

CHAPTER.....

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; including check-cashing and deferred deposit services in the definition of “financial institution” for purposes of the investigative account for financial institutions; requiring the commissioner of financial institutions to charge a fee for certain services; 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; authorizing a credit union to exercise authority and perform acts that a federal credit union may exercise or perform under certain circumstances; 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. Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:

1. A licensee who wishes to change the address of an office or other place of business for which he has a license pursuant to this chapter must, at least 10 days before changing the address, give written notice of the proposed change to the commissioner.

2. Upon receipt of the proposed change of address pursuant to subsection 1, the commissioner shall provide written approval of the change and the date of the approval.

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

Sec. 2. NRS 645E.200 is hereby amended to read as follows:

645E.200 1. A person who wishes to be licensed as a mortgage company must file a written application for a license with the office of the commissioner and pay the fee required pursuant to NRS 645E.280. An application for a license as a mortgage company must:

(a) Be verified.

(b) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage company will conduct business ~~within~~ *in* this state ~~+~~ *, including, without limitation, any office or other place of business located outside this state from which the mortgage company will conduct business in this state.*

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

(d) If the applicant is not a natural person, list the name, residence address and business address of each person who will have an interest in

the mortgage company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

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

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

(g) Include a financial statement of the applicant.

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

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

3. Except as otherwise provided in this chapter, the commissioner shall issue a license to an applicant as a mortgage company if:

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

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

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

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

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

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

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

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

4. If an applicant is a partnership, corporation or unincorporated association, the commissioner may refuse to issue a license to the applicant 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 refusing to issue a license to a natural person.

5. A person may apply for a license for an office or other place of business located outside this state from which the applicant will conduct business in this state if the applicant or a subsidiary or affiliate of the applicant has a license issued pursuant to this chapter for an office or other place of business located in this state and if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

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

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

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

Sec. 3. NRS 645E.350 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

Sec. 4. NRS 232.545 is hereby amended to read as follows:

232.545 1. An investigative account for financial institutions is hereby created in the state general fund. The account consists of money which is:

(a) Received by the department of business and industry in connection with the licensing of financial institutions and the investigation of persons associated with those institutions; and

(b) Required by law to be placed therein.

2. The director of the department of business and industry or his designee may authorize expenditures from the investigative account to pay the expenses incurred:

- (a) In investigating applications for licensing of financial institutions and in investigating persons associated with those institutions;
- (b) In conducting special investigations relating to financial institutions and persons associated with those institutions; and
- (c) In connection with mergers, consolidations, conversions, receiverships and liquidations of financial institutions.

3. As used in this section, “financial institution” means an institution for which licensing *or registration* is required by the provisions of Titles 55 and 56 and chapters *604*, 645B, 645E and 649 of NRS.

Sec. 5. Chapter 604 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The commissioner shall charge and collect from each registrant a fee of \$40 per hour for any supervision, examination, audit, investigation or hearing conducted pursuant to this chapter or any regulations adopted pursuant to this chapter.

2. The commissioner shall bill each registrant upon the completion of the activity for the fee established pursuant to subsection 1. The fee must be paid within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after the date due must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The commissioner may waive the penalty for good cause.

3. The failure of a registrant to pay the fee required pursuant to subsection 1 as provided in this section constitutes grounds for revocation of the certificate of registration of the registrant.

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

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

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

- (a) Solicits loans in this state or makes loans to persons in this state, unless these are isolated, incidental or occasional transactions; or
- (b) Is located in this state and solicits loans outside of this state or makes loans to persons located outside of this state, unless these are isolated, incidental or occasional transactions.

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

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

2. The application must:

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

(b) Contain such further relevant information as the commissioner may require, including the names and addresses of the partners, officers, directors or trustees, and of such of the principal owners or members as

will provide the basis for the investigations and findings contemplated by NRS 675.110 and 675.120.

3. A person may apply for a license for an office or other place of business located outside this state from which the applicant will conduct business in this state if the applicant or a subsidiary or affiliate of the applicant has a license issued pursuant to this chapter for an office or other place of business located in this state and if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

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

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

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

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

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

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

~~—3.1~~ The commissioner may hold a hearing on the application at a time not less than 30 days ~~{from}~~ *after* the date the application was filed nor more than 60 days ~~{from}~~ *after* that date. The hearing must be held in the office of the commissioner or such other place as he may designate. Notice in writing of the hearing must be sent to the applicant and to any licensee to which a notice of the application had been given and to such other persons as the commissioner may see fit, at least 10 days before the date set for the hearing.

~~{4.1}~~ 3. The commissioner shall make his order granting or denying the application within 10 days ~~{from}~~ *after* the date of the closing of the hearing, unless the period is extended by written agreement between the applicant and the commissioner.

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

675.120 If the commissioner finds:

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

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

~~3.1~~ That the applicant, unless he will function solely as a loan broker, has available for the operation of the business at the specified location liquid assets of at least \$50,000, he shall thereupon enter an order granting the application, and file his findings of fact together with the transcript of any hearing held under this chapter, and forthwith issue and deliver a license to the applicant.

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

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

~~2. When a licensee who wishes to change his the address of an office or other place of business within the same city or town, he shall for which he has a license pursuant to this chapter must, at least 10 days before changing the address, give written notice thereof of the proposed change to the commissioner. He, who shall investigate the facts. If the commissioner finds:~~

~~—(a) That allowing the licensee to engage in business in the proposed location is not detrimental to the convenience and advantage of the community; and~~

~~—(b) That the proposed location is reasonably accessible to borrowers under existing loan contracts, he shall enter an order permitting the change and shall amend the license accordingly.~~

~~3. If the commissioner does not so find he shall enter an order denying the licensee such permission in the manner specified in and subject to the provisions of NRS 675.150.~~

2. Upon receipt of the proposed change of address pursuant to subsection 1, the commissioner shall provide written approval of the change and the date of the approval.

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

Sec. 11. NRS 675.250 is hereby amended to read as follows:

675.250 1. Each licensee shall keep and use in his business such books and accounting records as are in accord with sound and accepted accounting practices.

2. Each licensee shall maintain a separate record or ledger card for the account of each borrower and shall set forth separately the amount of cash advance and the total amount of interest and charges, ~~but~~ but such a record may set forth precomputed declining balances based on the scheduled payments, without a separation of principal and charges.

3. Each licensee shall preserve all such books and accounting records for at least 2 years after making the final entry therein.

4. Each licensee who operates outside this state an office or other place of business that is licensed pursuant to this chapter shall:

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

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

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

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

Sec. 12. NRS 678.460 is hereby amended to read as follows:

678.460 Every credit union organized under the provisions of this chapter ~~has~~:

1. *Has* all the powers granted by NRS 81.500 that are not inconsistent with the provisions of this chapter and in addition thereto, the powers enumerated in NRS 678.470 to 678.500, inclusive ~~H~~; and

2. *May exercise any authority and perform all acts that a federal credit union may exercise or perform, with the consent and written approval of the commissioner. The commissioner may, by regulation, waive or modify a requirement of Nevada law if the corresponding requirement for federal credit unions has been or is eliminated or modified.*