#### ASSEMBLY BILL NO. 447-ASSEMBLYWOMAN BUCKLEY

## MARCH 19, 2001

### Referred to Committee on Commerce and Labor

SUMMARY—Prohibits unfair lending practices for home loans. (BDR 52-440)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State: Yes.

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EXPLANATION - Matter in bolded italics is new; matter between brackets fomitted material; is material to be omitted.

AN ACT relating to lending practices; prohibiting certain acts by lenders of home loans as unfair lending practices; providing for enforcement by the attorney general; revising related provisions governing credit insurance; providing a penalty; and providing other matters properly relating thereto.

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

**Section 1.** Title 52 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 15, inclusive, of this act.

Sec. 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 10, inclusive, of this chapter have the meanings ascribed to them in those sections.

Sec. 3. "Borrower" means a natural person who is a mortgagor, grantor of a deed of trust or other debtor of a home loan.

Sec. 4. "Credit insurance" has the meaning ascribed to it in NRS 690A.015.

Sec. 5. "Home" means a dwelling or dwellings for not more than four families, the principal use of which is for residential purposes. The term includes, without limitation:

1. A dwelling on a farm.

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- 2. A dwelling unit of a cooperative housing corporation.
- 3. A mobile home, as defined in NRS 489.120, with the wheels removed and skirting added, when set on a foundation located on land that the owner of the home owns or occupies pursuant to a tenancy with a term of 40 years or more.
- 20 Sec. 6. "Home loan" means a consumer credit transaction that:
- 21 1. Is secured by a mortgage loan which involves real property located within this state; and



- 2. Constitutes a mortgage under § 152 of the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1602(aa), and the regulations adopted by the Board of Governors of the Federal Reserve System pursuant thereto, including, without limitation, 12 C.F.R. § 226.32.
- Secs. 7 and 8. (Deleted by amendment.)

- Sec. 9. "Lender" means a mortgagee, beneficiary of a deed of trust or other creditor who holds a mortgage, deed of trust or other instrument that encumbers home property as security for the repayment of a home loan.
- Sec. 10. "Prepayment fee or penalty" means any fee or penalty imposed by a lender if a borrower repays the balance of a loan or otherwise makes a payment on a loan before the regularly scheduled time for repayment.
  - Sec. 11. It is an unfair lending practice for a lender to:
- 1. Require a borrower, as a condition of obtaining or maintaining a home loan secured by home property, to provide property insurance on improvements to home property in an amount that exceeds the reasonable replacement value of the improvements.
- 2. Knowingly or intentionally make a home loan to a borrower based solely upon the equity of the borrower in the home property and without determining that the borrower has the ability to repay the home loan from other assets, including, without limitation, income.
- 3. Finance a prepayment fee or penalty in connection with the refinancing by the original borrower of a home loan owned by the lender or an affiliate of the lender.
- 4. Finance, directly or indirectly in connection with a home loan, any credit insurance, life insurance, disability insurance, health insurance, involuntary unemployment insurance or any other similar form of insurance premiums, unless, before the borrower executes the financing documents, the lender completes and executes, and the borrower executes, a notice in substantially the following form:

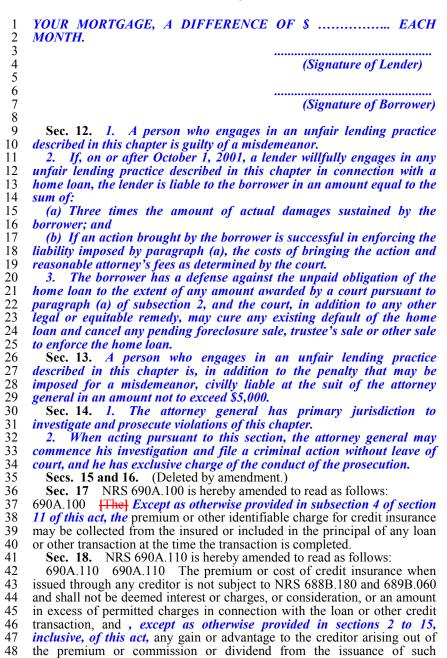
#### **INSURANCE NOTICE TO BORROWERS**

You have indicated that you are electing to purchase insurance in conjunction with this loan. THE COST OF THIS INSURANCE is being PREPAID AND FINANCED AT THE INTEREST RATE PROVIDED FOR THIS LOAN. THE INSURANCE IS NOT REQUIRED as a condition of closing this loan, but has been included with the loan at your request.

YOU HAVE THE RIGHT TO CANCEL THIS INSURANCE AFTER PURCHASE.

THE COST OF THIS INSURANCE IS ......







- insurance shall not be deemed a violation of any other law, general or special, civil or criminal, of this state.

  Sec. 18.5. The provisions of this act apply only to home loans entered into on or after October 1, 2001.

  Sec. 19. The provisions of this act do not apply to offenses committed before October 1, 2001. 1 2 3 4 5



