

SENATE BILL NO. 330—SENATOR SHAFFER

MARCH 13, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to financial businesses. (BDR 54-748)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: No.

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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 businesses; authorizing certain mortgage companies and lending businesses to be licensed to conduct business in this state from locations outside this state under certain circumstances; establishing certain procedures for a mortgage company to notify the commissioner of financial institutions of a change of address of its licensed place of business; changing the procedures for a lending business to notify the commissioner of financial institutions of a change of address of its licensed place of business; authorizing the commissioner of financial institutions to impose a fine on a mortgage company or lending business for failing to notify the commissioner of a proposed change of address; removing the requirement that the commissioner of financial institutions notify lending businesses of his receipt of an application for licensure of a lending business; 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:

- 1     **Section 1.** Chapter 645E of NRS is hereby amended by adding thereto  
2     a new section to read as follows:  
3     ***1. If a licensee desires to change the address of an office or other***  
4     ***place of business for which he has a license pursuant to this chapter, at***  
5     ***least 10 days before changing the address, the licensee must give written***  
6     ***notice of the proposed change to the commissioner on a form prescribed***  
7     ***by the commissioner.***  
8     ***2. Upon receipt of a proposed change of address pursuant to***  
9     ***subsection 1, the commissioner shall:***  
10    ***(a) Decide whether to approve or disapprove the proposed change of***  
11    ***address; and***  
12    ***(b) Provide written notice of his decision to the licensee within 10 days***  
13    ***after receiving notice pursuant to subsection 1.***  
14    ***3. If the commissioner notifies the licensee in accordance with***  
15    ***subsection 2 that the commissioner disapproves the proposed change, the***



1 *licensee shall not change the address of the office or other place of*  
2 *business for which the notice relates.*

3 *4. If a licensee fails to provide notice as required pursuant to*  
4 *subsection 1, the commissioner may impose an administrative fine in an*  
5 *amount not to exceed \$500.*

6 **Sec. 2.** NRS 645E.130 is hereby amended to read as follows:

7 645E.130 The provisions of this chapter do not:

8 1. Limit any statutory or common law right of a person to bring a civil  
9 action against a mortgage company for any act or omission involved in the  
10 transaction of business by or on behalf of the mortgage company;

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

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

18 *4. Require a mortgage company which is located outside this state*  
19 *and which does not conduct business in this state to be licensed pursuant*  
20 *to this chapter; or*

21 *5. Apply to transactions that are exclusively between a licensee*  
22 *located outside this state and a person who is located outside this state.*

23 **Sec. 3.** NRS 645E.200 is hereby amended to read as follows:

24 645E.200 1. A person who wishes to be licensed as a mortgage  
25 company must file a written application for a license with the office of the  
26 commissioner and pay the fee required pursuant to NRS 645E.280. An  
27 application for a license as a mortgage company 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 company will conduct business ~~within~~ in this state ~~for~~  
32 *, including, without limitation, any office or other place of business*  
33 *located outside this state from which the mortgage company will conduct*  
34 *business in this state.*

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

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

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

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

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

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

47 2. If a mortgage company will conduct business *in this state* at one or  
48 more branch offices, ~~within this state,~~ the mortgage company must apply  
49 for a license for each such branch office.



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1     3. Except as otherwise provided in this chapter, the commissioner shall  
2     issue a license to an applicant as a mortgage company if:  
3     (a) The application complies with the requirements of this chapter; and  
4     (b) The applicant and each general partner, officer or director of the  
5     applicant, if the applicant is a partnership, corporation or unincorporated  
6     association:  
7         (1) Has a good reputation for honesty, trustworthiness and integrity  
8         and displays competence to transact the business of a mortgage company in  
9         a manner which safeguards the interests of the general public. The  
10         applicant must submit satisfactory proof of these qualifications to the  
11         commissioner.  
12         (2) Has not been convicted of, or entered a plea of nolo contendere  
13         to, a felony or any crime involving fraud, misrepresentation or moral  
14         turpitude.  
15         (3) Has not made a false statement of material fact on his application.  
16         (4) Has not had a license that was issued pursuant to the provisions of  
17         this chapter or chapter 645B of NRS suspended or revoked within the 10  
18         years immediately preceding the date of his application.  
19         (5) Has not had a license that was issued in any other state, district or  
20         territory of the United States or any foreign country suspended or revoked  
21         within the 10 years immediately preceding the date of his application.  
22         (6) Has not violated any provision of this chapter or chapter 645B of  
23         NRS, a regulation adopted pursuant thereto or an order of the  
24         commissioner.  
25     4. If an applicant is a partnership, corporation or unincorporated  
26     association, the commissioner may refuse to issue a license to the applicant  
27     if any member of the partnership or any officer or director of the  
28     corporation or unincorporated association has committed any act or  
29     omission that would be cause for refusing to issue a license to a natural  
30     person.  
31     5. *A mortgage company that has a license for an office or other place*  
32     *of business located within this state pursuant to this chapter may apply*  
33     *for a license for an office or other place of business located outside this*  
34     *state from which the mortgage company desires to conduct business in*  
35     *this state if the applicant submits with the application for a license a*  
36     *statement signed by the applicant which states that the applicant agrees*  
37     *to:*  
38         (a) *Make available at a location within this state the books, accounts,*  
39         *papers, records and files of the office or place of business located outside*  
40         *this state to the commissioner or a representative of the commissioner; or*  
41         (b) *Pay the reasonable expenses for travel, meals and lodging of the*  
42         *commissioner or a representative of the commissioner incurred during*  
43         *any investigation or examination made at the office or place of business*  
44         *located outside this state.*  
45     *The applicant must be allowed to choose between paragraph (a) or (b) in*  
46     *complying with the provisions of this subsection.*  
47     **Sec. 4.** NRS 645E.350 is hereby amended to read as follows:  
48         645E.350 1. Each mortgage company shall keep and maintain at all  
49         times at each location where the mortgage company conducts business in



1 this state complete and suitable records of all mortgage transactions made  
2 by the mortgage company at that location. Each mortgage company shall  
3 also keep and maintain at all times at each such location all original books,  
4 papers and data, or copies thereof, clearly reflecting the financial condition  
5 of the business of the mortgage company.

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

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

11 (b) Include any information required pursuant to the regulations adopted  
12 by the commissioner; and

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

15 3. The commissioner may adopt regulations prescribing accounting  
16 procedures for mortgage companies handling trust accounts and the  
17 requirements for keeping records relating to such accounts.

18 *4. A licensee who operates outside this state an office or other place  
19 of business which is licensed pursuant to this chapter shall:*

20 *(a) Make available at a location within this state the books, accounts,  
21 papers, records and files of the office or place of business located outside  
22 this state to the commissioner or a representative of the commissioner; or*

23 *(b) Pay the reasonable expenses for travel, meals and lodging of the  
24 commissioner or a representative of the commissioner incurred during  
25 any investigation or examination made at the office or place of business  
26 located outside this state.*

27 *The licensee must be allowed to choose between paragraph (a) or (b)  
28 with which to comply.*

29 **Sec. 5.** NRS 675.040 is hereby amended to read as follows:

30 675.040 This chapter does not apply to:

31 1. A person doing business under the authority of any law of this state  
32 or of the United States relating to banks, savings banks, trust companies,  
33 savings and loan associations, credit unions, development corporations,  
34 mortgage brokers, mortgage companies, thrift companies, pawnbrokers or  
35 insurance companies.

36 2. A real estate investment trust, as defined in 26 U.S.C. § 856.

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

39 4. An attorney at law rendering services in the performance of his  
40 duties as an attorney at law if the loan is secured by real property.

41 5. A real estate broker rendering services in the performance of his  
42 duties as a real estate broker if the loan is secured by real property.

43 6. Except as otherwise provided in this subsection, any firm or  
44 corporation:

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



1 (b) Approved by the Federal National Mortgage Association as a seller  
2 or servicer; and

3 (c) Approved by the Department of Housing and Urban Development  
4 and the Department of Veterans Affairs.

5 7. A person who provides money for investment in loans secured by a  
6 lien on real property, on his own account.

7 8. A seller of real property who offers credit secured by a mortgage of  
8 the property sold.

9 9. A person holding a nonrestricted state gaming license issued  
10 pursuant to the provisions of chapter 463 of NRS.

11 *10. A person who engages in the business of lending but who does*  
12 *not engage in the business of lending in this state.*

13 *11. Transactions exclusively between a licensee located outside this*  
14 *state and a person located outside this state.*

15 **Sec. 6.** NRS 675.060 is hereby amended to read as follows:

16 675.060 1. No person may engage in the business of lending *in this*  
17 *state* without first having obtained a license from the commissioner ~~to~~ *for*  
18 *each office or other place of business at which the person engages in*  
19 *such business.*

20 2. For the purpose of this section, a person engages in the business of  
21 lending *in this state* if he:

22 (a) Solicits loans in this state or makes loans to persons in this state,  
23 unless these are isolated, incidental or occasional transactions; or

24 (b) Is located in this state and solicits loans outside of this state or  
25 makes loans to persons located outside of this state, unless these are  
26 isolated, incidental or occasional transactions.

27 **Sec. 7.** NRS 675.090 is hereby amended to read as follows:

28 675.090 1. Application for a license must be in writing, under oath,  
29 and in the form prescribed by the commissioner.

30 2. The application must:

31 ~~(a) Give the general location where the business is to be conducted.~~  
32 *Provide the address of the office or other place of business for which the*  
33 *application is submitted.*

34 (b) Contain such further relevant information as the commissioner may  
35 require, including the names and addresses of the partners, officers,  
36 directors or trustees, and of such of the principal owners or members as  
37 will provide the basis for the investigations and findings contemplated by  
38 NRS 675.110 and 675.120.

39 *3. A person who has a license to engage in the business of lending at*  
40 *an office or other place of business located within this state may apply*  
41 *for a license for an office or other place of business located outside this*  
42 *state from which he desires to conduct the business of lending in this*  
43 *state if the person submits with the application for a license a statement*  
44 *signed by the person which states that the person agrees to:*

45 *(a) Make available at a location within this state the books, accounts,*  
46 *papers, records and files of the office or place of business located outside*  
47 *this state to the commissioner or a representative of the commissioner; or*

48 *(b) Pay the reasonable expenses for travel, meals and lodging of the*  
49 *commissioner or a representative of the commissioner incurred during*



1 *any investigation or examination made at the office or place of business*  
2 *located outside this state.*

3 *The person must be allowed to choose between paragraph (a) or (b) in*  
4 *complying with the provisions of this subsection.*

5 **Sec. 8.** NRS 675.110 is hereby amended to read as follows:

6 675.110 1. Upon the filing of the application and the payment of the  
7 fees, the commissioner shall investigate the facts concerning the  
8 application and the requirements provided for in NRS 675.120.

9 2. ~~At least 20 days before entering the order granting or denying the~~  
10 ~~application, he shall mail a notice of the receipt of the application to each~~  
11 ~~licensee having a place of business in the community where the applicant~~  
12 ~~proposes to do business and he may mail such a notice to such other~~  
13 ~~persons, associations and institutions as he may see fit.~~

14 ~~3.~~ The commissioner may hold a hearing on the application at a time  
15 not less than 30 days ~~from~~ *after* the date the application was filed nor  
16 more than 60 days ~~from~~ *after* that date. The hearing must be held in the  
17 office of the commissioner or such other place as he may designate. Notice  
18 in writing of the hearing must be sent to the applicant and to any licensee  
19 to which a notice of the application had been given and to such other  
20 persons as the commissioner may see fit, at least 10 days before the date  
21 set for the hearing.

22 ~~4.~~ 3. The commissioner shall make his order granting or denying the  
23 application within 10 days ~~from~~ *after* the date of the closing of the  
24 hearing, unless the period is extended by written agreement between the  
25 applicant and the commissioner.

26 **Sec. 9.** NRS 675.120 is hereby amended to read as follows:

27 675.120 If the commissioner finds:

28 1. That the financial responsibility, experience, character and general  
29 fitness of the applicant are such as to command the confidence of the  
30 public and to warrant belief that the business will be operated lawfully,  
31 honestly, fairly and efficiently, within the purposes of this chapter; *and*

32 2. ~~That allowing the applicant to engage in business will promote the~~  
33 ~~convenience and advantage of the community in which the licensed office~~  
34 ~~is to be located; and~~

35 ~~3.~~ That the applicant, unless he will function solely as a loan broker,  
36 has available for the operation of the business at the specified location  
37 liquid assets of at least \$50,000,  
38 he shall thereupon enter an order granting the application, and file his  
39 findings of fact together with the transcript of any hearing held under this  
40 chapter, and forthwith issue and deliver a license to the applicant.

41 **Sec. 10.** NRS 675.220 is hereby amended to read as follows:

42 675.220 1. ~~No change in the place of business of a licensee to a~~  
43 ~~location outside of the original city or town may be permitted under the~~  
44 ~~same license.~~

45 ~~2. When~~ *If* a licensee wishes to change ~~this place of business within~~  
46 ~~the same city or town, he shall~~ *the address of an office or other place of*  
47 *business for which he has a license pursuant to this chapter, at least 10*  
48 *days before changing the address, the licensee must* give written notice



1 ~~{thereof}~~ *of the proposed change* to the commissioner ~~{, who shall~~  
2 ~~investigate the facts. If}~~ *on a form prescribed by* the commissioner ~~. {finds:~~  
3 ~~— (a) That allowing the licensee to engage in business in the proposed~~  
4 ~~location is not detrimental to the convenience and advantage of the~~  
5 ~~community; and~~  
6 ~~— (b) That the proposed location is reasonably accessible to borrowers~~  
7 ~~under existing loan contracts,~~  
8 ~~he shall enter an order permitting the change and shall amend the license~~  
9 ~~accordingly.~~  
10 ~~— 3. If the commissioner does not so find he shall enter an order denying~~  
11 ~~the licensee such permission in the manner specified in and subject to the~~  
12 ~~provisions of NRS 675.150.~~  
13 *2. Upon receipt of a proposed change of address pursuant to*  
14 *subsection 1, the commissioner shall decide whether to approve or*  
15 *disapprove the proposed change and provide the licensee with written*  
16 *notice of his decision within 10 days after receiving notice pursuant to*  
17 *subsection 1.*  
18 *3. If the commissioner notifies the licensee in accordance with*  
19 *subsection 2 that the commissioner disapproves the proposed change, the*  
20 *licensee shall not change the address of the office or place of business*  
21 *for which the notice relates.*  
22 *4. If a licensee fails to provide notice as required pursuant to*  
23 *subsection 1, the commissioner may impose a fine in an amount not to*  
24 *exceed \$500.*  
25 **Sec. 11.** NRS 675.250 is hereby amended to read as follows:  
26 675.250 1. Each licensee shall keep and use in his business such  
27 books and accounting records as are in accord with sound and accepted  
28 accounting practices.  
29 2. Each licensee shall maintain a separate record or ledger card for the  
30 account of each borrower and shall set forth separately the amount of cash  
31 advance and the total amount of interest and charges, ~~{, but}~~ *a* record  
32 may set forth precomputed declining balances based on the scheduled  
33 payments, without a separation of principal and charges.  
34 3. Each licensee shall preserve all such books and accounting records  
35 for at least 2 years after making the final entry therein.  
36 *4. Each licensee who operates outside this state an office or other*  
37 *place of business that is licensed pursuant to this chapter shall:*  
38 *(a) Make available at a location within this state the books, accounts,*  
39 *papers, records and files of the office or place of business located outside*  
40 *this state to the commissioner or a representative of the commissioner; or*  
41 *(b) Pay the reasonable expenses for travel, meals and lodging of the*  
42 *commissioner or a representative of the commissioner incurred during*  
43 *any investigation or examination made at the office or place of business*  
44 *located outside this state.*  
45 *The licensee must be allowed to choose between paragraph (a) or (b) in*  
46 *complying with the provisions of this subsection.*

