

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

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

MARCH 12, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises various provisions regarding regulation of mortgage brokers and mortgage agents. (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; revising various provisions regarding the regulation of mortgage brokers and mortgage agents; requiring the holder of certain escrows to obtain certain information from mortgage brokers and mortgage companies; requiring mortgage brokers and mortgage agents to attend certain courses of continuing education; authorizing the commissioner of financial institutions to adopt regulations to increase certain fees for mortgage brokers in certain circumstances; revising provisions relating to certain advertisements and disclosures by mortgage brokers; revising provisions concerning certain powers of attorney; requiring mortgage brokers to register their mortgage agents with the division of financial institutions of the department of business and industry on an annual basis; requiring mortgage agents to pay an annual registration fee; 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.** NRS 645A.173 is hereby amended to read as follows:
- 2 645A.173 ~~At the time that~~
- 3 1. *If* an escrow for the sale of real property is established, the holder of
- 4 the escrow shall , *on the date of establishment of the escrow*, record in
- 5 writing the number and the date of expiration of the:
- 6 ~~1-1~~ (a) License issued pursuant to chapter 645 of NRS; or
- 7 ~~1-2~~ (b) Certificate of cooperation issued pursuant to
- 8 NRS 645.605,
- 9 of any real estate broker, broker-salesman or salesman who will be paid
- 10 compensation from money held in the escrow for performing the services
- 11 of a real estate broker, broker-salesman or salesman in the transaction that



1 is the subject of the escrow. The holder of the escrow is not required to
2 verify independently the validity of the number of the license or certificate.

3 *2. If an escrow for the sale of real property is established and the*
4 *real property is or will be secured by a mortgage or deed of trust, the*
5 *holder of the escrow shall, on the date of establishment of the escrow,*
6 *record in writing the number and the date of expiration of the license*
7 *issued pursuant to chapter 645B or 645E of NRS of any mortgage broker*
8 *or mortgage company associated with the mortgage or deed of trust. The*
9 *holder of the escrow is not required to verify independently the validity of*
10 *the number of the license.*

11 **Sec. 2.** Chapter 645B of NRS is hereby amended by adding thereto
12 the provisions set forth as sections 3 and 4 of this act.

13 **Sec. 3. "Private investor" means:**

14 *1. An investor who is a natural person and who provides his own*
15 *money for investment in a loan secured by a lien on real property; and*

16 *2. Two or more investors who are relatives and who jointly provide*
17 *their own money for investment in a loan secured by a lien on real*
18 *property, unless the investors are acting on behalf of a partnership, a*
19 *corporation or some other separate legal entity.*

20 **Sec. 4. 1. In addition to the requirements set forth in NRS**
21 **645B.050, to renew a license:**

22 *(a) If the licensee is a natural person, the licensee must submit to the*
23 *commissioner satisfactory proof that the licensee attended at least 5*
24 *hours of certified courses of continuing education during the 12 months*
25 *immediately preceding the date on which the license expires.*

26 *(b) If the licensee is not a natural person, the licensee must submit to*
27 *the commissioner satisfactory proof that each natural person who*
28 *supervises the daily business of the licensee attended at least 5 hours of*
29 *certified courses of continuing education during the 12 months*
30 *immediately preceding the date on which the license expires.*

31 *2. As used in this section, "certified course of continuing education"*
32 *means a course of continuing education which relates to the mortgage*
33 *industry or mortgage transactions and which is:*

34 *(a) Certified by the National Association of Mortgage Brokers or any*
35 *successor in interest to that organization; or*

36 *(b) Certified in a manner established by the commissioner, if the*
37 *National Association of Mortgage Brokers or any successor in interest to*
38 *that organization ceases to exist.*

39 **Sec. 5.** NRS 645B.010 is hereby amended to read as follows:

40 645B.010 As used in this chapter, unless the context otherwise
41 requires, the words and terms defined in NRS 645B.0103 to 645B.0135,
42 inclusive, *and section 3 of this act* have the meanings ascribed to them in
43 those sections.

44 **Sec. 6.** NRS 645B.020 is hereby amended to read as follows:

45 645B.020 1. A person who wishes to be licensed as a mortgage
46 broker must file a written application for a license with the office of the
47 commissioner and pay the fee required pursuant to NRS 645B.050. An
48 application for a license as a mortgage broker must:

49 (a) Be verified.



- 1 (b) State the name, residence address and business address of the
2 applicant and the location of each principal office and branch office at
3 which the mortgage broker will conduct business within this state.
- 4 (c) State the name under which the applicant will conduct business as a
5 mortgage broker.
- 6 (d) List the name, residence address and business address of each
7 person who will:
- 8 (1) If the applicant is not a natural person, have an interest in the
9 mortgage broker as a principal, partner, officer, director or trustee,
10 specifying the capacity and title of each such person.
- 11 (2) Be associated with or employed by the mortgage broker as a
12 mortgage agent.
- 13 (e) If the applicant is a natural person, include the social security
14 number of the applicant.
- 15 (f) Include a general business plan and a ~~manual for policies and~~
16 ~~procedures for the mortgage broker and his mortgage agents that includes,~~
17 ~~without limitation, the underwriting standards, restrictions and~~ *description*
18 of the policies and procedures that the mortgage broker and his mortgage
19 agents will follow to arrange and service loans and to conduct business
20 pursuant to this chapter.
- 21 (g) State the length of time the applicant has been engaged in the
22 business of a broker.
- 23 (h) Include a financial statement of the applicant and, if applicable,
24 satisfactory proof that the applicant will be able to maintain continuously
25 the net worth required pursuant to NRS 645B.115.
- 26 (i) Include any other information required pursuant to the regulations
27 adopted by the commissioner or an order of the commissioner.
- 28 2. If a mortgage broker will conduct business at one or more branch
29 offices within this state, the mortgage broker must apply for a license for
30 each such branch office.
- 31 3. Except as otherwise provided in this chapter, the commissioner shall
32 issue a license to an applicant as a mortgage broker if:
- 33 (a) The application complies with the requirements of this chapter;
- 34 (b) The applicant submits the statement required pursuant to NRS
35 645B.023, if the applicant is required to do so; and
- 36 (c) The applicant and each general partner, officer or director of the
37 applicant, if the applicant is a partnership, corporation or unincorporated
38 association:
- 39 (1) Has a good reputation for honesty, trustworthiness and integrity
40 and displays competence to transact the business of a mortgage broker in a
41 manner which safeguards the interests of the general public. The applicant
42 must submit satisfactory proof of these qualifications to the commissioner.
- 43 (2) Has not been convicted of, or entered a plea of nolo contendere
44 to, a felony or any crime involving fraud, misrepresentation or moral
45 turpitude.
- 46 (3) Has not made a false statement of material fact on his application.
- 47 (4) Has not had a license that was issued pursuant to the provisions of
48 this chapter or chapter 645E of NRS suspended or revoked within the 10
49 years immediately preceding the date of his application.



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1 (5) Has not had a license that was issued in any other state, district or
2 territory of the United States or any foreign country suspended or revoked
3 within the 10 years immediately preceding the date of his application.
4 (6) Has not violated any provision of this chapter or chapter 645E of
5 NRS, a regulation adopted pursuant thereto or an order of the
6 commissioner.
7 **Sec. 7.** NRS 645B.050 is hereby amended to read as follows:
8 645B.050 1. A license issued pursuant to this chapter expires each
9 year on June 30, unless it is renewed. To renew a license, the licensee must
10 submit to the commissioner on or before June 30 of each year:
11 (a) An application for renewal;
12 (b) The fee required to renew the license pursuant to this section; ~~and~~
13 (c) If the licensee is a natural person, the statement required pursuant to
14 NRS 645B.023 ~~and~~; *and*
15 *(d) The information required pursuant to section 4 of this act.*
16 2. If the licensee fails to submit any item required pursuant to
17 subsection 1 to the commissioner on or before June 30 of any year, the
18 license is canceled. The commissioner may reinstate a canceled license if
19 the licensee submits to the commissioner:
20 (a) An application for renewal;
21 (b) The fee required to renew the license pursuant to this section;
22 (c) If the licensee is a natural person, the statement required pursuant to
23 NRS 645B.023; ~~and~~
24 ~~(d) A~~
25 *(d) The information required pursuant to section 4 of this act; and*
26 *(e) Except as otherwise provided in this section, a* reinstatement fee of
27 \$200.
28 3. Except as otherwise provided in NRS 645B.016, a certificate of
29 exemption issued pursuant to this chapter expires each year on December
30 31, unless it is renewed. To renew a certificate of exemption, a person must
31 submit to the commissioner on or before December 31 of each year:
32 (a) An application for renewal that includes satisfactory proof that the
33 person meets the requirements for an exemption from the provisions of this
34 chapter; and
35 (b) The fee required to renew the certificate of exemption.
36 4. If the person fails to submit any item required pursuant to
37 subsection 3 to the commissioner on or before December 31 of any year,
38 the certificate of exemption is canceled. Except as otherwise provided in
39 NRS 645B.016, the commissioner may reinstate a canceled certificate of
40 exemption if the person submits to the commissioner:
41 (a) An application for renewal that includes satisfactory proof that the
42 person meets the requirements for an exemption from the provisions of this
43 chapter;
44 (b) The fee required to renew the certificate of exemption; and
45 (c) ~~A~~ *Except as otherwise provided in this section, a* reinstatement
46 fee of \$100.
47 5. ~~A~~ *Except as otherwise provided in this section, a* person must pay
48 the following fees to apply for, to be issued or to renew a license as a
49 mortgage broker pursuant to this chapter:



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- 1 (a) To file an original application or a license, \$1,500 for the principal
2 office and \$40 for each branch office. The person must also pay such
3 additional expenses incurred in the process of investigation as the
4 commissioner deems necessary. All money received by the commissioner
5 pursuant to this paragraph must be placed in the investigative account
6 created by NRS 232.545.
- 7 (b) To be issued a license, \$1,000 for the principal office and \$60 for
8 each branch office.
- 9 (c) To renew a license, \$500 for the principal office and \$100 for each
10 branch office.
- 11 6. ~~1A~~ *Except as otherwise provided in this section, a* person must pay
12 the following fees to apply for or to renew a certificate of exemption
13 pursuant to this chapter:
- 14 (a) To file an application for a certificate of exemption, \$200.
- 15 (b) To renew a certificate of exemption, \$100.
- 16 7. To be issued a duplicate copy of any license or certificate of
17 exemption, a person must make a satisfactory showing of its loss and pay a
18 fee of \$10.
- 19 8. Except as otherwise provided in this chapter, all fees received
20 pursuant to this chapter must be deposited in the state treasury for credit to
21 the state general fund.
- 22 9. *The commissioner may, by regulation, increase any fee set forth in*
23 *this section if the commissioner determines that such an increase is*
24 *necessary for the commissioner to carry out his duties pursuant to this*
25 *chapter. The amount of any increase in a fee pursuant to this subsection*
26 *must not exceed the amount determined to be necessary for the*
27 *commissioner to carry out his duties pursuant to this chapter.*
- 28 **Sec. 8.** NRS 645B.060 is hereby amended to read as follows:
- 29 645B.060 1. Subject to the administrative control of the director of
30 the department of business and industry, the commissioner shall exercise
31 general supervision and control over mortgage brokers doing business in
32 this state.
- 33 2. In addition to the other duties imposed upon him by law, the
34 commissioner shall:
- 35 (a) Adopt *any* regulations ~~[prescribing standards for determining~~
36 ~~whether a mortgage broker has maintained adequate supervision of a~~
37 ~~mortgage agent pursuant to this chapter.~~
- 38 ~~—(b) Adopt any other regulations]~~ that are necessary to carry out the
39 provisions of this chapter, except as to loan brokerage fees.
- 40 ~~[(e)]~~ (b) Conduct such investigations as may be necessary to determine
41 whether any person has violated any provision of this chapter, a regulation
42 adopted pursuant to this chapter or an order of the commissioner.
- 43 ~~[(d)]~~ (c) Conduct an annual examination of each mortgage broker doing
44 business in this state.
- 45 ~~[(e)]~~ *The annual examination must include, without limitation, a*
46 *formal exit review with the mortgage broker. The commissioner shall*
47 *adopt regulations prescribing:*
- 48 (1) *Standards for determining the rating of each mortgage broker*
49 *based upon the results of the annual examination; and*



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

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

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

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

21 3. For each special audit, investigation or examination, a mortgage
22 broker shall pay a fee based on the rate established pursuant to NRS
23 658.101.

24 **Sec. 9.** NRS 645B.085 is hereby amended to read as follows:

25 645B.085 1. Except as otherwise provided in this section, not later
26 than ~~160~~ 90 days after the last day of each fiscal year for a mortgage
27 broker, the mortgage broker shall submit to the commissioner a financial
28 statement that:

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

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

34 2. The commissioner may grant a reasonable extension for the
35 submission of a financial statement pursuant to this section if a mortgage
36 broker requests such an extension before the date on which the financial
37 statement is due.

38 3. If a mortgage broker maintains any accounts described in subsection
39 1 of NRS 645B.175, the financial statement submitted pursuant to this
40 section must be audited. If a mortgage broker maintains any accounts
41 described in subsection 4 of NRS 645B.175, those accounts must be
42 audited. The public accountant who prepares the report of an audit shall
43 submit a copy of the report to the commissioner at the same time that he
44 submits the report to the mortgage broker.

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



1 **Sec. 10.** NRS 645B.185 is hereby amended to read as follows:
2 645B.185 1. A mortgage broker or mortgage agent shall not accept
3 money from ~~an~~ *a private* investor to acquire ownership of or a beneficial
4 interest in a loan secured by a lien on real property unless:
5 (a) The *private* investor and the mortgage broker or mortgage agent sign
6 and date a disclosure form that complies with the provisions of this section;
7 and
8 (b) The mortgage broker or mortgage agent gives the *private* investor
9 the original disclosure form that has been signed and dated.
10 2. ~~An~~ *A private* investor and a mortgage broker or mortgage agent
11 must sign and date a separate disclosure form pursuant to subsection 1 for
12 each loan in which the *private* investor invests his money. A mortgage
13 broker or mortgage agent shall not act as the attorney in fact or the agent of
14 ~~an~~ *a private* investor with respect to the signing or dating of any
15 disclosure form.
16 3. In addition to the requirements of subsections 1 and 2, a mortgage
17 broker or mortgage agent shall not accept money from ~~an~~ *a private*
18 investor to acquire ownership of or a beneficial interest in a loan secured
19 by a lien on real property, unless the mortgage broker or mortgage agent
20 gives the *private* investor a written form by which the *private* investor may
21 request that the mortgage broker authorize the commissioner to release the
22 mortgage broker's financial statement to the *private* investor. Such a form
23 must be given to the *private* investor for each loan. If the *private* investor,
24 before giving money to the mortgage broker for the loan, requests that the
25 mortgage broker authorize the release of a financial statement pursuant to
26 this subsection, the mortgage broker and his mortgage agents shall not
27 accept money from the *private* investor for that loan until the mortgage
28 broker receives notice from the commissioner that the financial statement
29 has been released to the *private* investor.
30 4. ~~An~~ *A private* investor and a mortgage broker or mortgage agent
31 may not agree to alter or waive the provisions of this section by contract or
32 other agreement. Any such contract or agreement is void and must not be
33 given effect to the extent that it violates the provisions of this section.
34 5. A mortgage broker shall retain a copy of each disclosure form that is
35 signed and dated pursuant to subsection 1 for the period that is prescribed
36 in the regulations adopted by the commissioner.
37 6. The standard provisions for each such disclosure form must include,
38 without limitation, statements:
39 (a) Explaining the risks of investing through the mortgage broker,
40 including, without limitation:
41 (1) The possibility that the debtor may default on the loan;
42 (2) The nature of the losses that may result through foreclosure;
43 (3) The fact that payments of principal and interest are not guaranteed
44 and that the *private* investor may lose the entire amount of principal that he
45 has invested;
46 (4) The fact that the mortgage broker is not a depository financial
47 institution and that the investment is not insured by any depository
48 insurance and is not otherwise insured or guaranteed by the federal or state
49 government; and



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- 1 (5) Any other information required pursuant to the regulations
2 adopted by the commissioner; and
- 3 (b) Disclosing to the *private* investor the following information if the
4 information is known or, in light of all the surrounding facts and
5 circumstances, reasonably should be known to the mortgage broker:
- 6 (1) Whether the real property that will secure the loan is encumbered
7 by any other liens and, if so, the priority of each such lien, the amount of
8 debt secured by each such lien and the current status of that debt,
9 including, without limitation, whether the debt is being paid or is in
10 default;
- 11 (2) Whether the mortgage broker or any general partner, officer,
12 director or mortgage agent of the mortgage broker has any direct or indirect
13 interest in the debtor;
- 14 (3) Whether any disciplinary action has been taken by the
15 commissioner against the mortgage broker or any general partner, officer
16 or director of the mortgage broker within the *immediately* preceding 12
17 months, and the nature of any such disciplinary action;
- 18 (4) Whether the mortgage broker or any general partner, officer or
19 director of the mortgage broker has been convicted within the *immediately*
20 preceding 12 months for violating any law, ordinance or regulation that
21 involves fraud, misrepresentation or a deceitful, fraudulent or dishonest
22 business practice; and
- 23 (5) Any other information required pursuant to the regulations
24 adopted by the commissioner.
- 25 7. Whether or not a mortgage broker is required to disclose any
26 information to *private* investors through a disclosure form that complies
27 with the provisions of this section, the commissioner may order the
28 mortgage broker to disclose to *private investors and other* investors or to
29 the general public any information concerning the mortgage broker, any
30 general partner, officer, director or mortgage agent of the mortgage broker
31 or any loan in which the mortgage broker is or has been involved, if the
32 commissioner, in his judgment, believes that the information:
- 33 (a) Would be of material interest to a reasonable investor who is
34 deciding whether to invest money with the mortgage broker; or
- 35 (b) Is necessary to protect the welfare of the public.
- 36 8. In carrying out the provisions of subsection 7, the commissioner
37 may, without limitation, order a mortgage broker to include statements of
38 disclosure prescribed by the commissioner:
- 39 (a) In the disclosure form that must be given to *private* investors
40 pursuant to subsection 1;
- 41 (b) In additional disclosure forms that must be given to *private*
42 *investors and other* investors before or after they have invested money
43 through the mortgage broker; or
- 44 (c) In any advertisement that the mortgage broker uses in carrying on
45 his business.
- 46 9. The commissioner:
- 47 (a) Shall adopt regulations prescribing the period for which a mortgage
48 broker must retain a copy of each disclosure form that is given to *private*
49 investors; and



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

Sec. 11. NRS 645B.189 is hereby amended to read as follows:

645B.189 1. ~~Each~~ *If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the* mortgage broker shall include in each *such* advertisement ~~that the mortgage broker uses in carrying on his business:~~

~~—(a) A~~ *a* statement of disclosure in substantially the following form:

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

~~(b) Any other~~

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the commissioner or required pursuant to an order of the commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

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

~~3-1~~ *4.* In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

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

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

~~4-1~~ *5.* If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

~~5-1~~ *6.* The commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 12. NRS 645B.330 is hereby amended to read as follows:

645B.330 1. A mortgage broker or mortgage agent shall not engage in any act or transaction on behalf of ~~and~~ *a private* investor pursuant to a power of attorney unless:

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

(b) The provisions of the power of attorney:

(1) Have been approved by the commissioner;



1 (2) Expressly prohibit the mortgage broker and his mortgage agents
2 from engaging in any act or transaction that subordinates the priority of a
3 recorded deed of trust unless, before such an act or transaction, the
4 mortgage broker obtains written approval for the subordination from the
5 *private* investor;

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

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

25 (I) *Identifies the loan for which the power of attorney was*
26 *executed; and*

27 (II) *Identifies the loan for which the written approval is being*
28 *given.*

29 2. A mortgage broker or mortgage agent shall not act as the attorney in
30 fact or the agent of ~~an~~ *a private* investor with respect to the giving of
31 written approval pursuant to paragraph (b) of subsection 1. ~~An~~ *A private*
32 investor and a mortgage broker or mortgage agent may not agree to alter or
33 waive the provisions of this section by contract or other agreement. Any
34 such contract or agreement is void and must not be given effect to the
35 extent that it violates the provisions of this section.

36 3. ~~Except as otherwise provided in subsection 4, a~~ power of
37 attorney which designates a mortgage broker or mortgage agent as the
38 attorney in fact or the agent of ~~an~~ *a private* investor and which violates
39 the provisions of this section is void and must not be given effect with
40 regard to any act or transaction that occurs on or after October 1, 1999,
41 whether or not the power of attorney is or has been executed by the *private*
42 investor before, on or after October 1, 1999.

43 4. *The provisions of subsection 3 do not apply to a power of attorney*
44 *that designates a mortgage broker or mortgage agent as the attorney in*
45 *fact or the agent of a private investor if the power of attorney:*

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

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



1 5. The provisions of this section do not limit the right of ~~the~~ *a private*
2 investor to include provisions in a power of attorney that are more
3 restrictive than the provisions set forth in subsection 1.

4 **Sec. 13.** NRS 645B.450 is hereby amended to read as follows:

5 645B.450 1. A person shall not act as or provide any of the services
6 of a mortgage agent or otherwise engage in, carry on or hold himself out as
7 engaging in or carrying on the activities of a mortgage agent if the person:

8 (a) Has been convicted of, or entered a plea of nolo contendere to, a
9 felony or any crime involving fraud, misrepresentation or moral turpitude;
10 or

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

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

15 3. A mortgage broker shall register with the division each person who
16 will be associated with or employed by the mortgage broker as a mortgage
17 agent. *A mortgage broker shall register each such person with the*
18 *division when the person begins his association or employment with the*
19 *mortgage broker and annually thereafter. A registration expires 12*
20 *months after its effective date.*

21 4. To register a person as a mortgage agent, a mortgage broker must:

22 (a) Submit to the division a registration form which is provided by the
23 division and which:

24 (1) States the name, residence address and business address of the
25 person;

26 (2) Is signed by the person;

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

30 (4) Includes any other information or supporting materials required
31 by the regulations adopted by the commissioner. Such information or
32 supporting materials may include, without limitation, a complete set of
33 fingerprints from the person, the social security number of the person and
34 other forms of identification of the person. ~~and~~

35 ~~(b) Pay~~

36 **(b) For each initial registration, pay** the actual costs and expenses
37 incurred by the division to investigate the credit history, criminal history
38 and background of the person. All money received pursuant to this
39 paragraph must be placed in the investigative account created by NRS
40 232.545.

41 ~~(c) For each annual registration, submit to the division~~
42 *satisfactory proof that the person attended at least 5 hours of certified*
43 *courses of continuing education during the 12 months immediately*
44 *preceding the date on which the registration expires.*

45 5. *Not later than the date on which the mortgage broker submits the*
46 *information for annual registration required by subsection 4, the person*
47 *being registered shall pay an annual registration fee of \$125. If the*
48 *person does not pay the annual registration fee, the person shall be*
49 *deemed to be unregistered for the purposes of this chapter.*



1 6. A mortgage broker shall not employ a person as a mortgage agent or
2 authorize a person to be associated with the mortgage broker as a mortgage
3 agent if the mortgage broker has not registered the person with the division
4 pursuant to ~~subsection 3~~ *this section* or if the person:

5 (a) Has been convicted of, or entered a plea of nolo contendere to, a
6 felony or any crime involving fraud, misrepresentation or moral turpitude;
7 or

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

10 ~~5.7~~ 7. If a mortgage agent terminates his association or employment
11 with a mortgage broker for any reason, the mortgage broker shall, not later
12 than the ~~end of the next~~ *third* business day following the date of
13 termination:

14 (a) Deliver to the mortgage agent or send by certified mail to the last
15 known residence address of the mortgage agent a written statement which
16 advises him that his termination is being reported to the division; and

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

18 (1) A written statement of the circumstances surrounding the
19 termination; and

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

22 8. *As used in this section, "certified course of continuing education"*
23 *has the meaning ascribed to it in section 4 of this act.*

24 Sec. 14. NRS 645B.460 is hereby amended to read as follows:

25 645B.460 1. A mortgage broker shall ~~1.~~

26 ~~1. Teach his mortgage agents the fundamentals of mortgage lending~~
27 ~~and the ethics of the profession; and~~

28 ~~2. Supervise~~ *exercise reasonable supervision over* the activities of his
29 mortgage agents . ~~and the operation of his business.~~ *Such reasonable*
30 *supervision must include, as appropriate:*

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

33 (b) *The establishment of a system to review, oversee and inspect the*
34 *activities of his mortgage agents, including, without limitation:*

35 (1) *Transactions handled by his mortgage agents pursuant to this*
36 *chapter;*

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

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

42 (4) *The handling by his mortgage agents of any fee, deposit or*
43 *money paid to the mortgage broker or his mortgage agents or held in*
44 *trust by the mortgage broker or his mortgage agents pursuant to this*
45 *chapter.*

46 2. *The commissioner shall allow a mortgage broker to take into*
47 *consideration the total number of mortgage agents associated with or*
48 *employed by the mortgage broker when the mortgage broker determines*
49 *the form and extent of the policies and procedures for those mortgage*



1 *agents and the system to review, oversee and inspect the activities of*
2 *those mortgage agents.*

3 *3. The commissioner may adopt regulations prescribing standards*
4 *for determining whether a mortgage broker has exercised reasonable*
5 *supervision over the activities of a mortgage agent pursuant to this*
6 *section.*

7 **Sec. 15.** NRS 645B.600 is hereby amended to read as follows:

8 645B.600 1. A person may ~~1. in accordance with the regulations~~
9 ~~adopted pursuant to subsection 2.~~ file *with the commissioner* a complaint
10 ~~[with the commissioner.]~~ alleging that another person has violated a
11 provision of this chapter, a regulation adopted pursuant to this chapter or
12 an order of the commissioner.

13 2. ~~[The commissioner shall adopt regulations prescribing:~~

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

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

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

17 *A complaint filed pursuant to this section must:*

18 *(a) Be in writing;*

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

21 *(c) Contain an address and a telephone number for the person filing*
22 *the complaint or the authorized representative of the person filing the*
23 *complaint;*

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

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

28 *(f) Include any other information or supporting materials required by*
29 *the regulations adopted by the commissioner or by an order of the*
30 *commissioner.*

31 **Sec. 16.** NRS 645B.670 is hereby amended to read as follows:

32 645B.670 Except as otherwise provided in NRS 645B.690:

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

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

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

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

46 2. For each violation committed by a licensee, the commissioner may
47 impose upon the licensee an administrative fine of not more than \$10,000,
48 may suspend, revoke or place conditions upon his license, or may do both,
49 if the licensee, whether or not acting as such:



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- 1 (a) Is insolvent;
- 2 (b) Is grossly negligent or incompetent in performing any act for which
- 3 he is required to be licensed pursuant to the provisions of this chapter;
- 4 (c) Does not conduct his business in accordance with law or has
- 5 violated any provision of this chapter, a regulation adopted pursuant to this
- 6 chapter or an order of the commissioner;
- 7 (d) Is in such financial condition that he cannot continue in business
- 8 with safety to his customers;
- 9 (e) Has made a material misrepresentation in connection with any
- 10 transaction governed by this chapter;
- 11 (f) Has suppressed or withheld from a client any material facts, data or
- 12 other information relating to any transaction governed by the provisions of
- 13 this chapter which the licensee knew or, by the exercise of reasonable
- 14 diligence, should have known;
- 15 (g) Has knowingly made or caused to be made to the commissioner any
- 16 false representation of material fact or has suppressed or withheld from the
- 17 commissioner any information which the licensee possesses and which, if
- 18 submitted by him, would have rendered the licensee ineligible to be
- 19 licensed pursuant to the provisions of this chapter;
- 20 (h) Has failed to account to persons interested for all money received
- 21 for a trust account;
- 22 (i) Has refused to permit an examination by the commissioner of his
- 23 books and affairs or has refused or failed, within a reasonable time, to
- 24 furnish any information or make any report that may be required by the
- 25 commissioner pursuant to the provisions of this chapter or a regulation
- 26 adopted pursuant to this chapter;
- 27 (j) Has been convicted of, or entered a plea of nolo contendere to, a
- 28 felony or any crime involving fraud, misrepresentation or moral turpitude;
- 29 (k) Has refused or failed to pay, within a reasonable time, any fees,
- 30 assessments, costs or expenses that the licensee is required to pay pursuant
- 31 to this chapter or a regulation adopted pursuant to this chapter;
- 32 (l) Has failed to satisfy a claim made by a client which has been reduced
- 33 to judgment;
- 34 (m) Has failed to account for or to remit any money of a client within a
- 35 reasonable time after a request for an accounting or remittance;
- 36 (n) Has commingled the money or other property of a client with his
- 37 own or has converted the money or property of others to his own use;
- 38 (o) Has engaged in any other conduct constituting a deceitful,
- 39 fraudulent or dishonest business practice;
- 40 (p) Has repeatedly violated the policies and procedures of the mortgage
- 41 broker;
- 42 (q) Has failed to ~~maintain adequate~~ *exercise reasonable* supervision
- 43 *over the activities* of a mortgage agent ~~as required by NRS 645B.460;~~
- 44 (r) Has instructed a mortgage agent to commit an act that would be
- 45 cause for the revocation of the license of the mortgage broker, whether or
- 46 not the mortgage agent commits the act;
- 47 (s) Has employed a person as a mortgage agent or authorized a person
- 48 to be associated with the licensee as a mortgage agent at a time when the



licensee knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years; or

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

Sec. 17. NRS 645B.700 is hereby amended to read as follows:

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

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

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

(1) A major violation. The disciplinary action taken by the commissioner 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 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 is required to take disciplinary action in accordance with NRS 645B.690.

Sec. 18. Section 139 of chapter 646, Statutes of Nevada 1999, at page 3816, is hereby amended to read as follows:

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

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

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

4. Sections 15 and 33 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to



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1 establish procedures under which the state has authority to withhold
2 or suspend, or to restrict the use of professional, occupational and
3 recreational licenses of persons who:

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

7 (b) Are in arrears in the payment for the support of one or more
8 children,

9 are repealed by the Congress of the United States.

10 ~~15. Section 78.5 of this act expires by limitation on October 1,~~
11 ~~2001.]~~

12 **Sec. 19.** This act becomes effective on July 1, 2001.

