company*  
20 *or, directly or indirectly, interested in, employed by or associated with a*  
21 *licensed mortgage broker or mortgage company.*

22         3. *Except as otherwise provided in NRS 284.143, the executive*  
23 *director shall devote his entire time and attention to the business of his*  
24 *office and shall not pursue any other business or occupation or hold any*  
25 *other office of profit.*

26         4. *The executive director:*

27             (a) *Is subject to the supervision of the director of the department of*  
28 *business and industry;*

29             (b) *Is responsible for administering and carrying out the policies and*  
30 *administrative functions of the commission;*

31             (c) *Shall direct and supervise all the technical and administrative*  
32 *functions of the commission;*

33             (d) *Shall report to the commission all relevant and important matters*  
34 *concerning the administration of the office of the commission;*

35             (e) *Shall perform the duties set forth in this chapter and the duties*  
36 *delegated to the executive director by the commission pursuant to section*  
37 *10 of this act; and*

38             (f) *Shall perform any lawful act that the executive director considers*  
39 *necessary or desirable to carry out the purposes and provisions of this*  
40 *chapter and any other specific statute relating to the powers and duties of*  
41 *the commission.*

42     **Sec. 12.** *1. Within the limits of legislative appropriation, the*  
43 *executive director may employ such persons as he deems necessary to*  
44 *carry out the functions and duties of the commission.*

45         2. *A person employed by the executive director may not be:*

46             (a) *A member of the commission; or*

47             (b) *A licensed mortgage broker or mortgage company, a partner,*  
48 *director or officer of a licensed mortgage broker or mortgage company*



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1 or, directly or indirectly, interested in, employed by or associated with a  
2 licensed mortgage broker or mortgage company.

3 3. While engaged in the business of the commission, the executive  
4 director and each person employed by the executive director is entitled to  
5 receive a per diem allowance and travel expenses at a rate fixed by the  
6 commission. The rate must not exceed the rate provided for officers and  
7 employees of this state generally.

8 Sec. 13. The commission, the commissioner of financial institutions  
9 and the division of financial institutions shall cooperate with, share  
10 records and information with and assist each other to the extent  
11 necessary to carry out the provisions of this chapter, chapter 645E of  
12 NRS and any other specific statute relating to the powers and duties of  
13 the commission, the commissioner of financial institutions and the  
14 division of financial institutions.

15 Sec. 14. 1. The attorney general is the attorney for the commission  
16 and the executive director.

17 2. The attorney general shall designate one or more of his deputies to  
18 conduct actions, proceedings and hearings for the commission and the  
19 executive director. Such deputies shall advise the commission and the  
20 executive director on all matters relating to the commission.

21 Sec. 14.5. The commission shall adopt regulations that set forth the  
22 procedures that a mortgage broker or mortgage agent must follow to  
23 determine whether an investor is an accredited investor.

24 Sec. 15. NRS 645B.010 is hereby amended to read as follows:  
25 645B.010 As used in this chapter, unless the context otherwise  
26 requires, the words and terms defined in NRS 645B.0103 to 645B.0135,  
27 inclusive, and sections 2, 3 and 4 of this act have the meanings ascribed to  
28 them in those sections.

29 Sec. 16. NRS 645B.0105 is hereby amended to read as follows:  
30 645B.0105 ~~“Commissioner” means the commissioner of financial~~  
31 ~~institutions.~~ “Commission” means:

32 1. The mortgage industry commission created pursuant to section 6  
33 of this act; and

34 2. The executive director if the mortgage industry commission has  
35 delegated its authority to the executive director pursuant to section 10 of  
36 this act.

37 Sec. 17. NRS 645B.0111 is hereby amended to read as follows:  
38 645B.0111 “Division ~~of~~ of financial institutions” means the division  
39 of financial institutions of the department of business and industry.

40 Sec. 18. NRS 645B.0127 is hereby amended to read as follows:  
41 645B.0127 1. “Mortgage broker” means a person who, directly or  
42 indirectly:

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

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

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



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

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

6 2. The term does not include a person who is licensed as a mortgage  
7 company ~~as defined in NRS 645E.100,~~ pursuant to chapter 645E of  
8 NRS, unless the person is also licensed as a mortgage broker pursuant to  
9 this chapter.

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

11 645B.016 Except as otherwise provided in NRS 645B.690:

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

14 (a) File a written application for a certificate of exemption with the  
15 office of the ~~commissioner;~~ *commission;*

16 (b) Pay the fee required pursuant to NRS 645B.050; and

17 (c) Include with the written application satisfactory proof that the  
18 person meets the requirements of subsection 1 or 6 of NRS 645B.015.

19 2. The ~~commissioner;~~ *commission* may require a person who claims  
20 an exemption from the provisions of this chapter pursuant to subsections 2  
21 to 5, inclusive, or 7 to 10, inclusive, of NRS 645B.015 to:

22 (a) File a written application for a certificate of exemption with the  
23 office of the ~~commissioner;~~ *commission;*

24 (b) Pay the fee required pursuant to NRS 645B.050; and

25 (c) Include with the written application satisfactory proof that the  
26 person meets the requirements of at least one of those exemptions.

27 3. A certificate of exemption expires automatically if, at any time, the  
28 person who claims the exemption no longer meets the requirements of at  
29 least one exemption set forth in the provisions of NRS 645B.015.

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

35 (a) A license as a mortgage broker pursuant to this chapter; or

36 (b) Another certificate of exemption.

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

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

43 (b) Has suppressed or withheld from the ~~commissioner;~~ *commission*  
44 any information which the person possesses and which, if submitted by  
45 him, would have rendered the person ineligible to hold a certificate of  
46 exemption; or

47 (c) Has violated any provision of this chapter, a regulation adopted  
48 pursuant to this chapter or an order of the ~~commissioner;~~ *commission* that



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1 applies to a person who is required to apply for a certificate of exemption  
2 or who holds a certificate of exemption.

3 **Sec. 20.** NRS 645B.018 is hereby amended to read as follows:

4 645B.018 1. A person may apply to the ~~commissioner~~ **commission**  
5 for an exemption from the provisions of this chapter governing the making  
6 of a loan of money.

7 2. The ~~commissioner~~ **commission** may grant the exemption if ~~he~~  
8 **the commission** finds that:

9 (a) The making of the loan would not be detrimental to the financial  
10 condition of the lender, the debtor or the person who is providing the  
11 money for the loan;

12 (b) The lender, the debtor or the person who is providing the money for  
13 the loan has established a record of sound performance, efficient  
14 management, financial responsibility and integrity;

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

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

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

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

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

23 **Sec. 21.** NRS 645B.020 is hereby amended to read as follows:

24 645B.020 1. A person who wishes to be licensed as a mortgage  
25 broker must file a written application for a license with the office of the  
26 ~~commissioner~~ **commission** and pay the fee required pursuant to  
27 NRS 645B.050. An application for a license as a mortgage broker must:

28 (a) Be verified.

29 (b) State the name, residence address and business address of the  
30 applicant and the location of each principal office and branch office at  
31 which the mortgage broker will conduct business within this state.

32 (c) State the name under which the applicant will conduct business as a  
33 mortgage broker.

34 (d) List the name, residence address and business address of each  
35 person who will:

36 (1) If the applicant is not a natural person, have an interest in the  
37 mortgage broker as a principal, partner, officer, director or trustee,  
38 specifying the capacity and title of each such person.

39 (2) Be associated with or employed by the mortgage broker as a  
40 mortgage agent.

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

43 (f) Include a general business plan and a ~~manual for policies and~~  
44 ~~procedures for the mortgage broker and his mortgage agents that includes,~~  
45 ~~without limitation, the underwriting standards, restrictions and~~ **description**  
46 of the policies and procedures that the mortgage broker and his mortgage  
47 agents will follow to arrange and service loans and to conduct business  
48 pursuant to this chapter.





- 1 (g) State the length of time the applicant has been engaged in the  
2 business of a broker.
- 3 (h) Include a financial statement of the applicant and, if applicable,  
4 satisfactory proof that the applicant will be able to maintain continuously  
5 the net worth required pursuant to NRS 645B.115.
- 6 (i) Include any other information required pursuant to the regulations  
7 adopted by the ~~commissioner~~ **commission** or an order of the  
8 ~~commissioner~~ **commission**.
- 9 2. If a mortgage broker will conduct business at one or more branch  
10 offices within this state, the mortgage broker must apply for a license for  
11 each such branch office.
- 12 3. Except as otherwise provided in this chapter, the ~~commissioner~~  
13 **commission** shall issue a license to an applicant as a mortgage broker if:
- 14 (a) The application complies with the requirements of this chapter;  
15 (b) The applicant submits the statement required pursuant to  
16 NRS 645B.023, if the applicant is required to do so; and  
17 (c) The applicant and each general partner, officer or director of the  
18 applicant, if the applicant is a partnership, corporation or unincorporated  
19 association:
- 20 (1) Has a good reputation for honesty, trustworthiness and integrity  
21 and displays competence to transact the business of a mortgage broker in a  
22 manner which safeguards the interests of the general public. The applicant  
23 must submit satisfactory proof of these qualifications to the  
24 ~~commissioner~~ **commission**.
- 25 (2) Has not been convicted of, or entered a plea of nolo contendere  
26 to, a felony or any crime involving fraud, misrepresentation or moral  
27 turpitude.
- 28 (3) Has not made a false statement of material fact on his application.
- 29 (4) Has not had a license that was issued pursuant to the provisions of  
30 this chapter or chapter 645E of NRS suspended or revoked within the 10  
31 years immediately preceding the date of his application.
- 32 (5) Has not had a license that was issued in any other state, district or  
33 territory of the United States or any foreign country suspended or revoked  
34 within the 10 years immediately preceding the date of his application.
- 35 (6) Has not violated any provision of this chapter or chapter 645E of  
36 NRS, a regulation adopted pursuant thereto or an order of the  
37 ~~commissioner~~ **commission**.
- 38 **Sec. 22.** NRS 645B.023 is hereby amended to read as follows:  
39 645B.023 1. A natural person who applies for the issuance or  
40 renewal of a license as a mortgage broker shall submit to the  
41 ~~commissioner~~ **commission** the statement prescribed by the welfare  
42 division of the department of human resources pursuant to NRS 425.520.  
43 The statement must be completed and signed by the applicant.
- 44 2. The ~~commissioner~~ **commission** shall include the statement  
45 required pursuant to subsection 1 in:
- 46 (a) The application or any other forms that must be submitted for the  
47 issuance or renewal of the license; or  
48 (b) A separate form prescribed by the ~~commissioner~~ **commission**.



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

3 (a) Fails to submit the statement required pursuant to subsection 1; or  
4 (b) Indicates on the statement submitted pursuant to subsection 1 that he  
5 is subject to a court order for the support of a child and is not in  
6 compliance with the order or a plan approved by the district attorney or  
7 other public agency enforcing the order for the repayment of the amount  
8 owed pursuant to the order.

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

17 **Sec. 23.** NRS 645B.0243 is hereby amended to read as follows:

18 645B.0243 The ~~commissioner~~ *commission* may refuse to issue a  
19 license to an applicant if the ~~commissioner~~ *commission* has reasonable  
20 cause to believe that the applicant or any general partner, officer or director  
21 of the applicant has, after October 1, 1999, employed or proposed to  
22 employ a person as a mortgage agent or authorized or proposed to  
23 authorize a person to be associated with a mortgage broker as a mortgage  
24 agent at a time when the applicant or the general partner, officer or director  
25 knew or, in light of all the surrounding facts and circumstances, reasonably  
26 should have known that the person:

27 1. Had been convicted of, or entered a plea of nolo contendere to, a  
28 felony or any crime involving fraud, misrepresentation or moral turpitude;  
29 or

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

32 **Sec. 24.** NRS 645B.0245 is hereby amended to read as follows:

33 645B.0245 1. If an applicant is a natural person, the ~~commissioner~~  
34 *commission* may refuse to issue a license to the applicant if the  
35 ~~commissioner~~ *commission* has reasonable cause to believe that the  
36 applicant would be subject to control by a relative who would be ineligible  
37 to be licensed pursuant to this chapter.

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

41 (a) Any member of the partnership or any officer or director of the  
42 corporation or unincorporated association has committed any act or  
43 omission that would be cause for refusing to issue a license to a natural  
44 person; or

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



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1     **Sec. 25.** NRS 645B.0247 is hereby amended to read as follows:  
2     645B.0247 The provisions of NRS 645B.0243 and 645B.0245 do not  
3     limit the authority of the ~~the commissioner~~ *commission* to refuse to issue a  
4     license to an applicant for any other lawful reason or pursuant to any other  
5     provision of law.

6     **Sec. 26.** NRS 645B.025 is hereby amended to read as follows:  
7     645B.025 1. A mortgage broker shall post each license in a  
8     conspicuous place in the office to which it pertains.

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

12    **Sec. 27.** NRS 645B.035 is hereby amended to read as follows:

13    645B.035 1. A license entitles a licensee to engage only in ~~the~~ :

14    *(a) The activities authorized by this chapter ~~the~~ ; and*

15    *(b) The activities authorized by chapter 645E of NRS, unless the*  
16    *licensee engages in such activities with the intent to circumvent or avoid*  
17    *the provisions of this chapter.*

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

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

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

23    3. *If a licensee does not hold a license as a mortgage company*  
24    *pursuant to chapter 645E of NRS, the licensee is subject to supervision,*  
25    *regulation and discipline by the commission for all activities that the*  
26    *licensee engages in pursuant to this chapter and chapter 645E of NRS.*

27    4. *If a licensee holds a license as a mortgage company pursuant to*  
28    *chapter 645E of NRS, the licensee is subject to supervision, regulation*  
29    *and discipline by:*

30    *(a) The commission for all activities that the licensee engages in*  
31    *pursuant to this chapter and chapter 645E of NRS in his capacity as a*  
32    *mortgage broker; and*

33    *(b) The commissioner of financial institutions for all activities that the*  
34    *licensee engages in pursuant to chapter 645E of NRS in his capacity as a*  
35    *mortgage company.*

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

37    645B.050 1. A license issued pursuant to this chapter expires each  
38    year on June 30, unless it is renewed. To renew a license, the licensee must  
39    submit to the ~~the commissioner~~ *commission* on or before June 30 of each  
40    year:

41    (a) An application for renewal;

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

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

45    2. If the licensee fails to submit any item required pursuant to  
46    subsection 1 to the ~~the commissioner~~ *commission* on or before June 30 of  
47    any year, the license is canceled. The ~~the commissioner~~ *commission* may  
48    reinstate a canceled license if the licensee submits to the ~~the commissioner~~  
49    *commission:*



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- 1 (a) An application for renewal;
- 2 (b) The fee required to renew the license pursuant to this section;
- 3 (c) If the licensee is a natural person, the statement required pursuant to
- 4 NRS 645B.023; and
- 5 (d) ~~{A}~~ *Except as otherwise provided in this section, a* reinstatement
- 6 fee of \$200.
- 7 3. Except as otherwise provided in NRS 645B.016, a certificate of
- 8 exemption issued pursuant to this chapter expires each year on December
- 9 31, unless it is renewed. To renew a certificate of exemption, a person must
- 10 submit to the ~~{commissioner}~~ *commission* on or before December 31 of
- 11 each year:
- 12 (a) An application for renewal that includes satisfactory proof that the
- 13 person meets the requirements for an exemption from the provisions of this
- 14 chapter; and
- 15 (b) The fee required to renew the certificate of exemption.
- 16 4. If the person fails to submit any item required pursuant to
- 17 subsection 3 to the ~~{commissioner}~~ *commission* on or before December 31
- 18 of any year, the certificate of exemption is canceled. Except as otherwise
- 19 provided in NRS 645B.016, the ~~{commissioner}~~ *commission* may reinstate
- 20 a canceled certificate of exemption if the person submits to the
- 21 ~~{commissioner}~~ *commission*:
- 22 (a) An application for renewal that includes satisfactory proof that the
- 23 person meets the requirements for an exemption from the provisions of this
- 24 chapter;
- 25 (b) The fee required to renew the certificate of exemption; and
- 26 (c) ~~{A}~~ *Except as otherwise provided in this section, a* reinstatement
- 27 fee of \$100.
- 28 5. ~~{A}~~ *Except as otherwise provided in this section, a* person must pay
- 29 the following fees to apply for, to be issued or to renew a license as a
- 30 mortgage broker pursuant to this chapter:
- 31 (a) To file an original application or a license, \$1,500 for the principal
- 32 office and \$40 for each branch office. The person must also pay such
- 33 additional expenses incurred in the process of investigation as the
- 34 ~~{commissioner}~~ *commission* deems necessary. All money received by the
- 35 ~~{commissioner}~~ *commission* pursuant to this paragraph must be placed in
- 36 the investigative account created by NRS 232.545.
- 37 (b) To be issued a license, \$1,000 for the principal office and \$60 for
- 38 each branch office.
- 39 (c) To renew a license, \$500 for the principal office and \$100 for each
- 40 branch office.
- 41 6. ~~{A}~~ *Except as otherwise provided in this section, a* person must pay
- 42 the following fees to apply for or to renew a certificate of exemption
- 43 pursuant to this chapter:
- 44 (a) To file an application for a certificate of exemption, \$200.
- 45 (b) To renew a certificate of exemption, \$100.
- 46 7. To be issued a duplicate copy of any license or certificate of
- 47 exemption, a person must make a satisfactory showing of its loss and pay a
- 48 fee of \$10.



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

*9. The commission may, by regulation, increase any fee set forth in this section if the commission determines that the increase in fees is necessary for the commission to carry out its duties prescribed by this chapter. The amount of an increase in fees pursuant to this subsection must not exceed the amount determined to be necessary for the commission to carry out its prescribed duties.*

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

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

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

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

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

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

~~(d)~~ *commission.*

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

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

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

*(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until any objections made by the mortgage broker have been decided by the commission.*

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

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



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1 ~~(e)~~ (f) Conduct such examinations and investigations as are necessary  
2 to ensure that mortgage brokers 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 broker 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. 30.** NRS 645B.070 is hereby amended to read as follows:

20 645B.070 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 and shall be punished as provided in  
33 NRS 645B.950.

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

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

40 645B.075 1. *The commission shall employ a certified public*  
41 *accountant to review and conduct independent audits and examinations*  
42 *of mortgage brokers. The commission shall levy an assessment upon*  
43 *each mortgage broker to cover all the costs related to the employment of*  
44 *the certified public accountant and the performance of the audits and*  
45 *examinations.*

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

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



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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, which is hereby created in the state*  
4 *general fund. The commission shall use the money in the account, and*  
5 *may advance money from the account, for the purposes set forth in this*  
6 *section.*

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

8     645B.080 1. Each mortgage broker shall keep and maintain at all  
9 times at each location where the mortgage broker conducts business in this  
10 state complete and suitable records of all mortgage transactions made by  
11 the mortgage broker at that location. Each mortgage broker shall also keep  
12 and maintain at all times at each such location all original books, papers  
13 and data, or copies thereof, clearly reflecting the financial condition of the  
14 business of the mortgage broker.

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

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

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

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

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

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

29     645B.085 1. Except as otherwise provided in this section, not later  
30 than 60 days after the last day of each fiscal year for a mortgage broker, the  
31 mortgage broker shall submit to the ~~commissioner~~ *commission* a  
32 financial statement that:

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

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

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

42     3. If a mortgage broker maintains any accounts described in subsection  
43 1 of NRS 645B.175, the financial statement submitted pursuant to this  
44 section must be audited. If a mortgage broker maintains any accounts  
45 described in subsection 4 of NRS 645B.175, those accounts must be  
46 audited. The public accountant who prepares the report of an audit shall  
47 submit a copy of the report to the ~~commissioner~~ *commission* at the same  
48 time that he submits the report to the mortgage broker.



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

3 **Sec. 34.** NRS 645B.090 is hereby amended to read as follows:  
4 645B.090 1. Except as otherwise provided in this section or by  
5 specific statute, all papers, documents, reports and other written  
6 instruments filed with the ~~commissioner~~ *commission* pursuant to this  
7 chapter are open to public inspection.

8 2. Except as otherwise provided in subsection 3, the ~~commissioner~~  
9 *commission* may withhold from public inspection or refuse to disclose to a  
10 person, for such time as the ~~commissioner~~ *commission* considers  
11 necessary, any information that, in ~~this judgment,~~ *the judgment of the*  
12 *commission*, would:

13 (a) Impede or otherwise interfere with an investigation that is currently  
14 pending against a mortgage broker;  
15 (b) Have an undesirable effect on the welfare of the public or the  
16 welfare of any mortgage broker or mortgage agent; or  
17 (c) Give any mortgage broker a competitive advantage over any other  
18 mortgage broker.

19 3. The ~~commissioner~~ *commission* shall disclose the following  
20 information concerning a mortgage broker to any person who requests it:

21 (a) The findings and results of any investigation which has been  
22 completed during the immediately preceding 5 years against the mortgage  
23 broker pursuant to the provisions of this chapter and which has resulted in  
24 a finding by the ~~commissioner~~ *commission* that the mortgage broker  
25 committed a violation of a provision of this chapter, a regulation adopted  
26 pursuant to this chapter or an order of the ~~commissioner;~~ *commission;*  
27 and

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

31 **Sec. 35.** NRS 645B.095 is hereby amended to read as follows:  
32 645B.095 1. As used in this section, "change of control" means:  
33 (a) A transfer of voting stock which results in giving a person, directly  
34 or indirectly, the power to direct the management and policy of a mortgage  
35 broker; or  
36 (b) A transfer of at least 25 percent of the outstanding voting stock of a  
37 mortgage broker.

38 2. The ~~commissioner~~ *commission* must be notified of a transfer of 5  
39 percent or more of the outstanding voting stock of a mortgage broker and  
40 must approve a transfer of voting stock of a mortgage broker which  
41 constitutes a change of control.

42 3. The person who acquires stock resulting in a change of control of  
43 the mortgage broker shall apply to the ~~commissioner~~ *commission* for  
44 approval of the transfer. The application must contain information which  
45 shows that the requirements of this chapter for obtaining a license will be  
46 satisfied after the change of control. Except as otherwise provided in  
47 subsection 4, the ~~commissioner~~ *commission* shall conduct an  
48 investigation to determine whether those requirements will be satisfied. If,  
49 after the investigation, the ~~commissioner~~ *commission* denies the



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1 application, ~~the~~ *the commission* may forbid the applicant from  
2 participating in the business of the mortgage broker.

3 4. A mortgage broker may submit a written request to the  
4 ~~commissioner~~ *commission* to waive an investigation pursuant to  
5 subsection 3. The ~~commissioner~~ *commission* may grant a waiver if the  
6 applicant has undergone a similar investigation by a state or federal agency  
7 in connection with the licensing of or his employment with a financial  
8 institution.

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

10 645B.115 1. If a mortgage broker maintains any accounts described  
11 in NRS 645B.175, the mortgage broker and his mortgage agents shall not  
12 engage in any activity that is authorized pursuant to this chapter, unless the  
13 mortgage broker maintains continuously a minimum net worth in the  
14 following amount based upon the average monthly balance of the accounts  
15 maintained by the mortgage broker pursuant to NRS 645B.175:

16 AVERAGE MONTHLY BALANCE	17 MINIMUM NET 18 WORTH REQUIRED
19 \$100,000 or less .....	20 \$25,000
21 More than \$100,000 but not more than \$250,000 .....	22 50,000
23 More than \$250,000 but not more than \$500,000 .....	24 100,000
25 More than \$500,000 but not more than \$1,000,000 .....	26 200,000
27 More than \$1,000,000 .....	28 250,000

23 The ~~commissioner~~ *commission* shall determine the appropriate initial  
24 minimum net worth that must be maintained by the mortgage broker  
25 pursuant to this section based upon the expected average monthly balance  
26 of the accounts maintained by the mortgage broker pursuant to  
27 NRS 645B.175. After determining the initial minimum net worth that must  
28 be maintained by the mortgage broker, the ~~commissioner~~ *commission*  
29 shall, on an annual basis, determine the appropriate minimum net worth  
30 that must be maintained by the mortgage broker pursuant to this section  
31 based upon the average monthly balance of the accounts maintained by the  
32 mortgage broker pursuant to NRS 645B.175.

33 2. If requested by the ~~commissioner~~ *commission*, a mortgage broker  
34 who is subject to the provisions of this section and his mortgage agents  
35 shall submit to the ~~commissioner~~ *commission* or allow the  
36 ~~commissioner~~ *commission* to examine any documentation or other  
37 evidence that is related to determining the net worth of the mortgage  
38 broker.

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

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

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

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

45 645B.170 1. All money paid to a mortgage broker and his mortgage  
46 agents for payment of taxes or insurance premiums on real property which  
47 secures any loan arranged by the mortgage broker must be deposited in an  
48 insured depository financial institution and kept separate, distinct and apart  
49 from money belonging to the mortgage broker. Such money, when



1 deposited, is to be designated as an "impound trust account" or under some  
2 other appropriate name indicating that the accounts are not the money of  
3 the mortgage broker.  
4 2. The mortgage broker has a fiduciary duty to each debtor with  
5 respect to the money in an impound trust account.  
6 3. The mortgage broker shall, upon reasonable notice, account to any  
7 debtor whose real property secures a loan arranged by the mortgage broker  
8 for any money which that person has paid to the mortgage broker for the  
9 payment of taxes or insurance premiums on the real property.  
10 4. The mortgage broker shall, upon reasonable notice, account to the  
11 ~~commissioner~~ **commission** for all money in an impound trust account.  
12 5. A mortgage broker shall:  
13 (a) Require contributions to an impound trust account in an amount  
14 reasonably necessary to pay the obligations as they become due.  
15 (b) Within 30 days after the completion of the annual review of an  
16 impound trust account, notify the debtor:  
17 (1) Of the amount by which the contributions exceed the amount  
18 reasonably necessary to pay the annual obligations due from the account;  
19 and  
20 (2) That the debtor may specify the disposition of the excess money  
21 within 20 days after receipt of the notice. If the debtor fails to specify such  
22 a disposition within that time, the mortgage broker shall maintain the  
23 excess money in the account.  
24 This subsection does not prohibit a mortgage broker from requiring  
25 additional amounts to be paid into an impound trust account to recover a  
26 deficiency that exists in the account.  
27 6. A mortgage broker shall not make payments from an impound trust  
28 account in a manner that causes a policy of insurance to be canceled or  
29 causes property taxes or similar payments to become delinquent.  
30 **Sec. 38.** NRS 645B.175 is hereby amended to read as follows:  
31 645B.175 1. Except as otherwise provided in this section, all money  
32 received by a mortgage broker and his mortgage agents from an investor to  
33 acquire ownership of or a beneficial interest in a loan secured by a lien on  
34 real property must:  
35 (a) Be deposited in:  
36 (1) An insured depository financial institution; or  
37 (2) An escrow account which is controlled by a person who is  
38 independent of the parties and subject to instructions regarding the account  
39 which are approved by the parties.  
40 (b) Be kept separate from money:  
41 (1) Belonging to the mortgage broker in an account appropriately  
42 named to indicate that the money does not belong to the mortgage broker.  
43 (2) Received pursuant to subsection 4.  
44 2. Except as otherwise provided in this section, the amount held in  
45 trust pursuant to subsection 1 must be released:  
46 (a) Upon completion of the loan, including proper recordation of the  
47 respective interests or release, or upon completion of the transfer of the  
48 ownership or beneficial interest therein, to the debtor or his designee less



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1 the amount due the mortgage broker for the payment of any fee or service  
2 charge;  
3 (b) If the loan or the transfer thereof is not consummated, to each  
4 investor who furnished the money held in trust; or  
5 (c) Pursuant to any instructions regarding the escrow account.  
6 3. The amount held in trust pursuant to subsection 1 must not be  
7 released to the debtor or his designee unless:  
8 (a) The amount released is equal to the total amount of money which is  
9 being loaned to the debtor for that loan, less the amount due the mortgage  
10 broker for the payment of any fee or service charge; and  
11 (b) The mortgage broker has provided a written instruction to a title  
12 agent or title insurer requiring that a lender's policy of title insurance or  
13 appropriate title endorsement, which names as an insured each investor  
14 who owns a beneficial interest in the loan, be issued for the real property  
15 securing the loan.  
16 4. Except as otherwise provided in this section, all money paid to a  
17 mortgage broker and his mortgage agents by a person in full or in partial  
18 payment of a loan secured by a lien on real property **H** must:  
19 (a) Be deposited in:  
20 (1) An insured depository financial institution; or  
21 (2) An escrow account which is controlled by a person who is subject  
22 to instructions regarding the account which are approved by the parties.  
23 (b) Be kept separate from money:  
24 (1) Belonging to the mortgage broker in an account appropriately  
25 named to indicate that it does not belong to the mortgage broker.  
26 (2) Received pursuant to subsection 1.  
27 5. Except as otherwise provided in this section, the amount held in  
28 trust pursuant to subsection 4:  
29 (a) Must be released, upon the deduction and payment of any fee or  
30 service charge due the mortgage broker, to each investor who owns a  
31 beneficial interest in the loan in exact proportion to the beneficial interest  
32 that he owns in the loan; and  
33 (b) Must not be released, in any proportion, to an investor who owns a  
34 beneficial interest in the loan, unless the amount described in paragraph (a)  
35 is also released to every other investor who owns a beneficial interest in  
36 the loan.  
37 6. An investor may waive, in writing, the right to receive one or more  
38 payments, or portions thereof, that are released to other investors in the  
39 manner set forth in subsection 5. A mortgage broker or mortgage agent  
40 shall not act as the attorney in fact or the agent of an investor with respect  
41 to the giving of a written waiver pursuant to this subsection. Any such  
42 written waiver applies only to the payment or payments, or portions  
43 thereof, that are included in the written waiver and does not affect the right  
44 of the investor to:  
45 (a) Receive the waived payment or payments, or portions thereof, at a  
46 later date; or  
47 (b) Receive all other payments in full and in accordance with the  
48 provisions of subsection 5.



1 7. Upon reasonable notice, any mortgage broker described in this  
2 section shall:

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

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

10 8. Money received by a mortgage broker and his mortgage agents  
11 pursuant to this section from a person who is not associated with the  
12 mortgage broker may be held in trust for not more than 45 days before an  
13 escrow account must be opened in connection with the loan. If, within this  
14 45-day period, the loan or the transfer therefor is not consummated, the  
15 money must be returned within 24 hours. If the money is so returned, it  
16 may not be reinvested with the mortgage broker for at least 15 days.

17 9. If a mortgage broker or a mortgage agent receives any money  
18 pursuant to this section, the mortgage broker or mortgage agent, after the  
19 deduction and payment of any fee or service charge due the mortgage  
20 broker, shall not release the money to:

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

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

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

29 645B.185 1. A mortgage broker or mortgage agent shall not accept  
30 money from an investor to acquire ownership of or a beneficial interest in a  
31 loan secured by a lien on real property unless:

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

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

36 2. An investor and a mortgage broker or mortgage agent must sign and  
37 date a separate disclosure form pursuant to subsection 1 for each loan in  
38 which the investor invests his money. A mortgage broker or mortgage  
39 agent shall not act as the attorney in fact or the agent of an investor with  
40 respect to the signing or dating of any disclosure form.

41 3. In addition to the requirements of subsections 1 and 2, a mortgage  
42 broker or mortgage agent shall not accept money from an investor to  
43 acquire ownership of or a beneficial interest in a loan secured by a lien on  
44 real property, unless the mortgage broker or mortgage agent gives the  
45 investor a written form by which the investor may request that the  
46 mortgage broker authorize the ~~commissioner~~ *commission* to release the  
47 mortgage broker's financial statement to the investor. Such a form must be  
48 given to the investor for each loan. If the investor, before giving money to  
49 the mortgage broker for the loan, requests that the mortgage broker



1 authorize the release of a financial statement pursuant to this subsection,  
2 the mortgage broker and his mortgage agents shall not accept money from  
3 the investor for that loan until the mortgage broker receives notice from the  
4 ~~commissioner~~ *commission* that the financial statement has been released  
5 to the investor.

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

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

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

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

17 (1) The possibility that the debtor may default on the loan;  
18 (2) The nature of the losses that may result through foreclosure;  
19 (3) The fact that payments of principal and interest are not guaranteed  
20 and that the investor may lose the entire amount of principal that he has  
21 invested;

22 (4) The fact that the mortgage broker is not a depository financial  
23 institution and that the investment is not insured by any depository  
24 insurance and is not otherwise insured or guaranteed by the federal or state  
25 government; and

26 (5) Any other information required pursuant to the regulations  
27 adopted by the ~~commissioner~~ *commission*; and

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

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

36 (2) Whether the mortgage broker or any general partner, officer,  
37 director or mortgage agent of the mortgage broker has any direct or indirect  
38 interest in the debtor;

39 (3) Whether any disciplinary action has been taken by the  
40 ~~commissioner~~ *commission* against the mortgage broker or any general  
41 partner, officer or director of the mortgage broker within the preceding 12  
42 months, and the nature of any such disciplinary action;

43 (4) Whether the mortgage broker or any general partner, officer or  
44 director of the mortgage broker has been convicted within the preceding 12  
45 months for violating any law, ordinance or regulation that involves fraud,  
46 misrepresentation or a deceitful, fraudulent or dishonest business practice;  
47 and

48 (5) Any other information required pursuant to the regulations  
49 adopted by the ~~commissioner~~ *commission*.



1 7. Whether or not a mortgage broker is required to disclose any  
2 information to investors through a disclosure form that complies with the  
3 provisions of this section, the ~~commissioner~~ **commission** may order the  
4 mortgage broker to disclose to investors or to the general public any  
5 information concerning the mortgage broker, any general partner, officer,  
6 director or mortgage agent of the mortgage broker or any loan in which the  
7 mortgage broker is or has been involved ~~if, in the judgment of the commissioner, it~~  
8 **judgment, if, in the judgment of the commission, it** believes that the  
9 information:

10 (a) Would be of material interest to a reasonable investor who is  
11 deciding whether to invest money with the mortgage broker; or

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

13 8. In carrying out the provisions of subsection 7, the ~~commissioner~~  
14 **commission** may, without limitation, order a mortgage broker to include  
15 statements of disclosure prescribed by the ~~commissioner~~ **commission**:

16 (a) In the disclosure form that must be given to investors pursuant to  
17 subsection 1;

18 (b) In additional disclosure forms that must be given to investors before  
19 or after they have invested money through the mortgage broker; or

20 (c) In any advertisement that the mortgage broker uses in carrying on  
21 his business.

22 9. The ~~commissioner~~ **commission**:

23 (a) Shall adopt regulations prescribing the period for which a mortgage  
24 broker must retain a copy of each disclosure form that is given to investors;  
25 and

26 (b) May adopt any other regulations that are necessary to carry out the  
27 provisions of this section, including, without limitation, regulations  
28 specifying the size of print and any required formatting or typesetting that a  
29 mortgage broker must use in any form that is given to investors.

30 **10. The provisions of this section do not apply to any act or**  
31 **transaction with or on behalf of an accredited investor, except that, if**  
32 **requested by an accredited investor or ordered by the commission, a**  
33 **mortgage broker or mortgage agent shall give an accredited investor any**  
34 **information or form that is given to other investors pursuant to this**  
35 **section.**

36 **Sec. 40.** NRS 645B.189 is hereby amended to read as follows:

37 645B.189 1. Each mortgage broker shall include in each  
38 advertisement that the mortgage broker uses in carrying on his business:

39 (a) A statement of disclosure in substantially the following form:

40  
41 Money invested through a mortgage broker is not guaranteed to earn  
42 any interest or return and is not insured.

43  
44 (b) Any other statements of disclosure required pursuant to the  
45 regulations adopted by the ~~commissioner~~ **commission** or required  
46 pursuant to an order of the ~~commissioner~~ **commission** entered in  
47 accordance with subsections 7 and 8 of NRS 645B.185.



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1     2. Each mortgage broker shall submit any proposed advertisement that  
2 the mortgage broker intends to use in carrying on his business to the  
3 ~~feommisioner~~ *commission* for approval.

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

7       (a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade  
8 practices; and

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

11     4. If a mortgage broker violates any provision of NRS 598.0903 to  
12 598.0999, inclusive, concerning deceptive trade practices or any federal  
13 statute or regulation concerning deceptive advertising or the advertising of  
14 interest rates, in addition to any sanction or penalty imposed by state or  
15 federal law upon the mortgage broker for the violation, the ~~feommisioner~~  
16 *commission* may take any disciplinary action set forth in subsection 2 of  
17 NRS 645B.670 against the mortgage broker.

18     5. The ~~feommisioner~~ *commission* may adopt any regulations that are  
19 necessary to carry out the provisions of this section.

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

21       645B.260   1. If a mortgage broker maintains any accounts described  
22 in subsection 4 of NRS 645B.175 in which the mortgage broker deposits  
23 payments from a debtor on a loan secured by a lien on real property and, on  
24 the last day of any month, the debtor has failed to make two or more  
25 consecutive payments in accordance with the terms of the loan, the  
26 mortgage broker shall:

27       (a) Include in the report that the mortgage broker submits to the  
28 ~~feommisioner~~ *commission* pursuant to subsection 2 of NRS 645B.080  
29 the information relating to delinquencies in payments and defaults that is  
30 required by the regulations adopted pursuant to subsection 2;

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

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

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

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

41     2. The ~~feommisioner~~ *commission*:

42       (a) Shall adopt regulations prescribing the information relating to  
43 delinquencies in payments and defaults that a mortgage broker must  
44 include in his report to the ~~feommisioner~~ *commission* and in the notice  
45 mailed to investors pursuant to subsection 1. Such regulations may provide  
46 for variations between the information that a mortgage broker must include  
47 in his report to the ~~feommisioner~~ *commission* and the information that a  
48 mortgage broker must include in the notice mailed to investors.





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

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

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

9 2. The written appraisal of the real property:

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

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

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

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

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

21 4. A mortgage broker is not required to obtain a written appraisal of  
22 the real property pursuant to this section if the mortgage broker obtains a  
23 written waiver of the appraisal from each investor who acquires ownership  
24 of or a beneficial interest in a loan secured by a lien on the real property. A  
25 mortgage broker or mortgage agent shall not act as the attorney in fact or  
26 the agent of an investor with respect to the giving of a written waiver  
27 pursuant to this subsection.

28 5. As used in this section, “appraisal” has the meaning ascribed to it in  
29 NRS 645C.030.

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

31 645B.330 1. A mortgage broker or mortgage agent shall not engage  
32 in any act or transaction on behalf of an investor pursuant to a power of  
33 attorney unless:

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

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

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

39 (2) Expressly prohibit the mortgage broker and his mortgage agents  
40 from engaging in any act or transaction that subordinates the priority of a  
41 recorded deed of trust unless, before such an act or transaction, the  
42 mortgage broker obtains written approval for the subordination from  
43 the investor;

44 (3) Expressly prohibit the mortgage broker and his mortgage agents  
45 from using or releasing any money in which the investor owns a beneficial  
46 interest with regard to ~~the~~ *the* specific loan for a purpose that is not directly  
47 related to providing services for the loan unless, before any such money is  
48 used or released for another purpose, the mortgage broker obtains written



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1 approval from the investor to use or release the money for the other  
2 purpose; and

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

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

19 3. ~~It~~ *Except as otherwise provided in this section, a* power of  
20 attorney which designates a mortgage broker or mortgage agent as the  
21 attorney in fact or the agent of an investor and which violates the  
22 provisions of this section is void and must not be given effect with regard  
23 to any act or transaction that occurs on or after October 1, 1999, whether or  
24 not the power of attorney is or has been executed by the investor before, on  
25 or after October 1, 1999.

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

29 (a) *Was executed before July 1, 2001; and*  
30 (b) *Complied with the provisions of this section that were in effect on*  
31 *October 1, 1999.*

32 5. The provisions of this section do not ~~limit~~ :  
33 (a) *Apply to any act or transaction with or on behalf of an accredited*  
34 *investor pursuant to a power of attorney.*

35 (b) *Limit* the right of an investor to include provisions in a power of  
36 attorney that are more restrictive than the provisions set forth in  
37 subsection 1.

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

39 645B.450 1. A person shall not act as or provide any of the services  
40 of a mortgage agent or otherwise engage in, carry on or hold himself out as  
41 engaging in or carrying on the activities of a mortgage agent if the person:

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

45 (b) Has had a financial services license or registration suspended or  
46 revoked within the immediately preceding 10 years.

47 2. A mortgage agent may not be associated with or employed by more  
48 than one mortgage broker at the same time.



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1 3. A mortgage broker shall register with the ~~{division}~~ *commission*  
2 each person who will be associated with or employed by the mortgage  
3 broker as a mortgage agent. To register a person as a mortgage agent, a  
4 mortgage broker must:

5 (a) Submit to the ~~{division}~~ *commission* a registration form which is  
6 provided by the ~~{division}~~ *commission* and which:

7 (1) States the name, residence address and business address of the  
8 person;

9 (2) Is signed by the person;

10 (3) Includes a provision by which the person gives his written  
11 consent to an investigation of his credit history, criminal history and  
12 background; and

13 (4) Includes any other information or supporting materials required  
14 by the regulations adopted by the ~~{commissioner}~~ *commission*. Such  
15 information or supporting materials may include, without limitation, a  
16 complete set of fingerprints from the person, the social security number of  
17 the person and other forms of identification of the person; and

18 (b) Pay the actual costs and expenses incurred by the ~~{division}~~  
19 *commission* to investigate the credit history, criminal history and  
20 background of the person. All money received pursuant to this paragraph  
21 must be placed in the investigative account created by NRS 232.545.

22 4. A mortgage broker shall not employ a person as a mortgage agent or  
23 authorize a person to be associated with the mortgage broker as a mortgage  
24 agent if the mortgage broker has not registered the person with the  
25 ~~{division}~~ *commission* pursuant to subsection 3 or if the person:

26 (a) Has been convicted of, or entered a plea of nolo contendere to, a  
27 felony or any crime involving fraud, misrepresentation or moral turpitude;  
28 or

29 (b) Has had a financial services license or registration suspended or  
30 revoked within the immediately preceding 10 years.

31 5. If a mortgage agent terminates his association or employment with a  
32 mortgage broker for any reason, the mortgage broker shall, not later than  
33 the ~~{end of the next}~~ *third* business day following the date of termination:

34 (a) Deliver to the mortgage agent or send by certified mail to the last  
35 known residence address of the mortgage agent a written statement which  
36 advises him that his termination is being reported to the ~~{division};~~  
37 *commission*; and

38 (b) Deliver or send by certified mail to the ~~{division};~~ *commission*:

39 (1) A written statement of the circumstances surrounding the  
40 termination; and

41 (2) A copy of the written statement that the mortgage broker delivers  
42 or mails to the mortgage agent pursuant to paragraph (a).

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

44 645B.460 *1.* A mortgage broker shall ~~+~~

45 ~~—1.— Teach his mortgage agents the fundamentals of mortgage lending~~  
46 ~~and the ethics of the profession; and~~

47 ~~—2.— Supervise~~ *exercise reasonable supervision over* the activities of his  
48 mortgage agents . ~~{and the operation of his business;}~~ *Such reasonable*  
49 *supervision must include, as appropriate:*



1     (a) *The establishment of written or oral policies and procedures for*  
2 *his mortgage agents;*

3     (b) *Continuing education and training for his mortgage agents in the*  
4 *requirements of this chapter and the regulations of the commission and*  
5 *other forms of continuing education and training for his mortgage*  
6 *agents; and*

7     (c) *The establishment of a system to review, oversee and inspect the*  
8 *activities of his mortgage agents, including, without limitation:*

9         (1) *Transactions handled by his mortgage agents pursuant to this*  
10 *chapter;*

11         (2) *Communications between his mortgage agents and a party to*  
12 *such a transaction;*

13         (3) *Documents prepared by his mortgage agents that may have a*  
14 *material effect upon the rights or obligations of a party to such a*  
15 *transaction; and*

16         (4) *The handling by his mortgage agents of any fee, deposit or*  
17 *money paid to the mortgage broker or his mortgage agents or held in*  
18 *trust by the mortgage broker or his mortgage agents pursuant to this*  
19 *chapter.*

20     2. *The commission shall allow a mortgage broker to take into*  
21 *consideration the total number of mortgage agents associated with or*  
22 *employed by the mortgage broker when the mortgage broker determines*  
23 *the form and extent of the policies and procedures for those mortgage*  
24 *agents, the continuing education and training for those mortgage agents,*  
25 *and the system to review, oversee and inspect the activities of those*  
26 *mortgage agents.*

27     3. *The commission may adopt regulations prescribing standards for*  
28 *determining whether a mortgage broker has exercised reasonable*  
29 *supervision over the activities of a mortgage agent pursuant to this*  
30 *section.*

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

32         645B.600 1. A person may ~~[- in accordance with the regulations~~  
33 ~~adopted pursuant to subsection 2,]~~ file *with the commission* a complaint  
34 ~~[-with the commissioner,]~~ alleging that another person has violated a  
35 provision of this chapter, a regulation adopted pursuant to this chapter or  
36 an order of the ~~[-commissioner,]~~

37 ~~— 2. The commissioner shall adopt regulations prescribing:~~

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

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

40 ~~— (c) The procedures that a person must follow to file such a complaint.]~~  
41 *commission.*

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

43         (a) *Be in writing;*

44         (b) *Be signed by the person filing the complaint or the authorized*  
45 *representative of the person filing the complaint;*

46         (c) *Contain an address and a telephone number for the person filing*  
47 *the complaint or the authorized representative of the person filing the*  
48 *complaint;*



1 *(d) Describe the nature of the alleged violation in as much detail as*  
2 *possible;*

3 *(e) Include as exhibits copies of all documentation supporting the*  
4 *complaint; and*

5 *(f) Include any other information or supporting materials required by*  
6 *the regulations adopted by the commission or by an order of the*  
7 *commission.*

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

9 645B.610 1. If a person properly files a complaint with the  
10 ~~the commissioner~~ *commission* pursuant to NRS 645B.600, the  
11 ~~the commissioner~~ *commission* shall investigate each violation alleged in the  
12 complaint, unless the ~~the commissioner~~ *commission* has previously  
13 investigated the alleged violation.

14 2. Except as otherwise provided in subsection 2 of NRS 645B.090, if  
15 the ~~the commissioner~~ *commission* does not conduct an investigation of an  
16 alleged violation pursuant to subsection 1 because ~~he~~ *the commission*  
17 previously has investigated the alleged violation, the ~~the commissioner~~  
18 *commission* shall provide to the person who filed the complaint a written  
19 summary of the previous investigation and the nature of any disciplinary  
20 action that was taken as a result of the previous investigation.

21 3. If the ~~the commissioner~~ *commission* conducts an investigation of an  
22 alleged violation pursuant to subsection 1, the ~~the commissioner~~ *commission*  
23 shall determine from the investigation whether there is reasonable cause to  
24 believe that the person committed the alleged violation.

25 4. If, upon investigation, the ~~the commissioner~~ *commission* determines  
26 that there is not reasonable cause to believe that the person committed the  
27 alleged violation, the ~~the commissioner~~ *commission* shall provide the reason  
28 for ~~this~~ *its* determination, in writing, to the person who filed the complaint  
29 and to the person alleged to have committed the violation.

30 5. Except as otherwise provided in subsection 6, if, upon investigation,  
31 the ~~the commissioner~~ *commission* determines that there is reasonable cause  
32 to believe that the person committed the alleged violation, the  
33 ~~the commissioner~~ *commission* shall:

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

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

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

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

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

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

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



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1 (3) A statement informing the person that, pursuant to  
2 NRS 645B.760, if he fails to appear, without reasonable cause, at the  
3 hearing:

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

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

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

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

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

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

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

22 645B.620 1. Whether or not a complaint has been filed, the  
23 ~~commissioner~~ *commission* shall investigate a mortgage broker or other  
24 person if, for any reason, it appears that:

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

29 (b) The person is offering or providing any of the services of a  
30 mortgage broker or otherwise engaging in, carrying on or holding himself  
31 out as engaging in or carrying on the business of a mortgage broker  
32 without being licensed or exempt from licensing pursuant to the provisions  
33 of this chapter; or

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

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

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

45 (b) The attorney general shall, if appropriate:

46 (1) Investigate and prosecute the mortgage broker or other person  
47 pursuant to NRS 645B.800; and

48 (2) Bring a civil action to:



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1 (I) Enjoin the mortgage broker or other person from engaging in  
2 the conduct, operating the business or committing the violation; and

3 (II) Enjoin any other person who has encouraged, facilitated, aided  
4 or participated in the conduct, the operation of the business or the  
5 commission of the violation, or who is likely to engage in such acts, from  
6 engaging in or continuing to engage in such acts.

7 3. If the attorney general brings a civil action pursuant to subsection 2,  
8 the district court of any county of this state is hereby vested with the  
9 jurisdiction in equity to enjoin the conduct, the operation of the business or  
10 the commission of the violation and may grant any injunctions that are  
11 necessary to prevent and restrain the conduct, the operation of the business  
12 or the commission of the violation. During the pendency of the proceedings  
13 before the district court:

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

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

19 (c) The attorney general may apply for and on due showing is entitled to  
20 have issued the court's subpoena requiring forthwith the appearance of any  
21 person to:

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

24 (2) Testify and give evidence concerning the conduct complained of  
25 in the petition.

26 **Sec. 49.** NRS 645B.630 is hereby amended to read as follows:

27 645B.630 1. In addition to any other action that is required or  
28 permitted pursuant to this chapter, if the ~~feommisioner~~ *commission* has  
29 reasonable cause to believe that:

30 (a) The assets or capital of a mortgage broker are impaired; or

31 (b) A mortgage broker is conducting business in an unsafe and injurious  
32 manner that may result in danger to the public,  
33 the ~~feommisioner~~ *commission* shall immediately take possession of all  
34 the property, business and assets of the mortgage broker that are located in  
35 this state and shall retain possession of them pending further proceedings  
36 provided for in this chapter.

37 2. If the licensee, the board of directors or any officer or person in  
38 charge of the offices of the mortgage broker refuses to permit the  
39 ~~feommisioner~~ *commission* to take possession of the property of the  
40 mortgage broker pursuant to subsection 1:

41 (a) The ~~feommisioner~~ *commission* shall notify the attorney general;  
42 and

43 (b) The attorney general shall immediately bring such proceedings as  
44 may be necessary to place the ~~feommisioner~~ *commission* in immediate  
45 possession of the property of the mortgage broker.

46 3. If the ~~feommisioner~~ *commission* takes possession of the property  
47 of the mortgage broker, the ~~feommisioner~~ *commission* shall:

48 (a) Make or have made an inventory of the assets and known liabilities  
49 of the mortgage broker;





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

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

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. 50.** NRS 645B.640 is hereby amended to read as follows:

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

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 ~~commissioner~~ *commission* may apply to the court  
27 to be appointed receiver and proceed to liquidate the assets of the mortgage  
28 broker which are located in this state in the same manner as now provided  
29 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 ~~commissioner~~ *commission* ample notice of his  
32 application.

33 4. The inventory made by 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 ~~commissioner~~ *commission* subject to the approval of the court and,  
40 upon certification of the ~~commissioner~~ *commission*, must be paid out of  
41 the money in ~~his~~ *the hands of the commission* as the receiver.

42 **Sec. 51.** NRS 645B.670 is hereby amended to read as follows:

43 645B.670 Except as otherwise provided in NRS 645B.690:

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

47 (a) Has knowingly made or caused to be made to 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, ~~for~~ has  
17 violated any provision of this chapter, a regulation adopted pursuant to this  
18 chapter or an order of the ~~commissioner~~ *commission or has violated any*  
19 *provision of chapter 645E of NRS while engaged in activities authorized*  
20 *by that chapter in his capacity as a mortgage broker;*  
21 (d) Is in such financial condition that he cannot continue in business  
22 with safety to his customers;  
23 (e) Has made a material misrepresentation in connection with any  
24 transaction governed by this chapter;  
25 (f) Has suppressed or withheld from a client any material facts, data or  
26 other information relating to any transaction governed by the provisions of  
27 this chapter which the licensee knew or, by the exercise of reasonable  
28 diligence, should have known;  
29 (g) Has knowingly made or caused to be made to the ~~commissioner~~  
30 *commission* any false representation of material fact or has suppressed or  
31 withheld from the ~~commissioner~~ *commission* any information which the  
32 licensee possesses and which, if submitted by him, would have rendered  
33 the licensee ineligible to be licensed pursuant to the provisions of this  
34 chapter;  
35 (h) Has failed to account to persons interested for all money received  
36 for a trust account;  
37 (i) Has refused to permit an examination by the ~~commissioner~~  
38 *commission* of his books and affairs or has refused or failed, within a  
39 reasonable time, to furnish any information or make any report that may be  
40 required by the ~~commissioner~~ *commission* pursuant to the provisions of  
41 this chapter or a regulation adopted pursuant to this chapter;  
42 (j) Has been convicted of, or entered a plea of nolo contendere to, a  
43 felony or any crime involving fraud, misrepresentation or moral turpitude;  
44 (k) Has refused or failed to pay, within a reasonable time, any fees,  
45 assessments, costs or expenses that the licensee is required to pay pursuant  
46 to this chapter or a regulation adopted pursuant to this chapter;  
47 (l) Has failed to satisfy a claim made by a client which has been reduced  
48 to judgment;



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- 1 (m) Has failed to account for or to remit any money of a client within a  
2 reasonable time after a request for an accounting or remittal;
- 3 (n) Has commingled the money or other property of a client with his  
4 own or has converted the money or property of others to his own use;
- 5 (o) Has engaged in any other conduct constituting a deceitful,  
6 fraudulent or dishonest business practice;
- 7 (p) Has repeatedly violated the policies and procedures of the mortgage  
8 broker;
- 9 (q) Has failed to ~~maintain adequate~~ *exercise reasonable* supervision  
10 *over the activities* of a mortgage agent ~~as required by NRS 645B.460~~;
- 11 (r) Has instructed a mortgage agent to commit an act that would be  
12 cause for the revocation of the license of the mortgage broker, whether or  
13 not the mortgage agent commits the act;
- 14 (s) Has employed a person as a mortgage agent or authorized a person  
15 to be associated with the licensee as a mortgage agent at a time when the  
16 licensee knew or, in light of all the surrounding facts and circumstances,  
17 reasonably should have known that the person:
- 18 (1) Had been convicted of, or entered a plea of nolo contendere to, a  
19 felony or any crime involving fraud, misrepresentation or moral turpitude;  
20 or
- 21 (2) Had a financial services license or registration suspended or  
22 revoked within the immediately preceding 10 years; or
- 23 (t) Has not conducted verifiable business as a mortgage broker for 12  
24 consecutive months, except in the case of a new applicant. The  
25 ~~commissioner~~ *commission* shall determine whether a mortgage broker is  
26 conducting business by examining the monthly reports of activity  
27 submitted by the licensee or by conducting an examination of the licensee.
- 28 **Sec. 52.** NRS 645B.680 is hereby amended to read as follows:  
29 645B.680 1. If the ~~commissioner~~ *commission* receives a copy of a  
30 court order issued pursuant to NRS 425.540 that provides for the  
31 suspension of all professional, occupational and recreational licenses,  
32 certificates and permits issued to a person who is the holder of a license as  
33 a mortgage broker, the ~~commissioner~~ *commission* shall deem the license  
34 issued to that person to be suspended at the end of the 30th day after the  
35 date on which the court order was issued unless the ~~commissioner~~  
36 *commission* receives a letter issued to the holder of the license by the  
37 district attorney or other public agency pursuant to NRS 425.550 stating  
38 that the holder of the license has complied with the subpoena or warrant or  
39 has satisfied the arrearage pursuant to NRS 425.560.
- 40 2. The ~~commissioner~~ *commission* shall reinstate a license as a  
41 mortgage broker that has been suspended by a district court pursuant to  
42 NRS 425.540 if the ~~commissioner~~ *commission* receives a letter issued by  
43 the district attorney or other public agency pursuant to NRS 425.550 to the  
44 person whose license was suspended stating that the person whose license  
45 was suspended has complied with the subpoena or warrant or has satisfied  
46 the arrearage pursuant to NRS 425.560.
- 47 **Sec. 53.** NRS 645B.690 is hereby amended to read as follows:  
48 645B.690 1. If a person offers or provides any of the services of a  
49 mortgage broker or otherwise engages in, carries on or holds himself out as



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1 engaging in or carrying on the business of a mortgage broker and, at the  
2 time:

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

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

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

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

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

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

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

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

43 **Sec. 54.** NRS 645B.700 is hereby amended to read as follows:

44 645B.700 1. Except as otherwise provided in subsection 2, for each  
45 violation that may be committed by a person pursuant to this chapter or the  
46 regulations adopted pursuant to this chapter, the ~~commissioner shall~~  
47 *commission may* adopt regulations:

48 (a) Categorizing the violation as a major violation or a minor violation;  
49 and



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

645B.760 If a person is alleged to have engaged in any conduct or committed any violation that is described in NRS 645B.620, 645B.630 or 645B.670 or is alleged to have committed a violation of any other provision of this chapter, a regulation adopted pursuant to this chapter or



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1 an order of the ~~commissioner,~~ **commission**, and the person fails to appear,  
2 without reasonable cause, at a hearing before the ~~commissioner,~~  
3 **commission** concerning the alleged conduct or violation:

4 1. The ~~commissioner,~~ **commission** shall notify the attorney general  
5 that the person failed to appear;

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

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

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

13 645B.800 1. The attorney general has primary jurisdiction for the  
14 enforcement of this chapter. The attorney general shall, if appropriate,  
15 investigate and prosecute a person who violates:

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

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

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

24 (a) The ~~commissioner,~~ **commission** notifies the attorney general of the  
25 alleged violation;

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

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

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

32 3. When acting pursuant to this section, the attorney general may  
33 commence his investigation and file a criminal action without leave of  
34 court, and the attorney general has exclusive charge of the conduct of the  
35 prosecution.

36 4. Except as otherwise provided by the Constitution of the United  
37 States, the constitution of this state or a specific statute, a person shall, if  
38 requested, provide the attorney general with information that would assist  
39 in the prosecution of any other person who is alleged to have committed a  
40 violation described in subsection 1. If a person fails, without reasonable  
41 cause, to provide the attorney general with such information upon request,  
42 the person is guilty of a misdemeanor and shall be punished as provided in  
43 NRS 645B.950.

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

45 645B.810 1. The attorney general may bring any appropriate civil  
46 action against a person to enforce any provision of this chapter, a  
47 regulation adopted pursuant to this chapter or an order of the  
48 ~~commissioner,~~ **commission**, including, without limitation, an order of the  
49 ~~commissioner,~~ **commission**:



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- 1 (a) Imposing an administrative fine; or  
2 (b) Suspending, revoking or placing conditions upon a license.

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

- 6 (a) Court costs; and  
7 (b) Reasonable costs of the investigation and prosecution of the civil  
8 action.

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

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

13 645B.950 1. Except as otherwise provided in NRS 645B.960, a  
14 person, or any general partner, director, officer, agent or employee of a  
15 person, who violates any provision of this chapter, a regulation adopted  
16 pursuant to this chapter or an order of the ~~commissioner~~ *commission* is  
17 guilty of a misdemeanor.

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

- 21 (a) Court costs; and  
22 (b) Reasonable costs of the investigation and prosecution of the  
23 violation.

24 **Secs. 62-87.** (Deleted by amendment.)

25 **Sec. 87.5.** NRS 645E.230 is hereby amended to read as follows:

26 645E.230 1. A license entitles a licensee to engage only in the  
27 activities authorized by this chapter.

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

29 (a) Holding a license as a mortgage broker pursuant to chapter 645B of  
30 NRS; or

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

33 *3. If a licensee does not hold a license as a mortgage broker  
34 pursuant to chapter 645B of NRS, the licensee is subject to supervision,  
35 regulation and discipline by the commissioner for all activities that the  
36 licensee engages in pursuant to this chapter.*

37 *4. If a licensee holds a license as a mortgage broker pursuant to  
38 chapter 645B of NRS, the licensee is subject to supervision, regulation  
39 and discipline by:*

40 *(a) The commissioner for all activities that the licensee engages in  
41 pursuant to this chapter in his capacity as a mortgage company; and*

42 *(b) The mortgage industry commission for all activities that the  
43 licensee engages in pursuant this chapter and chapter 645B of NRS in  
44 his capacity as a mortgage broker.*

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

46 78.045 1. The secretary of state shall not accept for filing any articles  
47 of incorporation or any certificate of amendment of articles of  
48 incorporation of any corporation formed pursuant to the laws of this state





1 which provides that the name of the corporation contains the word “bank”  
2 or “trust,” unless:

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

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

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

18 3. Except as otherwise provided in subsection 5, the secretary of state  
19 shall not accept for filing any articles of incorporation or any certificate or  
20 amendment of articles of incorporation of any corporation formed pursuant  
21 to the laws of this state if the name of the corporation contains the words  
22 “engineer,” “engineered,” “engineering,” “professional engineer,”  
23 “registered engineer” or “licensed engineer” unless:

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

27 (b) The state board of professional engineers and land surveyors  
28 certifies that the corporation is exempt from the prohibitions of  
29 NRS 625.520.

30 4. The secretary of state shall not accept for filing any articles of  
31 incorporation or any certificate of amendment of articles of incorporation  
32 of any corporation formed pursuant to the laws of this state which provides  
33 that the name of the corporation contains the words “accountant,”  
34 “accounting,” “accountancy,” “auditor” or “auditing” unless the Nevada  
35 state board of accountancy certifies that the corporation:

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

37 (b) Has filed with the state board of accountancy under penalty of  
38 perjury a written statement that the corporation is not engaged in the  
39 practice of accounting and is not offering to practice accounting in this  
40 state.

41 5. The provisions of subsection 3 do not apply to any corporation,  
42 whose securities are publicly traded and regulated by the Securities  
43 Exchange Act of 1934, which does not engage in the practice of  
44 professional engineering.

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



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1     **Sec. 89.** NRS 80.010 is hereby amended to read as follows:  
2     80.010 1. Before commencing or doing any business in this state,  
3     each corporation organized pursuant to the laws of another state, territory,  
4     the District of Columbia, a possession of the United States or a foreign  
5     country, that enters this state to do business must:  
6     (a) File in the office of the secretary of state of this state:  
7         (1) A certificate of corporate existence issued not more than 90 days  
8         before the date of filing by an authorized officer of the jurisdiction of its  
9         incorporation setting forth the filing of documents and instruments related  
10        to the articles of incorporation, or the governmental acts or other  
11        instrument or authority by which the corporation was created. If the  
12        certificate is in a language other than English, a translation, together with  
13        the oath of the translator and his attestation of its accuracy, must be  
14        attached to the certificate.  
15        (2) A certificate of acceptance of appointment executed by its  
16        resident agent, who must be a resident or located in this state. The  
17        certificate must set forth the name of the resident agent, his street address  
18        for the service of process, and his mailing address if different from his  
19        street address. The street address of the resident agent is the registered  
20        office of the corporation in this state.  
21        (3) A statement executed by an officer of the corporation setting  
22        forth:  
23             (I) A general description of the purposes of the corporation; and  
24             (II) The authorized stock of the corporation and the number and  
25        par value of shares having par value and the number of shares having no  
26        par value.  
27        (b) Lodge in the office of the secretary of state a copy of the document  
28        most recently filed by the corporation in the jurisdiction of its  
29        incorporation setting forth the authorized stock of the corporation, the  
30        number of par-value shares and their par value, and the number of no-par-  
31        value shares.  
32     2. The secretary of state shall not file the documents required by  
33     subsection 1 for any foreign corporation whose name is not distinguishable  
34     on the records of the secretary of state from the names of all other artificial  
35     persons formed, organized, registered or qualified pursuant to the  
36     provisions of this Title that are on file in the office of the secretary of state  
37     and all names that are reserved in the office of the secretary of state  
38     pursuant to the provisions of this Title, unless the written, acknowledged  
39     consent of the holder of the name on file or reserved name to use the same  
40     name or the requested similar name accompanies the articles of  
41     incorporation.  
42     3. The secretary of state shall not accept for filing the documents  
43     required by subsection 1 or NRS 80.110 for any foreign corporation if the  
44     name of the corporation contains the words "engineer," "engineered,"  
45     "engineering," "professional engineer," "registered engineer" or "licensed  
46     engineer" unless the state board of professional engineers and land  
47     surveyors certifies that:  
48         (a) The principals of the corporation are licensed to practice engineering  
49         pursuant to the laws of this state; or



1 (b) The corporation is exempt from the prohibitions of NRS 625.520.  
2 4. The secretary of state shall not accept for filing the documents  
3 required by subsection 1 or NRS 80.110 for any foreign corporation if it  
4 appears from the documents that the business to be carried on by the  
5 corporation is subject to supervision by the commissioner of financial  
6 institutions ~~H~~ *or the mortgage industry commission*, unless the  
7 commissioner *or commission, as appropriate*, certifies that:

8 (a) The corporation has obtained the authority required to do business in  
9 this state; or

10 (b) The corporation is not subject to or is exempt from the requirements  
11 for obtaining such authority.

12 5. The secretary of state shall not accept for filing the documents  
13 required by subsection 1 or NRS 80.110 for any foreign corporation if the  
14 name of the corporation contains the words “accountant,” “accounting,”  
15 “accountancy,” “auditor” or “auditing” unless the Nevada state board of  
16 accountancy certifies that the foreign corporation:

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

18 (b) Has filed with the state board of accountancy under penalty of  
19 perjury a written statement that the foreign corporation is not engaged in  
20 the practice of accounting and is not offering to practice accounting in this  
21 state.

22 6. The secretary of state may adopt regulations that interpret the  
23 requirements of this section.

24 **Sec. 90.** NRS 232.510 is hereby amended to read as follows:

25 232.510 1. The department of business and industry is hereby  
26 created.

27 2. The department consists of a director and the following:

28 (a) Consumer affairs division.

29 (b) Division of financial institutions.

30 (c) Housing division.

31 (d) Manufactured housing division.

32 (e) Real estate division.

33 (f) Division of unclaimed property.

34 (g) Division of insurance.

35 (h) Division of industrial relations.

36 (i) Office of labor commissioner.

37 (j) Taxicab authority.

38 (k) Nevada athletic commission.

39 (l) Office of the Nevada attorney for injured workers.

40 (m) Transportation services authority.

41 (n) *Mortgage industry commission*.

42 (o) Any other office, commission, board, agency or entity created or  
43 placed within the department pursuant to a specific statute, the budget  
44 approved by the legislature or an executive order, or an entity whose  
45 budget or activities have been placed within the control of the department  
46 by a specific statute.



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1     **Sec. 91.** NRS 232.520 is hereby amended to read as follows:  
2     232.520 The director:

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

11    (a) The chief of the consumer affairs division is the commissioner of  
12    consumer affairs. ~~the~~

13    (b) *The* chief of the division of financial institutions is the  
14    commissioner of financial institutions. ~~the~~

15    (c) *The* chief of the housing division is the administrator of the housing  
16    division. ~~the~~

17    (d) *The* chief of the manufactured housing division is the administrator  
18    of the manufactured housing division. ~~the~~

19    (e) *The* chief of the real estate division is the real estate administrator .  
20    ~~the~~

21    (f) *The* chief of the division of unclaimed property is the administrator  
22    of unclaimed property. ~~the~~

23    (g) *The* chief of the division of insurance is the commissioner of  
24    insurance. ~~the~~

25    (h) *The* chief of the division of industrial relations is the administrator  
26    of the division of industrial relations. ~~the~~

27    (i) *The* chief of the office of labor commissioner is the labor  
28    commissioner. ~~the~~

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

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

32    (l) *The chief of the mortgage industry commission is the executive*  
33    *director of the commission.*

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

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

48    3. May:



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

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

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

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

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

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

32 7. May designate any person within the department to perform any of  
33 the duties or responsibilities, or exercise any of the authority, of the  
34 director on his behalf.

35 8. May negotiate and execute agreements with public or private  
36 entities which are necessary to the exercise of the powers and duties of the  
37 director or the department.

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

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

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



1     **Sec. 92.** NRS 686A.350 is hereby amended to read as follows:  
2     686A.350 1. A license to engage in the business of a company is not  
3 required of any:

4     (a) State or federally chartered building association or savings and loan  
5 association.

6     (b) State or federally chartered bank.

7     (c) State or federally chartered credit union.

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

9     (e) Insurance agent financing his own accounts.

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

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

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

19     **Sec. 93.** Section 139 of chapter 646, Statutes of Nevada 1999, at page  
20 3816, is hereby amended to read as follows:

21     Sec. 139. 1. This section and section 130.5 of this act become  
22 effective upon passage and approval for the purpose of adopting any  
23 regulations necessary to carry out the provisions of this act, and on  
24 September 30, 1999, for all other purposes.

25     2. Sections 1 to 101, inclusive, 103, 105 to 117, inclusive, 119 to  
26 130, inclusive, and 131 to 138, inclusive, of this act become effective  
27 upon passage and approval for the purpose of adopting any  
28 regulations necessary to carry out the provisions of this act, and on  
29 October 1, 1999, for all other purposes.

30     3. 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     4. Sections 15 and 33 of this act expire by limitation on the date  
35 on which the provisions of 42 U.S.C. § 666 requiring each state to  
36 establish procedures under which the state has authority to withhold  
37 or suspend, or to restrict the use of professional, occupational and  
38 recreational 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  
41 enforce 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     ~~§5. 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.



1     **Sec. 95.** On July 1, 2001, or as soon as practicable thereafter, the  
2 governor shall appoint five persons as members of the mortgage industry  
3 commission, whose terms commence on July 1, 2001. For the initial terms  
4 of the members of the mortgage industry commission, the governor shall  
5 appoint:

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

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

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

25     **Sec. 96.3.** Not later than November 1, 2001, the director of the  
26 department of business and industry shall:

- 27       1. Identify in the budget of the division of financial institutions of the  
28 department the revenues and expenditures attributable to the regulation and  
29 licensing of mortgage brokers and mortgage agents; and
- 30       2. Submit, to the governor and interim finance committee for approval,  
31 revised budgets for the division of financial institutions and the mortgage  
32 industry commission, in which the identified revenues and expenditures  
33 have been appropriately transferred from the budget of the division to the  
34 budget of the commission.

35     **Sec. 96.5.** 1. Before the date on which the director of the department  
36 of business and industry certifies to the governor that the mortgage  
37 industry commission and its executive director are prepared to carry out the  
38 provisions of this act, or January 1, 2002, whichever occurs first, the state  
39 treasurer shall place any money deposited in the state general fund relating  
40 to the regulation and licensing of mortgage brokers and mortgage agents  
41 into the account for use by the division of financial institutions of the  
42 department for the regulation and licensing of mortgage brokers and  
43 mortgage agents.

44       2. On and after the date on which the director of the department of  
45 business and industry certifies to the governor that the mortgage industry  
46 commission and its executive director are prepared to carry out the  
47 provisions of this act, or January 1, 2002, as appropriate, the state treasurer  
48 shall place any money deposited in the state general fund relating to the



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1 regulation and licensing of mortgage brokers and mortgage agents into the  
2 account for use by the commission.

3 3. The director of the department of business and industry shall  
4 identify for the state treasurer that portion of the money being deposited in  
5 the state general fund which relates to the regulation and licensing of  
6 mortgage brokers and agents.

7 **Sec. 96.7.** The division of financial institutions of the department of  
8 business and industry and the mortgage industry commission shall enter  
9 into an interagency agreement to facilitate the transfer of the responsibility  
10 for the collection of the fees relating to the regulation and licensing of  
11 mortgage brokers and mortgage agents, and of all related fees with respect  
12 to which responsibility for the collection has been transferred from the  
13 division to the commission pursuant to this act. The agreement must  
14 include, without limitation, provisions which address:

15 1. The exchange of books and records between the division and the  
16 commission, as necessary; and

17 2. The allocation of costs between the division and the commission for  
18 services performed interdepartmentally.

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

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

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

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

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

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

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



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

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### TEXT OF REPEALED SECTIONS

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**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

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



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**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.

