

Assembly Bill No. 490—Committee on  
Commerce and Labor

CHAPTER.....

AN ACT relating to mortgage investments; creating the Commissioner of Mortgage Lending and providing his duties; creating the Division of Mortgage Lending of the Department of Business and Industry; establishing the Fund for Mortgage Lending to be administered by the Commissioner; providing for the licensure of mortgage agents; providing that advertising spokespersons for mortgage brokers are jointly and severally liable for damages caused by the mortgage brokers under certain circumstances; revising the provisions relating to renewal of a license as a mortgage broker or mortgage agent; revising the provisions relating to exemptions to the licensure requirements of mortgage bankers, mortgage brokers and mortgage agents; increasing the amount of continuing education annually required of mortgage brokers and mortgage agents; revising provisions governing continuing education of mortgage brokers and mortgage agents; redesignating mortgage companies as mortgage bankers; providing that a division, office, authority, commission, board or other entity of the Department may provide for the conduct of business electronically; 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 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 17, 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 7, inclusive, of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Commissioner” means the Commissioner of Mortgage Lending.*

**Sec. 4.** *“Division” means the Division of Mortgage Lending of the Department of Business and Industry.*

**Sec. 5.** *“Escrow agency” has the meaning ascribed to it in NRS 645A.010.*

**Sec. 6.** *“Mortgage banker” has the meaning ascribed to it in NRS 645E.100.*

**Sec. 7.** *“Mortgage broker” has the meaning ascribed to it in NRS 645B.0127.*

**Sec. 8.** *The Commissioner and the Division shall administer the provisions of this chapter and chapters 645A, 645B and 645E of NRS, subject to administrative supervision by the Director of the Department of Business and Industry.*

**Sec. 9.** *The Commissioner:*

*1. Must be a person who has had practical experience in the financial services industry or the business of making loans secured by an interest in real property.*

*2. Except as otherwise provided in NRS 284.143, shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.*

**Sec. 10.** *The Commissioner shall not, either directly or indirectly, be interested in any escrow agency, mortgage broker or mortgage banker to which chapters 645A, 645B and 645E of NRS apply, nor engage in business as a personal loan broker.*

**Sec. 11.** *After appointment and before entering upon the discharge of the duties of his office, the Commissioner shall take and subscribe to an official oath.*

**Sec. 12.** *1. The Commissioner may appoint deputy commissioners of mortgage lending, examiners, assistants, clerks, stenographers and other employees necessary to assist him in the performance of his duties pursuant to this chapter, chapters 645A, 645B and 645E of NRS or any other law. These employees shall perform such duties as are assigned to them by the Commissioner.*

*2. The Commissioner may employ or contract with a certified public accountant to review and conduct independent audits and examinations of escrow agencies, mortgage brokers and mortgage bankers. The Commissioner shall levy an assessment upon each licensed escrow agency, mortgage broker and mortgage banker to cover all the costs related to the employment of or the contract with the certified public accountant and the performance of the audits and examinations.*

*3. Assessments collected by the Commissioner pursuant to subsection 2 must be deposited in the State Treasury for deposit to the Fund for Mortgage Lending created by section 17 of this act and accounted for separately. The Commissioner shall use the money for the purposes specified in subsection 2.*

**Sec. 13.** *Each deputy commissioner of mortgage lending shall, before entering upon the discharge of his duties, take and subscribe to the constitutional oath of office.*

**Sec. 14.** *The State Board of Finance shall act in an advisory capacity to the Division in the administration of this chapter and chapters 645A, 645B and 645E of NRS.*

**Sec. 15.** *1. The Commissioner shall establish by regulation rates to be paid by escrow companies, mortgage agents, mortgage*

*brokers and mortgage bankers for supervision and examinations by the Commissioner or the Division.*

*2. In establishing a rate pursuant to subsection 1, the Commissioner shall consider:*

*(a) The complexity of the various examinations to which the rate applies;*

*(b) The skill required to conduct the examinations;*

*(c) The expenses associated with conducting the examination and preparing a report; and*

*(d) Any other factors the Commissioner deems relevant.*

**Sec. 16.** *1. The Commissioner shall collect an assessment pursuant to this section from each:*

*(a) Escrow agent that is supervised pursuant to chapter 645A of NRS;*

*(b) Mortgage broker that is supervised pursuant to chapter 645B of NRS; and*

*(c) Mortgage banker that is supervised pursuant to chapter 645E of NRS.*

*2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.*

*3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:*

*(a) An equal basis; or*

*(b) Any other reasonable basis adopted by the Commissioner.*

*4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.*

*5. Money collected by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by section 17 of this act.*

**Sec. 17.** *1. The Fund for Mortgage Lending is hereby created in the State Treasury as a special revenue fund.*

*2. Except as otherwise provided by law, any money collected by the Commissioner or Division pursuant to law:*

*(a) Must be deposited in the Fund for Mortgage Lending; and*

*(b) May only be used to:*

*(1) Carry out the programs and laws administered by the Commissioner and the Division; and*

*(2) Pay the expenses related to the operations of the Commissioner and the Division.*

*3. Except as otherwise provided by law, any money that remains in the Fund for Mortgage Lending at the end of the fiscal year does not revert to the State General Fund, and the balance of the Fund for Mortgage Lending must be carried forward to the next fiscal year.*

*4. The Commissioner shall administer the Fund for Mortgage Lending. Any interest or income earned on the money in the Fund must be credited to the Fund after deducting any applicable charges. Any claims against the Fund must be paid as other claims against the State are paid.*

**Sec. 18.** NRS 645A.010 is hereby amended to read as follows:

645A.010 As used in this chapter, unless the context otherwise requires:

1. "Commissioner" means the Commissioner of ~~Financial Institutions~~ *Mortgage Lending*.

2. "Division" means the Division of ~~Financial Institutions~~ *Mortgage Lending* of the Department of Business and Industry.

3. "Escrow" means any transaction wherein one person, for the purpose of effecting the sale, transfer, encumbering or leasing of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by such third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor or any agent or employee of any of the latter. The term includes the collection of payments and the performance of related services by a third person in connection with a loan secured by a lien on real property.

4. "Escrow agency" means:

(a) Any person who employs one or more escrow agents; or

(b) An escrow agent who administers escrows on his own behalf.

5. "Escrow agent" means any person engaged in the business of administering escrows for compensation.

**Sec. 19.** NRS 645A.037 is hereby amended to read as follows:

645A.037 1. Except as otherwise provided in subsection 2, a licensee may not conduct the business of administering escrows for compensation within any office, suite, room or place of business in which any other business is solicited or engaged in, except a notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of administering escrows pursuant to this chapter in the same office or place of business as ~~the~~

~~—(a) A firm or corporation that is exempt from licensing as~~ a mortgage ~~[company pursuant to subsection 6 of NRS 645E.150.~~

~~—(b) A mortgage company if:~~

~~—(1) *banker* if:~~

(a) The licensee and the mortgage ~~[company:~~

~~—(1) *banker*:~~

(1) Operate as separate legal entities;

~~[(II)]~~ (2) Maintain separate accounts, books and records;

~~[(III)]~~ (3) Are subsidiaries of the same parent corporation;

and

~~[(IV)]~~ (4) Maintain separate licenses; and

~~[(2)]~~ (b) The mortgage ~~[company]~~ *banker* is licensed by this state pursuant to chapter 645E of NRS and does not conduct any business as a mortgage broker licensed pursuant to chapter 645B of NRS in the office or place of business.

**Sec. 20.** NRS 645A.040 is hereby amended to read as follows:

645A.040 1. Every license issued pursuant to the provisions of this chapter expires on July 1 of each year if it is not renewed. A license may be renewed by filing an application for renewal, paying the annual fee for the succeeding year and, if the licensee is a natural person, submitting the statement required pursuant to NRS 645A.025.

2. The fees for the issuance or renewal of a license for an escrow agency are:

(a) For filing an application for an initial license, \$500 for the principal office and \$100 for each branch office. ~~[All money received by the Commissioner pursuant to this paragraph must be placed in the Investigative Account created by NRS 232.545.]~~

(b) If the license is approved for issuance, \$200 for the principal office and \$100 for each branch office. The fee must be paid before issuance of the license.

(c) For filing an application for renewal, \$200 for the principal office and \$100 for each branch office.

3. The fees for the issuance or renewal of a license for an escrow agent are:

(a) For filing an application for an initial license or for the renewal of a license, \$100.

(b) If a license is approved for issuance or renewal, \$25. The fee must be paid before the issuance or renewal of the license.

4. If a licensee fails to submit the statement required pursuant to NRS 645A.025 or pay the fee for the annual renewal of his license before its expiration, his license may be renewed only upon the payment of a fee one and one-half times the amount otherwise required for renewal. A license may be renewed pursuant to this subsection only if the required statement is submitted and all the

fees are paid within 1 year after the date on which the license expired.

5. In addition to the other fees set forth in this section, each applicant or licensee shall pay:

(a) For filing an application for a duplicate copy of any license, upon satisfactory showing of its loss, \$10.

(b) For filing any change of information contained in the application, \$10.

(c) For each change of association with an escrow agency, \$25.

6. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the ~~[State Treasury for credit to the State General Fund.]~~ *Fund for Mortgage Lending created by section 17 of this act.*

**Sec. 21.** NRS 645A.040 is hereby amended to read as follows:

645A.040 1. Every license issued pursuant to the provisions of this chapter expires on July 1 of each year if it is not renewed. A license may be renewed by filing an application for renewal and paying the annual fee for the succeeding year.

2. The fees for the issuance or renewal of a license for an escrow agency are:

(a) For filing an application for an initial license, \$500 for the principal office and \$100 for each branch office. ~~[All money received by the Commissioner pursuant to this paragraph must be placed in the Investigative Account created by NRS 232.545.]~~

(b) If the license is approved for issuance, \$200 for the principal office and \$100 for each branch office. The fee must be paid before issuance of the license.

(c) For filing an application for renewal, \$200 for the principal office and \$100 for each branch office.

3. The fees for the issuance or renewal of a license for an escrow agent are:

(a) For filing an application for an initial license or for the renewal of a license, \$100.

(b) If a license is approved for issuance or renewal, \$25. The fee must be paid before the issuance or renewal of the license.

4. If a licensee fails to pay the fee for the annual renewal of his license before its expiration, his license may be renewed only upon the payment of a fee one and one-half times the amount otherwise required for renewal. A license may be renewed pursuant to this subsection only if all the fees are paid within 1 year after the date on which the license expired.

5. In addition to the other fees set forth in this section, each applicant or licensee shall pay:

(a) For filing an application for a duplicate copy of any license, upon satisfactory showing of its loss, \$10.

(b) For filing any change of information contained in the application, \$10.

(c) For each change of association with an escrow agency, \$25.

6. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the ~~[State Treasury for credit to the State General Fund.]~~ *Fund for Mortgage Lending created by section 17 of this act.*

**Sec. 21.5.** NRS 645A.067 is hereby amended to read as follows:

645A.067 Each escrow agency shall pay the assessment levied by the Commissioner and cooperate fully with the audits and examinations performed pursuant to ~~[NRS 658.055.]~~ *section 12 of this act.*

**Sec. 22.** NRS 645A.085 is hereby amended to read as follows:

645A.085 1. An escrow agency shall immediately notify the Commissioner of any change in the ownership of 5 percent or more of its outstanding voting stock.

2. An application must be submitted to the Commissioner, pursuant to NRS 645A.020, by a person who acquires:

(a) At least 25 percent of the outstanding voting stock of an escrow agency; or

(b) Any outstanding voting stock of an escrow agency if the change will result in a change in the control of the escrow agency.

3. Except as otherwise provided in subsection 5, the Commissioner shall conduct an investigation to determine whether the applicant has the experience, character, financial condition, business reputation and general fitness to command the confidence of the public and to warrant the belief that the business conducted will protect and safeguard the public. If the Commissioner denies the application, he may forbid the applicant from participating in the business of the escrow agency.

4. The escrow agency with which the applicant is affiliated shall pay a portion of the cost of the investigation as the Commissioner requires. All money received by the Commissioner pursuant to this section must be ~~[placed in the Investigative Account created pursuant to NRS 232.545.]~~ *deposited in the Fund for Mortgage Lending created by section 17 of this act.*

5. An escrow agency may submit a written request to the Commissioner to waive an investigation pursuant to subsection 3. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his employment with a financial institution.

**Sec. 23.** NRS 645A.173 is hereby amended to read as follows:

645A.173 1. If an escrow for the sale of real property is established, the holder of the escrow shall, on the date of



establishment of the escrow, record in writing the number and the date of expiration of the:

(a) License issued pursuant to chapter 645 of NRS; or

(b) Certificate of cooperation issued pursuant to NRS 645.605,

of any real estate broker, broker-salesman or salesman who will be paid compensation from money held in the escrow for performing the services of a real estate broker, broker-salesman or salesman in the transaction that is the subject of the escrow. The holder of the escrow is not required to verify independently the validity of the number of the license or certificate.

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

**Sec. 24.** Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 25 to 30, inclusive, of this act.

**Sec. 25. 1.** *An advertising spokesperson for a mortgage broker is jointly and severally liable with the mortgage broker for damages caused by the mortgage broker by fraud, embezzlement, misappropriation of property, a violation of the provisions of this chapter or the regulations adopted pursuant thereto, or an action of the mortgage broker that is grounds for disciplinary action, if:*

*(a) The advertising spokesperson knew or should have known of the fraud, embezzlement, misappropriation of property, violation of the provisions of this chapter or the regulations adopted pursuant thereto, or action of the mortgage broker that is grounds for disciplinary action; or*

*(b) In advertising for the mortgage broker, the advertising spokesperson knew or should have known that:*

*(1) The conduct of the advertising spokesperson was likely to deceive, defraud or harm the public or any person who engaged in business with the mortgage broker; or*

*(2) The advertising spokesperson was disseminating material information concerning the mortgage broker or the business, products or services of the mortgage broker which was false or misleading.*

*2. As used in this section:*

*(a) "Advertising for a mortgage broker" means advertising or otherwise promoting a mortgage broker or the business, products*



*or services of the mortgage broker using any medium of communication.*

*(b) "Advertising spokesperson for a mortgage broker" or "advertising spokesperson" means a person who consents to and receives compensation for using his name or likeness in advertising for a mortgage broker.*

**Sec. 26.** *A person shall not act as or provide any of the services of a mortgage agent or otherwise engage in, carry on or hold himself out as engaging in or carrying on the activities of a mortgage agent unless the person has a license as a mortgage agent issued pursuant to section 27 of this act.*

**Sec. 27. 1.** *To obtain a license as a mortgage agent, a person must:*

- (a) Be a natural person;*
- (b) File a written application for a license as a mortgage agent with the office of the Commissioner;*
- (c) Comply with the applicable requirements of this chapter; and*
- (d) Pay an application fee set by the Commissioner of not more than \$185.*

**2.** *An application for a license as a mortgage agent must:*

- (a) Be verified;*
- (b) State the name and residence address of the applicant;*
- (c) Include a provision by which the applicant gives his written consent to an investigation of his credit history, criminal history and background;*
- (d) Include a verified statement from the mortgage broker with whom the applicant will be associated that expresses the intent of that mortgage broker to associate the applicant with the mortgage broker and to be responsible for the activities of the applicant as a mortgage agent; and*
- (e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information or supporting materials may include, without limitation, a complete set of fingerprints from the person and other forms of identification of the person.*

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

- (a) The application complies with the applicable requirements of this chapter; and*
- (b) The applicant:*
  - (1) Has not been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude;*

(2) *Has not had a financial services license suspended or revoked within the immediately preceding 10 years;*

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

(4) *Has not violated any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; and*

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

4. *Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by section 17 of this act.*

**Sec. 28.** 1. *A license as a mortgage agent issued pursuant to section 27 of this act expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:*

(a) *An application for renewal;*

(b) *Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and*

(c) *A renewal fee set by the Commissioner of not more than \$170.*

2. *If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:*

(a) *An application for renewal;*

(b) *The fee required to renew the license pursuant to this section; and*

(c) *A reinstatement fee of \$75.*

3. *To be issued a duplicate copy of a license as a mortgage agent, a person must make a satisfactory showing of its loss and pay a fee of \$10.*

4. *To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee of \$10.*

5. *Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by section 17 of this act.*

6. *The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the hours were taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.*

7. *As used in this section, "certified course of continuing education" has the meaning ascribed to it in NRS 645B.051.*

**Sec. 29.** 1. *In addition to any other requirement for the issuance of a license as a mortgage agent pursuant to section 27 of this act, an applicant for the issuance of the license must include his social security number in his application.*

2. *In addition to any other requirement for the issuance or renewal of a license as a mortgage agent pursuant to section 27 or 28 of this act, an applicant for the issuance or renewal of the license shall submit to the Commissioner the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

3. *The Commissioner shall include the statement required pursuant to subsection 2 in:*

(a) *The application or any other forms that must be submitted for the issuance or renewal of a license as a mortgage agent; or*

(b) *A separate form prescribed by the Commissioner.*

4. *The license as a mortgage agent may not be issued or renewed by the Commissioner if the applicant:*

(a) *Fails to submit the statement required pursuant to subsection 2; or*

(b) *Indicates on the statement submitted pursuant to subsection 2 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.*

5. *If an applicant indicates on the statement submitted pursuant to subsection 2 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.*

**Sec. 30.** 1. *Any mortgage broker or mortgage agent licensed under the provisions of this chapter who is called into the military service of the United States shall, at his request, be relieved from compliance with the provisions of this chapter and*

*placed on inactive status for the period of such military service and for a period of 6 months after discharge therefrom.*

*2. At any time within 6 months after termination of such service, if the mortgage broker or mortgage agent complies with the provisions of subsection 1, the mortgage broker or mortgage agent may be reinstated, without having to meet any qualification or requirement other than the payment of the reinstatement fee, as provided in NRS 645B.050 or section 28 of this act, and the mortgage broker or mortgage agent is not required to make payment of the renewal fee for the current year.*

*3. Any mortgage broker or mortgage agent seeking to qualify for reinstatement, as provided in subsections 1 and 2, must present a certified copy of his honorable discharge or certificate of satisfactory service to the Commissioner.*

**Sec. 31.** NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS ~~[645B.0103]~~ **645B.0105** to 645B.0135, inclusive, have the meanings ascribed to them in those sections.

**Sec. 32.** NRS 645B.0105 is hereby amended to read as follows:

645B.0105 “Commissioner” means the Commissioner of ~~[Financial Institutions]~~ **Mortgage Lending**.

**Sec. 33.** NRS 645B.0111 is hereby amended to read as follows:

645B.0111 “Division” means the Division of ~~[Financial Institutions]~~ **Mortgage Lending** of the Department of Business and Industry.

**Sec. 34.** NRS 645B.0123 is hereby amended to read as follows:

645B.0123 “Licensee” means a person who is licensed as a mortgage broker pursuant to this chapter. *The term does not include a person issued a license as a mortgage agent pursuant to section 27 of this act.*

**Sec. 35.** NRS 645B.0127 is hereby amended to read as follows:

645B.0127 1. “Mortgage broker” means a person who, directly or indirectly:

(a) Holds himself out for hire to serve as an agent for any person in an attempt to obtain a loan which will be secured by a lien on real property;

(b) Holds himself out for hire to serve as an agent for any person who has money to lend, if the loan is or will be secured by a lien on real property;

(c) Holds himself out as being able to make loans secured by liens on real property;

(d) Holds himself out as being able to buy or sell notes secured by liens on real property; or

(e) Offers for sale in this state any security which is exempt from registration under state or federal law and purports to make investments in promissory notes secured by liens on real property.

2. The term does not include a person who is licensed as a mortgage ~~company,~~ *banker*, as defined in NRS 645E.100, unless the person is also licensed as a mortgage broker pursuant to this chapter.

**Sec. 36.** NRS 645B.015 is hereby amended to read as follows:

645B.015 Except as otherwise provided in NRS 645B.016, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this state, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, consumer finance companies, industrial loan companies, credit unions, thrift companies or insurance companies, unless the business conducted in this state is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this state is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

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

4. An attorney at law rendering services in the performance of his duties as an attorney at law.

5. A real estate broker rendering services in the performance of his duties as a real estate broker.

6. ~~{Except as otherwise provided in this subsection and NRS 645B.690, any firm or corporation:~~

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

~~—(b) Approved by the Federal National Mortgage Association as a seller and servicer; and~~

~~—(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.~~

~~A firm or corporation is not exempt from the provisions of this chapter pursuant to this subsection if it maintains any accounts described in subsection 1 of NRS 645B.175 or if it offers for sale in this state any unregistered security under state or federal law and purports to make investments in promissory notes secured by liens on real property. A firm or corporation which is exempted pursuant to this subsection must submit annually as a condition of its~~

~~continued exemption a certified statement by an independent certified public accountant that the firm or corporation does not maintain any such accounts. This subsection does not prohibit an exempt firm or corporation from maintaining accounts described in NRS 645B.170 and subsection 4 of NRS 645B.175.~~

~~—7.]~~ Any person doing any act under an order of any court.

~~[8.]~~ 7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

~~[9.]~~ 8. Agencies of the United States and of this state and its political subdivisions, including the Public Employees' Retirement System.

~~[10.]~~ 9. A seller of real property who offers credit secured by a mortgage of the property sold.

**Sec. 37.** NRS 645B.016 is hereby amended to read as follows:  
645B.016 Except as otherwise provided in NRS 645B.690:

1. A person who claims an exemption from the provisions of this chapter pursuant to subsection 1 ~~[or 6]~~ of NRS 645B.015 must:

(a) File a written application for a certificate of exemption with the office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050; and

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 ~~[or 6]~~ of NRS 645B.015.

2. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to ~~[5, inclusive, or 7 to 10,]~~ 9, inclusive, of NRS 645B.015 to:

(a) File a written application for a certificate of exemption with the office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645B.050; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

3. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645B.015.

4. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage broker *or mortgage agent* or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of

a mortgage broker ~~[ ]~~ *or mortgage agent* unless the person applies for and is issued:

(a) A license as a mortgage broker *or mortgage agent, as applicable*, pursuant to this chapter; or

(b) Another certificate of exemption.

5. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than \$10,000 for each violation that he commits, if the person:

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

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

**Sec. 38.** NRS 645B.035 is hereby amended to read as follows:

645B.035 1. A license *as a mortgage broker* entitles a licensee to engage only in the activities authorized by this chapter.

2. The provisions of this chapter do not prohibit a licensee from:

(a) Holding a license as a mortgage ~~[company]~~ *banker* pursuant to chapter 645E of NRS; or

(b) Conducting the business of a mortgage ~~[company]~~ *banker* and the business of a mortgage broker in the same office or place of business.

**Sec. 39.** NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license *as a mortgage broker* issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew *such* a license, the licensee must submit to the Commissioner on or before ~~[June 30]~~ *May 31* of each year:

(a) An application for renewal;

(b) The fee required to renew the license pursuant to this section;

(c) If the licensee is a natural person, the statement required pursuant to NRS 645B.023; and

(d) The information required pursuant to NRS 645B.051.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before ~~[June 30]~~ *May 31* of any year, the license is cancelled ~~[ ]~~ *as of June 30 of that year*. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal;



(b) The fee required to renew the license pursuant to this section;

(c) If the licensee is a natural person, the statement required pursuant to NRS 645B.023;

(d) The information required pursuant to NRS 645B.051; and

(e) Except as otherwise provided in this section, a reinstatement fee of \$200.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before ~~December 31~~ *November 30* of each year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before ~~December 31~~ *November 30* of any year, the certificate of exemption is cancelled ~~as of December 31 of that year~~. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of \$100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application or a license, \$1,500 for the principal office and \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary. ~~[All money received by the Commissioner pursuant to this paragraph must be placed in the Investigative Account created by NRS 232.545.]~~

(b) To be issued a license, \$1,000 for the principal office and \$60 for each branch office.

(c) To renew a license, \$500 for the principal office and \$100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, \$200.

(b) To renew a certificate of exemption, \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the ~~[State Treasury for credit to the State General Fund.]~~ *Fund for Mortgage Lending created by section 17 of this act.*

9. The Commissioner may, by regulation, increase any fee set forth in this section if the Commissioner determines that such an increase is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any increase in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

**Sec. 40.** NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license *as a mortgage broker* issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew *such* a license, the licensee must submit to the Commissioner on or before ~~[June 30]~~ *May 31* of each year:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section; and
- (c) The information required pursuant to NRS 645B.051.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before ~~[June 30]~~ *May 31* of any year, the license is cancelled ~~[.]~~ *as of June 30 of that year.* The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051; and
- (d) Except as otherwise provided in this section, a reinstatement fee of \$200.

3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before ~~[December 31]~~ *November 30* of each year:

- (a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and
- (b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before ~~[December 31]~~ *November 30* of any year, the certificate of exemption is cancelled

~~[H]~~ *as of December 31 of that year.* Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of \$100.

5. Except as otherwise provided in this section, a person must pay the following fees to apply for, to be issued or to renew a license as a mortgage broker pursuant to this chapter:

(a) To file an original application for a license, \$1,500 for the principal office and \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary. ~~[All money received by the Commissioner pursuant to this paragraph must be placed in the Investigative Account created by NRS 232.545.]~~

(b) To be issued a license, \$1,000 for the principal office and \$60 for each branch office.

(c) To renew a license, \$500 for the principal office and \$100 for each branch office.

6. Except as otherwise provided in this section, a person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, \$200.

(b) To renew a certificate of exemption, \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the ~~[State Treasury for credit to the State General Fund.]~~ *Fund for Mortgage Lending created by section 17 of this act.*

9. The Commissioner may, by regulation, increase any fee set forth in this section if the Commissioner determines that such an increase is necessary for the Commissioner to carry out his duties pursuant to this chapter. The amount of any increase in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his duties pursuant to this chapter.

**Sec. 41.** NRS 645B.051 is hereby amended to read as follows:

645B.051 1. ~~[H]~~ *Except as otherwise provided in this section, in* addition to the requirements set forth in NRS 645B.050, to renew a license ~~[H]~~ *as a mortgage broker:*

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least ~~{5}~~ 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least ~~{5}~~ 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

2. *The Commissioner may provide by regulation that any hours of a certified course of continuing education attended during a 12-month period, but not needed to satisfy a requirement set forth in this section for the 12-month period in which the course was taken, may be used to satisfy a requirement set forth in this section for a later 12-month period.*

3. As used in this section, “certified course of continuing education” means a course of continuing education which relates to the mortgage industry or mortgage transactions and which is ~~{~~:

~~—(a) Certified by the~~ *certified by:*

(a) *The* National Association of Mortgage Brokers or any successor in interest to that organization; or

(b) ~~{Certified in a manner established by the Commissioner, if the National Association of Mortgage Brokers or any successor in interest to that organization ceases to exist.}~~ *Any organization designated for this purpose by the Commissioner by regulation.*

**Sec. 42.** NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers *and mortgage agents* doing business in this state.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt any regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

(b) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(c) Conduct an annual examination of each mortgage broker doing business in this state. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

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

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

(e) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by the Legislative Auditor.

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

3. For each special audit, investigation or examination, a mortgage broker *or mortgage agent* shall pay a fee based on the rate established pursuant to ~~[NRS 658.101.]~~ *section 15 of this act.*

**Sec. 42.5.** NRS 645B.075 is hereby amended to read as follows:

645B.075 Each mortgage broker shall pay the assessment levied pursuant to ~~[NRS 658.055.]~~ *section 12 of this act.* Each mortgage broker and mortgage agent shall cooperate fully with the audits and examinations performed pursuant thereto.

**Sec. 43.** NRS 645B.450 is hereby amended to read as follows:

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

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

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

~~—2.]~~ A *person licensed as a mortgage agent pursuant to the provisions of section 27 of this act* may not be associated with or employed by more than one mortgage broker at the same time.

~~[3.—A mortgage broker shall register with the Division each person who will be associated with or employed by the mortgage~~

~~broker as a mortgage agent. A mortgage broker shall register each such person with the Division when the person begins his association or employment with the mortgage broker and annually thereafter. A registration expires 12 months after its effective date.~~

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

~~—(a) Submit to the Division a registration form which is provided by the Division and which:~~

~~—(1) States the name, residence address and business address of the person;~~

~~—(2) Is signed by the person;~~

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

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

~~—(b) For each initial registration, pay the actual costs and expenses incurred by the Division to investigate the credit history, criminal history and background of the person. All money received pursuant to this paragraph must be placed in the Investigative Account created by NRS 232.545.~~

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

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

~~—6.]~~ **2.** A mortgage broker shall not *associate with or* employ a person as a mortgage agent or authorize a person to be associated with the mortgage broker as a mortgage agent if the mortgage ~~[broker has not registered the person]~~ *agent is not licensed* with the Division pursuant to ~~[this section or if the person:~~

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

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

~~—7.]~~ *section 27 of this act.*

3. If a mortgage agent terminates his association or employment with a mortgage broker for any reason, the mortgage broker shall, not later than the third business day following the date of termination:

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

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

(1) *The license or license number of the mortgage agent;*

(2) A written statement of the circumstances surrounding the termination; and

~~[(2)]~~ (3) A copy of the written statement that the mortgage broker delivers or mails to the mortgage agent pursuant to paragraph (a).

~~[8. As used in this section, “certified course of continuing education” has the meaning ascribed to it in NRS 645B.051.]~~

**Sec. 44.** NRS 645B.620 is hereby amended to read as follows:

645B.620 1. Whether or not a complaint has been filed, the Commissioner shall investigate a mortgage broker, *mortgage agent* or other person if, for any reason, it appears that:

(a) The mortgage broker *or mortgage agent* is conducting business in an unsafe and injurious manner or in violation of any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(b) The person is offering or providing any of the services of a mortgage broker *or mortgage agent* or otherwise engaging in, carrying on or holding himself out as engaging in or carrying on the business of a mortgage broker *or mortgage agent* without being *appropriately* licensed or exempt from licensing pursuant to the provisions of this chapter; or

(c) The person is violating any other provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

2. If, upon investigation, the Commissioner has reasonable cause to believe that the mortgage broker, *mortgage agent* or other person has engaged in any conduct or committed any violation described in subsection 1:

(a) The Commissioner shall notify the Attorney General of the conduct or violation and, if applicable, the Commissioner shall immediately take possession of the property of the mortgage broker pursuant to NRS 645B.630; and

(b) The Attorney General shall, if appropriate:

(1) Investigate and prosecute the mortgage broker, *mortgage agent* or other person pursuant to NRS 645B.800; and

(2) Bring a civil action to:



(I) Enjoin the mortgage broker, *mortgage agent* or other person from engaging in the conduct, operating the business or committing the violation; and

(II) Enjoin any other person who has encouraged, facilitated, aided or participated in the conduct, the operation of the business or the commission of the violation, or who is likely to engage in such acts, from engaging in or continuing to engage in such acts.

3. If the Attorney General brings a civil action pursuant to subsection 2, the district court of any county of this state is hereby vested with the jurisdiction in equity to enjoin the conduct, the operation of the business or the commission of the violation and may grant any injunctions that are necessary to prevent and restrain the conduct, the operation of the business or the commission of the violation. During the pendency of the proceedings before the district court:

(a) The court may issue any temporary restraining orders as may appear to be just and proper;

(b) The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the ex parte issuance of a temporary restraining order; and

(c) The Attorney General may apply for and on due showing is entitled to have issued the court's subpoena requiring forthwith the appearance of any person to:

(1) Produce any documents, books and records as may appear necessary for the hearing of the petition; and

(2) Testify and give evidence concerning the conduct complained of in the petition.

**Sec. 45.** NRS 645B.670 is hereby amended to read as follows:

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

1. For each violation committed by an applicant ~~who~~ *for a license issued pursuant to this chapter*, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$10,000, if the applicant:

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

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

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

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine

of not more than \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the licensee, whether or not acting as such:

- (a) Is insolvent;
- (b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;
- (c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;
- (d) Is in such financial condition that he cannot continue in business with safety to his customers;
- (e) Has made a material misrepresentation in connection with any transaction governed by this chapter;
- (f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;
- (g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;
- (h) Has failed to account to persons interested for all money received for a trust account;
- (i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;
- (j) Has been convicted of, or entered a plea of nolo contendere to, a felony or any crime involving fraud, misrepresentation or moral turpitude;
- (k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;
- (l) Has failed to satisfy a claim made by a client which has been reduced to judgment;
- (m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;
- (n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person 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. 46.** NRS 645B.680 is hereby amended to read as follows:

645B.680 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a mortgage broker ~~or~~ *or mortgage agent*, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate a license as a mortgage broker *or mortgage agent* that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

**Sec. 47.** NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker *or mortgage agent* or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage broker *or mortgage agent* and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

the Commissioner shall impose upon the person an administrative fine of not more than \$10,000 for each violation and, if the person has a license, the Commissioner shall revoke it.

2. ~~If a person is exempt from the provisions of this chapter pursuant to subsection 6 of NRS 645B.015 and the person, while exempt, maintains, offers to maintain or holds himself out as maintaining any accounts described in subsection 1 of NRS 645B.175 or otherwise engages in, offers to engage in or holds himself out as engaging in any activity that would remove the person from the exemption set forth in subsection 6 of NRS 645B.015, the Commissioner shall impose upon the person an administrative fine of not more than \$10,000 for each violation and the Commissioner shall revoke the person's exemption. If the Commissioner revokes an exemption pursuant to this subsection, the person may not again be granted the same or a similar exemption from the provisions of this chapter. The person may apply for a license pursuant to this chapter unless otherwise prohibited by specific statute.~~

~~3.]~~ If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than \$10,000 for each violation;

(b) Suspend or revoke the license of the mortgage broker; and

(c) Conduct a hearing to determine whether the mortgage broker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker pursuant to NRS 645B.630.

**Sec. 48.** NRS 645B.900 is hereby amended to read as follows:

645B.900 It is unlawful for any person to offer or provide any of the services of a mortgage broker *or mortgage agent* or otherwise to engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker *or mortgage agent* without first obtaining ~~[a license as a mortgage broker]~~ *the applicable license issued* pursuant to this chapter, unless the person:

1. Is exempt from the provisions of this chapter; and
2. Complies with the requirements for that exemption.

**Sec. 48.5.** NRS 645E.020 is hereby amended to read as follows:

645E.020 “Applicant” means a person who applies for licensure as a mortgage ~~[company]~~ *banker* pursuant to this chapter.

**Sec. 49.** NRS 645E.050 is hereby amended to read as follows:

645E.050 “Commissioner” means the Commissioner of ~~[Financial Institutions]~~ *Mortgage Lending*.

**Sec. 50.** NRS 645E.070 is hereby amended to read as follows:

645E.070 “Division” means the Division of ~~[Financial Institutions]~~ *Mortgage Lending* of the Department of Business and Industry.

**Sec. 51.** NRS 645E.090 is hereby amended to read as follows:

645E.090 “Licensee” means a person who is licensed as a mortgage ~~[company]~~ *banker* pursuant to this chapter.

**Sec. 52.** NRS 645E.100 is hereby amended to read as follows:

645E.100 1. “Mortgage ~~[company]~~ *banker*” means any of the following:

(a) A person who, directly or indirectly:

(1) Holds himself out as being able to:

(I) Buy or sell notes secured by liens on real property; or

(II) Make loans secured by liens on real property using his own money; and

(2) Does not engage in any other act or transaction described

in the definition of “mortgage broker,” as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

(b) A person who, directly or indirectly:

(1) Negotiates, originates or makes or offers to negotiate, originate or make commercial mortgage loans as an agent for or on behalf of an institutional investor; and

(2) Does not engage in any other act or transaction described in the definition of “mortgage broker,” as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

2. For the purposes of this section, a person does not make a loan secured by a lien on real property using his own money if any portion of the money that is used to make the loan is provided by

another person who acquires ownership of or a beneficial interest in the loan.

**Sec. 53.** NRS 645E.130 is hereby amended to read as follows:  
645E.130 The provisions of this chapter do not:

1. Limit any statutory or common-law right of a person to bring a civil action against a mortgage ~~[company]~~ *banker* for any act or omission involved in the transaction of business by or on behalf of the mortgage ~~[company;]~~ *banker*;
2. Limit the right of the State to punish a person for the violation of any law, ordinance or regulation; or
3. Establish a basis for a person to bring a civil action against the State or its officers or employees for any act or omission in carrying out the provisions of this chapter, including, without limitation, any act or omission relating to the disclosure of information or the failure to disclose information pursuant to the provisions of this chapter.

**Sec. 54.** NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this state, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, consumer finance companies, industrial loan companies, credit unions, thrift companies or insurance companies, unless the business conducted in this state is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.
2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this state is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.
3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.
4. An attorney at law rendering services in the performance of his duties as an attorney at law.
5. A real estate broker rendering services in the performance of his duties as a real estate broker.
6. ~~[Any firm or corporation:~~
  - ~~—(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;~~
  - ~~—(b) Approved by the Federal National Mortgage Association as a seller and servicer; and~~
  - ~~—(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.~~
- ~~—7.]~~ Any person doing any act under an order of any court.

~~{8-}~~ 7. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his own account, unless such a person makes a loan secured by a lien on real property using his own money and assigns all or a part of his interest in the loan to another person, other than his spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

~~{9-}~~ 8. Agencies of the United States and of this state and its political subdivisions, including the public employees' retirement system.

~~{10-}~~ 9. A seller of real property who offers credit secured by a mortgage of the property sold.

**Sec. 55.** NRS 645E.160 is hereby amended to read as follows:

645E.160 1. A person who claims an exemption from the provisions of this chapter pursuant to subsection 1 ~~{or-6}~~ of NRS 645E.150 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; and

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 ~~{or-6}~~ of NRS 645E.150.

2. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to ~~{5, inclusive, or 7 to 10,}~~ 9, inclusive, of NRS 645E.150 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280; and

(c) Include with the written application satisfactory proof that the person meets the requirements of at least one of those exemptions.

3. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one exemption set forth in the provisions of NRS 645E.150.

4. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage ~~{company,}~~ *banker* or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage ~~{company,}~~ *banker*, unless the person applies for and is issued:

(a) A license as a mortgage ~~{company,}~~ *banker* pursuant to this chapter; or

(b) Another certificate of exemption.



5. The Commissioner may impose upon a person who is required to apply for a certificate of exemption or who holds a certificate of exemption an administrative fine of not more than \$10,000 for each violation that he commits, if the person:

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

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

**Sec. 56.** NRS 645E.200 is hereby amended to read as follows:

645E.200 1. A person who wishes to be licensed as a mortgage ~~{company}~~ *banker* 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}~~ *banker* 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}~~ *banker* will conduct business in this state, including, without limitation, any office or other place of business located outside this state from which the mortgage ~~{company}~~ *banker* will conduct business in this state.

(c) State the name under which the applicant will conduct business as a mortgage ~~{company}~~ *banker*.

(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}~~ *banker* 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}~~ *banker*.

(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}~~ *banker* will conduct business in this state at one or more branch offices, the mortgage ~~{company}~~ *banker* 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~~ *banker* 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~~ *banker* 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. 57.** NRS 645E.210 is hereby amended to read as follows:

645E.210 1. In addition to the requirements set forth in NRS 645E.200 and 645E.280, a natural person who applies for the issuance or renewal of a license as a mortgage ~~company~~ **banker** shall submit to the Commissioner:

(a) In any application for issuance of a license, the social security number of the applicant and the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

(b) In any application for renewal of a license, the statement prescribed by the Welfare Division of the Department of Human Resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. The Commissioner shall not issue or renew a license as a mortgage ~~company~~ **banker** if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

**Sec. 58.** NRS 645E.220 is hereby amended to read as follows:

645E.220 1. A mortgage ~~company~~ *banker* shall post each license in a conspicuous place in the office for which the license has been issued.

2. A mortgage ~~company~~ *banker* may not transfer or assign a license to another person, unless the Commissioner gives his written approval.

**Sec. 59.** NRS 645E.230 is hereby amended to read as follows:

645E.230 1. A license entitles a licensee to engage only in the activities authorized by this chapter.

2. The provisions of this chapter do not prohibit a licensee from:

(a) Holding a license as a mortgage broker pursuant to chapter 645B of NRS; or

(b) Conducting the business of a mortgage ~~company~~ *banker* and the business of a mortgage broker in the same office or place of business.

**Sec. 60.** NRS 645E.280 is hereby amended to read as follows:

645E.280 1. A license issued to a mortgage ~~company~~ *banker* pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner on or before December 31 of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the license pursuant to this section.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before December 31 of any year, the license is cancelled. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the license pursuant to this section; and

(c) A reinstatement fee of \$200.

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or before December 31 of each year:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the certificate of exemption.

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or before December 31 of any year, the certificate of exemption is cancelled. Except as otherwise

provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) A reinstatement fee of \$100.

5. A person must pay the following fees to apply for, to be issued or to renew a license as a mortgage ~~{company}~~ *banker* pursuant to this chapter:

(a) To file an original application for a license, \$1,500 for the principal office and \$40 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary. ~~{All money received by the Commissioner pursuant to this paragraph must be placed in the Investigative Account created by NRS 232.545.}~~

(b) To be issued a license, \$1,000 for the principal office and \$60 for each branch office.

(c) To renew a license, \$500 for the principal office and \$100 for each branch office.

6. A person must pay the following fees to apply for or to renew a certificate of exemption pursuant to this chapter:

(a) To file an application for a certificate of exemption, \$200.

(b) To renew a certificate of exemption, \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of \$10.

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the ~~{State Treasury for credit to the State General Fund.}~~ *Fund for Mortgage Lending created by section 17 of this act.*

**Sec. 61.** NRS 645E.300 is hereby amended to read as follows:

645E.300 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage ~~{companies}~~ *bankers* doing business in this state.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt any regulations that are necessary to carry out the provisions of this chapter, except as to loan fees.

(b) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(c) Conduct an annual examination of each mortgage ~~{company}~~ *banker* doing business in this state.

(d) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary and proper for the efficient administration of the laws of this state regarding mortgage ~~{companies}~~ *bankers*.

(e) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This paragraph does not limit examination by the Legislative Auditor.

(f) Conduct such examinations and investigations as are necessary to ensure that mortgage ~~{companies}~~ *bankers* meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage ~~{company}~~ *banker* shall pay a fee based on the rate established pursuant to ~~[NRS 658.101.]~~ *section 15 of this act*.

**Sec. 62.** NRS 645E.320 is hereby amended to read as follows:

645E.320 Each mortgage ~~{company}~~ *banker* shall pay the assessment levied pursuant to ~~[NRS 658.055]~~ *section 12 of this act* and cooperate fully with the audits and examinations performed pursuant thereto.

**Sec. 63.** NRS 645E.350 is hereby amended to read as follows:

645E.350 1. Each mortgage ~~{company}~~ *banker* shall keep and maintain at all times at each location where the mortgage ~~{company}~~ *banker* conducts business in this state complete and suitable records of all mortgage transactions made by the mortgage ~~{company}~~ *banker* at that location. Each mortgage ~~{company}~~ *banker* 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}~~ *banker*.

2. Each mortgage ~~{company}~~ *banker* shall submit to the Commissioner each month a report of the mortgage ~~{company's}~~ *banker's* activity for the previous month. The report must:

(a) Specify the volume of loans made by the mortgage ~~{company}~~ *banker* 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}~~ *bankers* 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. 64.** NRS 645E.360 is hereby amended to read as follows:

645E.360 1. Except as otherwise provided in this section, not later than 60 days after the last day of each fiscal year for a mortgage ~~company~~ **banker**, the mortgage ~~company~~ **banker** shall submit to the Commissioner a financial statement that:

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

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

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage ~~company~~ **banker** requests such an extension before the date on which the financial statement is due.

3. If a mortgage ~~company~~ **banker** maintains any accounts described in NRS 645E.430, the financial statement submitted pursuant to this section must be audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage ~~company~~ **banker**.

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

**Sec. 65.** NRS 645E.370 is hereby amended to read as follows:

645E.370 1. Except as otherwise provided in this section or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to this chapter are open to public inspection.

2. The Commissioner may withhold from public inspection or refuse to disclose to a person, for such time as the Commissioner considers necessary, any information that, in his judgment, would:

(a) Impede or otherwise interfere with an investigation that is currently pending against a mortgage ~~company~~ **banker**; or

(b) Have an undesirable effect on the welfare of the public or the welfare of any mortgage ~~company~~ **banker**.



**Sec. 66.** NRS 645E.390 is hereby amended to read as follows:

645E.390 1. The Commissioner must be notified of a transfer of 5 percent or more of the outstanding voting stock of a mortgage ~~[company]~~ **banker** and must approve a transfer of voting stock of a mortgage ~~[company]~~ **banker** which constitutes a change of control.

2. The person who acquires stock resulting in a change of control of the mortgage ~~[company]~~ **banker** shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements of this chapter for obtaining a license will be satisfied after the change of control. Except as otherwise provided in subsection 3, the Commissioner shall conduct an investigation to determine whether those requirements will be satisfied. If, after the investigation, the Commissioner denies the application, he may forbid the applicant from participating in the business of the mortgage ~~[company]~~ **banker**.

3. A mortgage ~~[company]~~ **banker** may submit a written request to the Commissioner to waive an investigation pursuant to subsection 2. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his employment with a financial institution.

4. As used in this section, “change of control” means:

(a) A transfer of voting stock which results in giving a person, directly or indirectly, the power to direct the management and policy of a mortgage ~~[company]~~ **banker**; or

(b) A transfer of at least 25 percent of the outstanding voting stock of a mortgage ~~[company]~~ **banker**.

**Sec. 67.** NRS 645E.420 is hereby amended to read as follows:

645E.420 1. Except as otherwise provided in subsection 3, the amount of any advance fee, salary, deposit or money paid to any mortgage ~~[company]~~ **banker** or other person to obtain a loan secured by a lien on real property must be placed in escrow pending completion of the loan or a commitment for the loan.

2. The amount held in escrow pursuant to subsection 1 must be released:

(a) Upon completion of the loan or commitment for the loan, to the mortgage ~~[company]~~ **banker** or other person to whom the advance fee, salary, deposit or money was paid.

(b) If the loan or commitment for the loan fails, to the person who made the payment.

3. Advance payments to cover reasonably estimated costs paid to third persons are excluded from the provisions of subsections 1 and 2 if the person making them first signs a written agreement which specifies the estimated costs by item and the estimated aggregate cost, and which recites that money advanced for costs will

not be refunded. If an itemized service is not performed and the estimated cost thereof is not refunded, the recipient of the advance payment is subject to the penalties provided in NRS 645E.960.

**Sec. 68.** NRS 645E.430 is hereby amended to read as follows:

645E.430 1. All money paid to a mortgage ~~{company}~~ **banker** for payment of taxes or insurance premiums on real property which secures any loan made by the mortgage ~~{company}~~ **banker** must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the mortgage ~~{company}~~ **banker**. Such money, when deposited, is to be designated as an “impound trust account” or under some other appropriate name indicating that the accounts are not the money of the mortgage ~~{company}~~ **banker**.

2. The mortgage ~~{company}~~ **banker** has a fiduciary duty to each debtor with respect to the money in an impound trust account.

3. The mortgage ~~{company}~~ **banker** shall, upon reasonable notice, account to any debtor whose real property secures a loan made by the mortgage ~~{company}~~ **banker** for any money which that person has paid to the mortgage ~~{company}~~ **banker** for the payment of taxes or insurance premiums on the real property.

4. The mortgage ~~{company}~~ **banker** shall, upon reasonable notice, account to the Commissioner for all money in an impound trust account.

5. A mortgage ~~{company}~~ **banker** shall:

(a) Require contributions to an impound trust account in an amount reasonably necessary to pay the obligations as they become due.

(b) Within 30 days after the completion of the annual review of an impound trust account, notify the debtor:

(1) Of the amount by which the contributions exceed the amount reasonably necessary to pay the annual obligations due from the account; and

(2) That the debtor may specify the disposition of the excess money within 20 days after receipt of the notice. If the debtor fails to specify such a disposition within that time, the mortgage ~~{company}~~ **banker** shall maintain the excess money in the account.

This subsection does not prohibit a mortgage ~~{company}~~ **banker** from requiring additional amounts to be paid into an impound trust account to recover a deficiency that exists in the account.

6. A mortgage ~~{company}~~ **banker** shall not make payments from an impound trust account in a manner that causes a policy of insurance to be cancelled or causes property taxes or similar payments to become delinquent.

**Sec. 69.** NRS 645E.440 is hereby amended to read as follows:

645E.440 1. Money in an impound trust account is not subject to execution or attachment on any claim against the mortgage ~~{company}~~ **banker**.

2. It is unlawful for a mortgage ~~{company}~~ **banker** knowingly to keep or cause to be kept any money in a depository financial institution under the heading of “impound trust account” or any other name designating such money as belonging to the debtors of the mortgage ~~{company}~~ **banker**, unless the money has been paid to the mortgage ~~{company}~~ **banker** by a debtor pursuant to NRS 645E.430 and is being held in trust by the mortgage ~~{company}~~ **banker** pursuant to the provisions of that section.

**Sec. 70.** NRS 645E.470 is hereby amended to read as follows:

645E.470 1. If a person is required to make a payment to a mortgage ~~{company}~~ **banker** pursuant to the terms of a loan secured by a lien on real property, the mortgage ~~{company}~~ **banker** may not charge the person a late fee, an additional amount of interest or any other penalty in connection with that payment if the payment is delivered to the mortgage ~~{company}~~ **banker** before 5 p.m. on:

(a) The day that the payment is due pursuant to the terms of the loan, if an office of the mortgage ~~{company}~~ **banker** is open to customers until 5 p.m. on that day; or

(b) The next day that an office of the mortgage ~~{company}~~ **banker** is open to customers until 5 p.m., if the provisions of paragraph (a) do not otherwise apply.

2. A person and a mortgage ~~{company}~~ **banker** may not agree to alter or waive the provisions of this section by contract or other agreement, and any such contract or agreement is void and must not be given effect to the extent that it violates the provisions of this section.

**Sec. 71.** NRS 645E.620 is hereby amended to read as follows:

645E.620 1. Whether or not a complaint has been filed, the Commissioner may investigate a mortgage ~~{company}~~ **banker** or other person if, for any reason, it appears that:

(a) The mortgage ~~{company}~~ **banker** is conducting business in an unsafe and injurious manner or in violation of any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(b) The person is offering or providing any of the services of a mortgage ~~{company}~~ **banker** or otherwise engaging in, carrying on or holding himself out as engaging in or carrying on the business of a mortgage ~~{company}~~ **banker** without being licensed or exempt from licensing pursuant to the provisions of this chapter; or

(c) The person is violating any other provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

2. If, upon investigation, the Commissioner has reasonable cause to believe that the mortgage ~~company~~ *banker* or other person has engaged in any conduct or committed any violation described in subsection 1, the Commissioner may:

(a) Advise the district attorney of the county in which the conduct or violation occurred, and the district attorney shall cause the appropriate legal action to be taken against the mortgage ~~company~~ *banker* or other person to enjoin the conduct or the operation of the business or prosecute the violation; and

(b) Bring a civil action to:

(1) Enjoin the mortgage ~~company~~ *banker* or other person from engaging in the conduct, operating the business or committing the violation; and

(2) Enjoin any other person who has encouraged, facilitated, aided or participated in the conduct, the operation of the business or the commission of the violation, or who is likely to engage in such acts, from engaging in or continuing to engage in such acts.

3. If the Commissioner brings a civil action pursuant to subsection 2, the district court of any county of this state is hereby vested with the jurisdiction in equity to enjoin the conduct, the operation of the business or the commission of the violation and may grant any injunctions that are necessary to prevent and restrain the conduct, the operation of the business or the commission of the violation. During the pendency of the proceedings before the district court:

(a) The court may issue any temporary restraining orders as may appear to be just and proper;

(b) The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the ex parte issuance of a temporary restraining order; and

(c) The Commissioner may apply for and on due showing is entitled to have issued the court's subpoena requiring forthwith the appearance of any person to:

(1) Produce any documents, books and records as may appear necessary for the hearing of the petition; and

(2) Testify and give evidence concerning the conduct complained of in the petition.

**Sec. 72.** NRS 645E.630 is hereby amended to read as follows:

645E.630 1. In addition to any other action that is permitted pursuant to this chapter, if the Commissioner has reasonable cause to believe that:

(a) The assets or capital of a mortgage ~~company~~ *banker* are impaired; or

(b) A mortgage ~~company~~ *banker* is conducting business in an unsafe and injurious manner that may result in danger to the public,

the Commissioner may immediately take possession of all the property, business and assets of the mortgage ~~{company}~~ *banker* that are located in this state and retain possession of them pending further proceedings provided for in this chapter.

2. If the licensee, the board of directors or any officer or person in charge of the offices of the mortgage ~~{company}~~ *banker* refuses to permit the Commissioner to take possession of the property of the mortgage ~~{company}~~ *banker* pursuant to subsection 1:

(a) The Commissioner shall notify the Attorney General; and

(b) The Attorney General shall immediately bring such proceedings as may be necessary to place the Commissioner in immediate possession of the property of the mortgage ~~{company}~~ *banker*.

3. If the Commissioner takes possession of the property of the mortgage ~~{company}~~ *banker*, the Commissioner shall:

(a) Make or have made an inventory of the assets and known liabilities of the mortgage ~~{company}~~ *banker*; and

(b) File one copy of the inventory in his office and one copy in the office of the clerk of the district court of the county in which the principal office of the mortgage ~~{company}~~ *banker* is located and shall mail one copy to each stockholder, partner, officer, director or associate of the mortgage ~~{company}~~ *banker* at his last known address.

4. The clerk of the court with which the copy of the inventory is filed shall file it as any other case or proceeding pending in the court and shall give it a docket number.

**Sec. 73.** NRS 645E.640 is hereby amended to read as follows:

645E.640 1. If the Commissioner takes possession of the property of a mortgage ~~{company}~~ *banker* pursuant to NRS 645E.630, the licensee, officers, directors, partners, associates or stockholders of the mortgage ~~{company}~~ *banker* may, within 60 days after the date on which the Commissioner takes possession of the property, make good any deficit in the assets or capital of the mortgage ~~{company}~~ *banker* or remedy any unsafe and injurious conditions or practices of the mortgage ~~{company}~~ *banker*.

2. At the expiration of the 60-day period, if the deficiency in assets or capital has not been made good or the unsafe and injurious conditions or practices remedied, the Commissioner may apply to the court to be appointed receiver and proceed to liquidate the assets of the mortgage ~~{company}~~ *banker* which are located in this state in the same manner as now provided by law for liquidation of a private corporation in receivership.

3. No other person may be appointed receiver by any court without first giving the Commissioner ample notice of his application.

4. The inventory made by the Commissioner and all claims filed by creditors are open at all reasonable times for inspection, and any action taken by the receiver upon any of the claims is subject to the approval of the court before which the cause is pending.

5. The expenses of the receiver and compensation of counsel, as well as all expenditures required in the liquidation proceedings, must be fixed by the Commissioner subject to the approval of the court and, upon certification of the Commissioner, must be paid out of the money in his hands as the receiver.

**Sec. 74.** NRS 645E.680 is hereby amended to read as follows:

645E.680 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a mortgage ~~{company,}~~ *banker*, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate a license as a mortgage ~~{company,}~~ *banker* that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

**Sec. 75.** NRS 645E.900 is hereby amended to read as follows:

645E.900 It is unlawful for any person to offer or provide any of the services of a mortgage ~~{company,}~~ *banker* or otherwise to engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage ~~{company,}~~ *banker* without first obtaining a license as a mortgage ~~{company,}~~ *banker* pursuant to this chapter, unless the person:

1. Is exempt from the provisions of this chapter; and
2. Complies with the requirements for that exemption.

**Sec. 76.** NRS 645E.910 is hereby amended to read as follows:

645E.910 It is unlawful for any foreign corporation, association or business trust to conduct any business as a mortgage ~~{company,}~~ *banker* within this state, unless it:

1. Qualifies under chapter 80 of NRS; and

2. Complies with the provisions of this chapter or, if it claims an exemption from the provisions of this chapter, complies with the requirements for that exemption.

**Sec. 77.** NRS 40.750 is hereby amended to read as follows:

40.750 1. As used in this section, “financial institution” means a bank, mortgage broker, mortgage ~~company,~~ *banker*, credit union, thrift company or savings and loan association, or any subsidiary or affiliate of a bank, mortgage broker, mortgage ~~company,~~ *banker*, credit union, thrift company or savings and loan association, which is authorized to transact business in this state and which makes or acquires, in whole or in part, any loan of the kind described in subsection 2.

2. Except as otherwise provided in subsection 5, a person who, for the purpose of obtaining a loan secured by a lien on real property, knowingly conceals a material fact, or makes a false statement concerning a material fact knowing that the statement is false, is liable to any financial institution which relied upon the absence of that concealed fact or on that false statement for any damages it sustains because of the fraud.

3. In addition to its actual damages, a financial institution may recover exemplary or punitive damages in an amount not to exceed 50 percent of the actual damages awarded.

4. The cause of action provided by this section:

(a) Is not, for the purposes of NRS 40.430, an action for the recovery of any debt or an action for the enforcement of any right secured by mortgage or lien upon real estate.

(b) Is in addition to and not in substitution for any right of foreclosure existing in favor of the financial institution. Any recovery pursuant to this section does not limit the amount of a judgment awarded pursuant to NRS 40.459, but the financial institution is not entitled to recover actual damages more than once for the same loss.

5. The provisions of this section do not apply to any loan which is secured by a lien on real property used for residential purposes if:

(a) The residence is a single-family dwelling occupied by the person obtaining the loan, as represented by him in connection with his application for the loan; and

(b) The loan is for the principal amount of \$150,000 or less.

**Sec. 78.** NRS 90.530 is hereby amended to read as follows:

90.530 The following transactions are exempt from NRS 90.460 and 90.560:

1. An isolated nonissuer transaction, whether or not effected through a broker-dealer.

2. A nonissuer transaction in an outstanding security if the issuer of the security has a class of securities subject to registration



under section 12 of the Securities Exchange Act of 1934, 15 U.S.C. § 78l, and has been subject to the reporting requirements of section 13 or 15(c) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78m and 78o(d), for not less than 90 days next preceding the transaction, or has filed and maintained with the Administrator for not less than 90 days preceding the transaction information, in such form as the Administrator, by regulation, specifies, substantially comparable to the information the issuer would be required to file under section 12(b) or 12(g) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78l(b) and 78l(g), were the issuer to have a class of its securities registered under section 12 of the Securities Exchange Act of 1934, 15 U.S.C. § 78l, and paid a fee with the filing of \$150.

3. A nonissuer transaction by a sales representative licensed in this state, in an outstanding security if:

(a) The security is sold at a price reasonably related to the current market price of the security at the time of the transaction;

(b) The security does not constitute all or part of an unsold allotment to, or subscription or participation by, a broker-dealer as an underwriter of the security;

(c) At the time of the transaction, a recognized securities manual designated by the Administrator by regulation or order contains the names of the issuer's officers and directors, a statement of the financial condition of the issuer as of a date within the preceding 18 months, and a statement of income or operations for each of the last 2 years next preceding the date of the statement of financial condition, or for the period as of the date of the statement of financial condition if the period of existence is less than 2 years;

(d) The issuer of the security has not undergone a major reorganization, merger or acquisition within the preceding 30 days which is not reflected in the information contained in the manual; and

(e) At the time of the transaction, the issuer of the security has a class of equity security listed on the New York Stock Exchange, American Stock Exchange or other exchange designated by the Administrator, or on the National Market System of the National Association of Securities Dealers Automated Quotation System. The requirements of this paragraph do not apply if:

(1) The security has been outstanding for at least 180 days;

(2) The issuer of the security is actually engaged in business and is not developing his business, in bankruptcy or in receivership; and

(3) The issuer of the security has been in continuous operation for at least 5 years.

4. A nonissuer transaction in a security that has a fixed maturity or a fixed interest or dividend provision if there has been no default during the current fiscal year or within the 3 preceding

years, or during the existence of the issuer, and any predecessors if less than 3 years, in the payment of principal, interest or dividends on the security.

5. A nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to purchase.

6. A transaction between the issuer or other person on whose behalf the offering of a security is made and an underwriter, or a transaction among underwriters.

7. A transaction in a bond or other evidence of indebtedness secured by a real estate mortgage, deed of trust, personal property security agreement, or by an agreement for the sale of real estate or personal property, if the entire mortgage, deed of trust or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit.

8. A transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator.

9. A transaction executed by a bona fide secured party without the purpose of evading this chapter.

10. An offer to sell or sale of a security to a financial or institutional investor or to a broker-dealer.

11. Except as otherwise provided in this subsection, a transaction pursuant to an offer to sell securities of an issuer if:

(a) The transaction is part of an issue in which there are not more than 25 purchasers in this state, other than those designated in subsection 10, during any 12 consecutive months;

(b) No general solicitation or general advertising is used in connection with the offer to sell or sale of the securities;

(c) No commission or other similar compensation is paid or given, directly or indirectly, to a person, other than a broker-dealer licensed or not required to be licensed under this chapter, for soliciting a prospective purchaser in this state; and

(d) One of the following conditions is satisfied:

(1) The seller reasonably believes that all the purchasers in this state, other than those designated in subsection 10, are purchasing for investment; or

(2) Immediately before and immediately after the transaction, the issuer reasonably believes that the securities of the issuer are held by 50 or fewer beneficial owners, other than those designated in subsection 10, and the transaction is part of an aggregate offering that does not exceed \$500,000 during any 12 consecutive months.

The Administrator by rule or order as to a security or transaction or a type of security or transaction, may withdraw or further condition the exemption set forth in this subsection or waive one or more of the conditions of the exemption.

12. An offer to sell or sale of a preorganization certificate or subscription if:

- (a) No commission or other similar compensation is paid or given, directly or indirectly, for soliciting a prospective subscriber;
- (b) No public advertising or general solicitation is used in connection with the offer to sell or sale;
- (c) The number of offers does not exceed 50;
- (d) The number of subscribers does not exceed 10; and
- (e) No payment is made by a subscriber.

13. An offer to sell or sale of a preorganization certificate or subscription issued in connection with the organization of a depository institution if that organization is under the supervision of an official or agency of a state or of the United States which has and exercises the authority to regulate and supervise the organization of the depository institution. For the purpose of this subsection, “under the supervision of an official or agency” means that the official or agency by law has authority to require disclosures to prospective investors similar to those required under NRS 90.490, impound proceeds from the sale of a preorganization certificate or subscription until organization of the depository institution is completed, and require refund to investors if the depository institution does not obtain a grant of authority from the appropriate official or agency.

14. A transaction pursuant to an offer to sell to existing security holders of the issuer, including persons who at the time of the transaction are holders of transferable warrants exercisable within not more than 90 days after their issuance, convertible securities or nontransferable warrants, if:

- (a) No commission or other similar compensation other than a standby commission, is paid or given, directly or indirectly, for soliciting a security holder in this state; or
- (b) The issuer first files a notice specifying the terms of the offer to sell, together with a nonrefundable fee of \$150, and the Administrator does not by order disallow the exemption within the next 5 full business days.

15. A transaction involving an offer to sell, but not a sale, of a security not exempt from registration under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., if:

- (a) A registration or offering statement or similar document as required under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., has been filed, but is not effective;
- (b) A registration statement, if required, has been filed under this chapter, but is not effective; and
- (c) No order denying, suspending or revoking the effectiveness of registration, of which the offeror is aware, has been entered by the Administrator or the Securities and Exchange Commission, and

no examination or public proceeding that may culminate in that kind of order is known by the offeror to be pending.

16. A transaction involving an offer to sell, but not a sale, of a security exempt from registration under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., if:

(a) A registration statement has been filed under this chapter, but is not effective; and

(b) No order denying, suspending or revoking the effectiveness of registration, of which the offeror is aware, has been entered by the Administrator and no examination or public proceeding that may culminate in that kind of order is known by the offeror to be pending.

17. A transaction involving the distribution of the securities of an issuer to the security holders of another person in connection with a merger, consolidation, exchange of securities, sale of assets or other reorganization to which the issuer, or its parent or subsidiary, and the other person, or its parent or subsidiary, are parties, if:

(a) The securities to be distributed are registered under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., before the consummation of the transaction; or

(b) The securities to be distributed are not required to be registered under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., written notice of the transaction and a copy of the materials, if any, by which approval of the transaction will be solicited, together with a nonrefundable fee of \$150, are given to the Administrator at least 10 days before the consummation of the transaction and the Administrator does not, by order, disallow the exemption within the next 10 days.

18. A transaction involving the offer to sell or sale of one or more promissory notes each of which is directly secured by a first lien on a single parcel of real estate, or a transaction involving the offer to sell or sale of participation interests in the notes if the notes and participation interests are originated by a depository institution and are offered and sold subject to the following conditions:

(a) The minimum aggregate sales price paid by each purchaser may not be less than \$250,000;

(b) Each purchaser must pay cash either at the time of the sale or within 60 days after the sale; and

(c) Each purchaser may buy for his own account only.

19. A transaction involving the offer to sell or sale of one or more promissory notes directly secured by a first lien on a single parcel of real estate or participating interests in the notes, if the notes and interests are originated by a mortgagee approved by the Secretary of Housing and Urban Development under sections 203 and 211 of the National Housing Act, 12 U.S.C. §§ 1709 and 1715b,

and are offered or sold, subject to the conditions specified in subsection 18, to a depository institution or insurance company, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Government National Mortgage Association.

20. A transaction between any of the persons described in subsection 19 involving a nonassignable contract to buy or sell the securities described in subsection 18 if the contract is to be completed within 2 years and if:

(a) The seller of the securities pursuant to the contract is one of the parties described in subsection 18 or 19 who may originate securities;

(b) The purchaser of securities pursuant to a contract is any other person described in subsection 19; and

(c) The conditions described in subsection 18 are fulfilled.

21. A transaction involving one or more promissory notes secured by a lien on real estate, or participating interests in those notes, by:

(a) A mortgage ~~company~~ *banker* licensed pursuant to chapter 645E of NRS to engage in those transactions; or

(b) A mortgage broker licensed pursuant to chapter 645B of NRS to engage in those transactions.

**Sec. 79.** Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. A division, office, authority, commission, board or other entity set forth in NRS 232.510 may adopt regulations to establish procedures to conduct business electronically with persons who have business with that division, office, authority, commission, board or other entity. The regulations may include, without limitation, the establishment of fees to cover the costs to the division, office, authority, commission, board or other entity of conducting business electronically.*

*2. Notwithstanding any other provision, if a division, office, authority, commission, board or other entity adopts regulations to conduct business electronically pursuant to subsection 1, the division, office, authority, commission, board or other entity may provide that a declaration made pursuant to NRS 53.045 may satisfy the requirement that a signature or statement be notarized, acknowledged, verified or made under oath.*

*3. The division, office, authority, commission, board or other entity may refuse to conduct business electronically with a person who has failed to pay money owed to the division, office, authority, commission, board or other entity.*

**Sec. 80.** NRS 232.510 is hereby amended to read as follows:

232.510 1. The Department of Business and Industry is hereby created.

2. The Department consists of a Director and the following:

- (a) Consumer Affairs Division.
- (b) Division of Financial Institutions.
- (c) Housing Division.
- (d) Manufactured Housing Division.
- (e) Real Estate Division.
- (f ) Division of Insurance.
- (g) Division of Industrial Relations.
- (h) Office of Labor Commissioner.
- (i) Taxicab Authority.
- (j) Nevada Athletic Commission.
- (k) Office of the Nevada Attorney for Injured Workers.
- (l) Transportation Services Authority.
- (m) *Division of Mortgage Lending.*

(n) Any other office, commission, board, agency or entity created or placed within the Department pursuant to a specific statute, the budget approved by the Legislature or an executive order, or an entity whose budget or activities have been placed within the control of the Department by a specific statute.

**Sec. 81.** NRS 232.520 is hereby amended to read as follows:

232.520 The Director:

1. Shall appoint a chief or executive director, or both of them, of each of the divisions, offices, commissions, boards, agencies or other entities of the Department, unless the authority to appoint such a chief or executive director, or both of them, is expressly vested in another person, board or commission by a specific statute. In making the appointments, the Director may obtain lists of qualified persons from professional organizations, associations or other groups recognized by the Department, if any. The Chief of the Consumer Affairs Division is the Commissioner of Consumer Affairs, the Chief of the Division of Financial Institutions is the Commissioner of Financial Institutions, the Chief of the Housing Division is the Administrator of the Housing Division, the Chief of the Manufactured Housing Division is the Administrator of the Manufactured Housing Division, the Chief of the Real Estate Division is the Real Estate Administrator, the Chief of the Division of Insurance is the Commissioner of Insurance, the Chief of the Division of Industrial Relations is the Administrator of the Division of Industrial Relations, the Chief of the Office of Labor Commissioner is the Labor Commissioner, the Chief of the Taxicab Authority is the Taxicab Administrator, the Chief of the Transportation Services Authority is the Chairman of the Authority, *the Chief of the Division of Mortgage Lending is the Commissioner of Mortgage Lending* and the chief of any other entity of the Department has the title specified by the Director, unless a different title is specified by a specific statute.

2. Is responsible for the administration of all provisions of law relating to the jurisdiction, duties and functions of all divisions and other entities within the Department. The Director may, if he deems it necessary to carry out his administrative responsibilities, be considered as a member of the staff of any division or other entity of the Department for the purpose of budget administration or for carrying out any duty or exercising any power necessary to fulfill the responsibilities of the Director pursuant to this subsection. This subsection does not allow the Director to preempt any authority or jurisdiction granted by statute to any division or other entity within the Department or to act or take on a function that would contravene a rule of court or a statute.

3. May:

(a) Establish uniform policies for the department, consistent with the policies and statutory responsibilities and duties of the divisions and other entities within the Department, relating to matters concerning budgeting, accounting, planning, program development, personnel, information services, dispute resolution, travel, workplace safety, the acceptance of gifts or donations, the management of records and any other subject for which a uniform departmental policy is necessary to ensure the efficient operation of the Department.

(b) Provide coordination among the divisions and other entities within the Department, in a manner which does not encroach upon their statutory powers and duties, as they adopt and enforce regulations, execute agreements, purchase goods, services or equipment, prepare legislative requests and lease or use office space.

(c) Define the responsibilities of any person designated to carry out the duties of the director relating to financing, industrial development or business support services.

4. May, within the limits of the financial resources made available to him, promote, participate in the operation of, and create or cause to be created, any nonprofit corporation, pursuant to chapter 82 of NRS, which he determines is necessary or convenient for the exercise of the powers and duties of the department. The purposes, powers and operation of the corporation must be consistent with the purposes, powers and duties of the Department.

5. For any bonds which he is otherwise authorized to issue, may issue bonds the interest on which is not exempt from federal income tax or excluded from gross revenue for the purposes of federal income tax.

6. May, except as otherwise provided by specific statute, adopt by regulation a schedule of fees and deposits to be charged in connection with the programs administered by him pursuant to chapters 348A and 349 of NRS. Except as otherwise provided by



specific statute, the amount of any such fee or deposit must not exceed 2 percent of the principal amount of the financing.

7. May designate any person within the Department to perform any of the duties or responsibilities, or exercise any of the authority, of the Director on his behalf.

8. May negotiate and execute agreements with public or private entities which are necessary to the exercise of the powers and duties of the Director or the Department.

9. May establish a trust account in the State Treasury for depositing and accounting for money that is held in escrow or is on deposit with the Department for the payment of any direct expenses incurred by the Director in connection with any bond programs administered by the Director. The interest and income earned on money in the trust account, less any amount deducted to pay for applicable charges, must be credited to the trust account. Any balance remaining in the account at the end of a fiscal year may be:

(a) Carried forward to the next fiscal year for use in covering the expense for which it was originally received; or

(b) Returned to any person entitled thereto in accordance with agreements or regulations of the Director relating to those bond programs.

**Sec. 82.** 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. 83.** NRS 604.090 is hereby amended to read as follows:

604.090 1. Except as otherwise provided in subsection 2, it is unlawful to operate a check-cashing or deferred deposit service without being registered with the Commissioner.

2. The provisions of this chapter do not apply to:

(a) A person doing business pursuant to the authority of any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage ~~{companies,}~~ *bankers*, thrift companies, pawnbrokers or insurance companies.

(b) A person licensed to make installment loans pursuant to chapter 675 of NRS.

(c) A person who is primarily engaged in the retail sale of goods or services who:

(1) As an incident to or independently of a retail sale or service from time to time cashes checks for a fee or other consideration of not more than \$2; and

(2) Does not hold himself out as a check-cashing service.

(d) A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

(e) A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

(f) A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

(g) A corporation organized pursuant to the laws of this state that has been continuously and exclusively engaged in a check-cashing service in this state since July 1, 1973.

**Sec. 84.** NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. A person doing business under the authority of any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan associations, credit unions, development corporations, mortgage brokers, mortgage ~~{companies,}~~ *bankers*, thrift companies, pawnbrokers or insurance companies.

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

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

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

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

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

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

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

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

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

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

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

**Sec. 85.** NRS 675.230 is hereby amended to read as follows:

675.230 1. Except as otherwise provided in subsection 2, a licensee may not conduct the business of making loans under this chapter within any office, suite, room or place of business in which any other business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans pursuant to this chapter in the same office or place of business as:

(a) A mortgage broker if:

(1) The licensee and the mortgage broker:

(I) Operate as separate legal entities;

(II) Maintain separate accounts, books and records;

(III) Are subsidiaries of the same parent corporation; and

(IV) Maintain separate licenses; and

(2) The mortgage broker is licensed by this state pursuant to chapter 645B of NRS and does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

(b) A mortgage ~~company~~ *banker* if:

(1) The licensee and the mortgage ~~company~~ *banker*:

(I) Operate as separate legal entities;

(II) Maintain separate accounts, books and records;

(III) Are subsidiaries of the same parent corporation; and

(IV) Maintain separate licenses; and

(2) The mortgage ~~company~~ *banker* is licensed by this state pursuant to chapter 645E of NRS and, if the mortgage ~~company~~ *banker* is also licensed as a mortgage broker pursuant to chapter

645B of NRS, does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

**Sec. 86.** NRS 645B.0103 is hereby repealed.

**Sec. 87.** 1. On October 1, 2003, the Commissioner of Mortgage Lending may begin accepting applications for, and issuing, licenses as mortgage agents pursuant to section 27 of this act. Any such license issued on or before July 1, 2004:

(a) Becomes effective on July 1, 2004; and

(b) Notwithstanding the provisions of section 28 of this act to the contrary, expires on a date between July 1, 2004, and June 30, 2005, as specified in a written notice provided with the license to the mortgage agent. The Commissioner of Mortgage Lending shall provide various expiration dates for the licenses issued on or before July 1, 2004, as needed to allow for the efficient administration of the requirements of this act. The fee required for such a license that is effective for less than 1 year must be prorated in an appropriate manner as determined by the Commissioner of Mortgage Lending.

2. On July 1, 2004, the registration of a mortgage agent who is registered pursuant to NRS 645B.450 expires.

3. As used in this section, “mortgage agent” has the meaning ascribed to it in NRS 645B.0125.

**Sec. 87.5.** 1. Notwithstanding the amendatory provisions of this act, if a person, on July 1, 2003, holds a certificate of exemption issued pursuant to chapter 645B of NRS and the certificate is based on the exemption set forth in subsection 6 of NRS 645B.015, as that subsection existed before the enactment of this act, the person may, until January 1, 2004, provide the services of a mortgage broker or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker without being licensed pursuant to chapter 645B of NRS.

2. Notwithstanding the amendatory provisions of this act, if a person, on July 1, 2003, holds a certificate of exemption issued pursuant to chapter 645E of NRS and the certificate is based on the exemption set forth in subsection 6 of NRS 645E.150, as that subsection existed before the enactment of this act, the person may, until January 1, 2004, provide the services of a mortgage banker or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage banker without being licensed pursuant to chapter 645E of NRS.

**Sec. 88.** The Legislative Counsel shall:

1. In preparing the reprint and supplements to the Nevada Revised Statutes, appropriately change any references to “mortgage company” to “mortgage banker.”

2. In preparing supplements to the Nevada Administrative Code, appropriately change any references to “mortgage company” to “mortgage banker.”

**Sec. 89.** 1. This section becomes effective upon passage and approval.

2. Sections 1 to 20, inclusive, 21.5 to 39, inclusive, and 41 to 88, inclusive, of this act become effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and:

(a) Sections 1 to 20, inclusive, 21.5 to 25, inclusive, 31, 32, 33, 35, 36, 38, 39, 41, 42, 42.5, 45 and 48.5 to 88, inclusive, of this act become effective on July 1, 2003, for all other purposes.

(b) Sections 26 to 30, inclusive, 34, 37, 43, 44, 46, 47 and 48 of this act become effective on July 1, 2004, for all other purposes.

3. Sections 20, 29, 39, 46 and 74 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the State has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

are repealed by the Congress of the United States.

4. Sections 21 and 40 of this act become effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the State has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

are repealed by the Congress of the United States.