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SENATE BILL NO. 330—SENATOR SHAFFER

MARCH 13, 2001

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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.

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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; requiring the commissioner of financial institutions to charge a fee for certain services; 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. *A licensee who wishes to change the address of an office or other*  
4     *place of business for which he has a license pursuant to this chapter*  
5     *must, at least 10 days before changing the address, give written notice of*  
6     *the proposed change to the commissioner.*  
7     2. *Upon receipt of the proposed change of address pursuant to*  
8     *subsection 1, the commissioner shall provide written approval of the*  
9     *change and the date of the approval.*  
10    3. *If a licensee fails to provide notice as required pursuant to*  
11    *subsection 1, the commissioner may impose an administrative fine in an*  
12    *amount not to exceed \$500.*



1     **Sec. 2.** NRS 645E.130 is hereby amended to read as follows:  
2     645E.130 The provisions of this chapter do not:

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

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

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

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

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

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

19    645E.200 1. A person who wishes to be licensed as a mortgage  
20    company must file a written application for a license with the office of the  
21    commissioner and pay the fee required pursuant to NRS 645E.280. An  
22    application for a license as a mortgage company must:

23    (a) Be verified.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

22 4. If an applicant is a partnership, corporation or unincorporated  
23 association, the commissioner may refuse to issue a license to the applicant  
24 if any member of the partnership or any officer or director of the  
25 corporation or unincorporated association has committed any act or  
26 omission that would be cause for refusing to issue a license to a natural  
27 person.

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

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

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

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

44 **Sec. 4.** NRS 645E.350 is hereby amended to read as follows:

45 645E.350 1. Each mortgage company shall keep and maintain at all  
46 times at each location where the mortgage company conducts business in  
47 this state complete and suitable records of all mortgage transactions made  
48 by the mortgage company at that location. Each mortgage company shall  
49 also keep and maintain at all times at each such location all original books,



1 papers and data, or copies thereof, clearly reflecting the financial condition  
2 of the business of the mortgage company.

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

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

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

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

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

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

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

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

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

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

27 675.040 This chapter does not apply to:

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

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

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

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

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

40 6. Except as otherwise provided in this subsection, any firm or  
41 corporation:

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

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

46 (c) Approved by the Department of Housing and Urban Development  
47 and the Department of Veterans Affairs.

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



- 1 8. A seller of real property who offers credit secured by a mortgage of  
2 the property sold.
- 3 9. A person holding a nonrestricted state gaming license issued  
4 pursuant to the provisions of chapter 463 of NRS.
- 5 *10. A person who engages in the business of lending but who does*  
6 *not engage in the business of lending in this state.*
- 7 *11. Transactions exclusively between a licensee located outside this*  
8 *state and a person located outside this state.*
- 9 **Sec. 6.** NRS 675.060 is hereby amended to read as follows:
- 10 675.060 1. No person may engage in the business of lending *in this*  
11 *state* without first having obtained a license from the commissioner ~~to~~ *for*  
12 *each office or other place of business at which the person engages in*  
13 *such business.*
- 14 2. For the purpose of this section, a person engages in the business of  
15 lending *in this state* if he:
- 16 (a) Solicits loans in this state or makes loans to persons in this state,  
17 unless these are isolated, incidental or occasional transactions; or
- 18 (b) Is located in this state and solicits loans outside of this state or  
19 makes loans to persons located outside of this state, unless these are  
20 isolated, incidental or occasional transactions.
- 21 **Sec. 7.** NRS 675.090 is hereby amended to read as follows:
- 22 675.090 1. Application for a license must be in writing, under oath,  
23 and in the form prescribed by the commissioner.
- 24 2. The application must:
- 25 (a) ~~Give the general location where the business is to be conducted.~~  
26 *Provide the address of the office or other place of business for which the*  
27 *application is submitted.*
- 28 (b) Contain such further relevant information as the commissioner may  
29 require, including the names and addresses of the partners, officers,  
30 directors or trustees, and of such of the principal owners or members as  
31 will provide the basis for the investigations and findings contemplated by  
32 NRS 675.110 and 675.120.
- 33 *3. A person may apply for a license for an office or other place of*  
34 *business located outside this state from which the applicant will conduct*  
35 *business in this state if the applicant or a subsidiary or affiliate of the*  
36 *applicant has a license issued pursuant to this chapter for an office or*  
37 *other place of business located in this state and if the applicant submits*  
38 *with the application for a license a statement signed by the applicant*  
39 *which states that the applicant agrees to:*
- 40 (a) *Make available at a location within this state the books, accounts,*  
41 *papers, records and files of the office or place of business located outside*  
42 *this state to the commissioner or a representative of the commissioner; or*
- 43 (b) *Pay the reasonable expenses for travel, meals and lodging of the*  
44 *commissioner or a representative of the commissioner incurred during*  
45 *any investigation or examination made at the office or place of business*  
46 *located outside this state.*
- 47 *The person must be allowed to choose between paragraph (a) or (b) in*  
48 *complying with the provisions of this subsection.*



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

2     675.110 1. Upon the filing of the application and the payment of the  
3 fees, the commissioner shall investigate the facts concerning the  
4 application and the requirements provided for in NRS 675.120.

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

10    ~~—3.1~~ 3. The commissioner may hold a hearing on the application at a time  
11 not less than 30 days ~~{from}~~ *after* the date the application was filed nor  
12 more than 60 days ~~{from}~~ *after* that date. The hearing must be held in the  
13 office of the commissioner or such other place as he may designate. Notice  
14 in writing of the hearing must be sent to the applicant and to any licensee  
15 to which a notice of the application had been given and to such other  
16 persons as the commissioner may see fit, at least 10 days before the date  
17 set for the hearing.

18    ~~{4.1}~~ 3. The commissioner shall make his order granting or denying the  
19 application within 10 days ~~{from}~~ *after* the date of the closing of the  
20 hearing, unless the period is extended by written agreement between the  
21 applicant and the commissioner.

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

23     675.120 If the commissioner finds:

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

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

31    ~~—3.1~~ That the applicant, unless he will function solely as a loan broker,  
32 has available for the operation of the business at the specified location  
33 liquid assets of at least \$50,000,  
34 he shall thereupon enter an order granting the application, and file his  
35 findings of fact together with the transcript of any hearing held under this  
36 chapter, and forthwith issue and deliver a license to the applicant.

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

38     675.220 1. ~~{No change in the place of business of a licensee to a~~  
39 ~~location outside of the original city or town may be permitted under the~~  
40 ~~same license.~~

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

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



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

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

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

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

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

15 675.250 1. Each licensee shall keep and use in his business such  
16 books and accounting records as are in accord with sound and accepted  
17 accounting practices.

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

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

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

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

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

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

36 **Sec. 12.** Chapter 604 of NRS is hereby amended by adding thereto a  
37 new section to read as follows:

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

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



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

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