

ASSEMBLY BILL NO. 490—COMMITTEE ON  
COMMERCE AND LABOR

MARCH 24, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to escrow agencies, mortgage brokers, mortgage agents and mortgage bankers. (BDR 54-998)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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.



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

- 1     **Section 1.** Title 54 of NRS is hereby amended by adding  
2     thereto a new chapter to consist of the provisions set forth as  
3     sections 2 to 17, inclusive, of this act.
- 4     **Sec. 2.** *As used in this chapter, unless the context otherwise*  
5     *requires, the words and terms defined in sections 3 to 7, inclusive,*  
6     *of this act have the meanings ascribed to them in those sections.*
- 7     **Sec. 3.** *“Commissioner” means the Commissioner of*  
8     *Mortgage Lending.*
- 9     **Sec. 4.** *“Division” means the Division of Mortgage Lending*  
10    *of the Department of Business and Industry.*
- 11    **Sec. 5.** *“Escrow agency” has the meaning ascribed to it in*  
12    *NRS 645A.010.*
- 13    **Sec. 6.** *“Mortgage banker” has the meaning ascribed to it in*  
14    *NRS 645E.100.*
- 15    **Sec. 7.** *“Mortgage broker” has the meaning ascribed to it in*  
16    *NRS 645B.0127.*
- 17    **Sec. 8.** *The Commissioner and the Division shall administer*  
18    *the provisions of this chapter and chapters 645A, 645B and 645E*  
19    *of NRS, subject to administrative supervision by the Director of*  
20    *the Department of Business and Industry.*
- 21    **Sec. 9.** *The Commissioner:*
- 22    1. *Must be a person who has had practical experience in the*  
23    *financial services industry or the business of making loans*  
24    *secured by an interest in real property.*
- 25    2. *Except as otherwise provided in NRS 284.143, shall devote*  
26    *his entire time and attention to the business of his office and shall*  
27    *not pursue any other business or occupation or hold any other*  
28    *office of profit.*
- 29    **Sec. 10.** *The Commissioner shall not, either directly or*  
30    *indirectly, be interested in any escrow agency, mortgage broker or*  
31    *mortgage banker to which chapters 645A, 645B and 645E of NRS*  
32    *apply, nor engage in business as a personal loan broker.*
- 33    **Sec. 11.** *After appointment and before entering upon the*  
34    *discharge of the duties of his office, the Commissioner shall take*  
35    *and subscribe to an official oath.*
- 36    **Sec. 12.** 1. *The Commissioner may appoint deputy*  
37    *commissioners of mortgage lending, examiners, assistants, clerks,*  
38    *stenographers and other employees necessary to assist him in the*  
39    *performance of his duties pursuant to this chapter, chapters 645A,*  
40    *645B and 645E of NRS or any other law. These employees shall*  
41    *perform such duties as are assigned to them by the Commissioner.*



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

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

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

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

20       **Sec. 15.** 1. *The Commissioner shall establish by regulation*  
21 *rates to be paid by escrow companies, mortgage agents, mortgage*  
22 *brokers and mortgage bankers for supervision and examinations*  
23 *by the Commissioner or the Division.*

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

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

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

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

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

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

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

36       (b) *Mortgage broker that is supervised pursuant to chapter*  
37 *645B of NRS; and*

38       (c) *Mortgage banker that is supervised pursuant to chapter*  
39 *645E of NRS.*

40       2. *The Commissioner shall determine the total amount of all*  
41 *assessments to be collected from the entities identified in*  
42 *subsection 1, but that amount must not exceed the amount*  
43 *necessary to recover the cost of legal services provided by the*  
44 *Attorney General to the Commissioner and to the Division. The*  
45 *total amount of all assessments collected must be reduced by any*



1 amounts collected by the Commissioner from an entity for the  
2 recovery of the costs of legal services provided by the Attorney  
3 General in a specific case.

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

6 (a) An equal basis; or

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

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

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

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

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

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

19 (b) May only be used to:

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

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

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

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

34 **Sec. 18.** NRS 645A.010 is hereby amended to read as follows:  
35 645A.010 As used in this chapter, unless the context otherwise  
36 requires:

37 1. "Commissioner" means the Commissioner of ~~{Financial~~  
38 ~~Institutions.}~~ **Mortgage Lending.**

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

41 3. "Escrow" means any transaction wherein one person, for the  
42 purpose of effecting the sale, transfer, encumbering or leasing of  
43 real or personal property to another person, delivers any written  
44 instrument, money, evidence of title to real or personal property, or  
45 other thing of value to a third person until the happening of a



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1 specified event or the performance of a prescribed condition, when  
2 it is then to be delivered by such third person to a grantee, grantor,  
3 promisee, promisor, obligee, obligor, bailee, bailor or any agent or  
4 employee of any of the latter. The term includes the collection of  
5 payments and the performance of related services by a third person  
6 in connection with a loan secured by a lien on real property.

7 4. "Escrow agency" means:

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

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

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

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

14 645A.037 1. Except as otherwise provided in subsection 2, a  
15 licensee may not conduct the business of administering escrows for  
16 compensation within any office, suite, room or place of business in  
17 which any other business is solicited or engaged in, except a notary  
18 public, or in association or conjunction with any other business,  
19 unless authority to do so is given by the Commissioner.

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

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

25 ~~—(b) A mortgage company if:~~

26 ~~—(1) banker if:~~

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

28 ~~—(1) banker:~~

29 (1) Operate as separate legal entities;

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

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

32 and

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

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

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

39 645A.040 1. Every license issued pursuant to the provisions  
40 of this chapter expires on July 1 of each year if it is not renewed. A  
41 license may be renewed by filing an application for renewal, paying  
42 the annual fee for the succeeding year and, if the licensee is a  
43 natural person, submitting the statement required pursuant to  
44 NRS 645A.025.



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

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

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

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

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

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

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

18       4. If a licensee fails to submit the statement required pursuant  
19 to NRS 645A.025 or pay the fee for the annual renewal of his  
20 license before its expiration, his license may be renewed only upon  
21 the payment of a fee one and one-half times the amount otherwise  
22 required for renewal. A license may be renewed pursuant to this  
23 subsection only if the required statement is submitted and all the  
24 fees are paid within 1 year after the date on which the license  
25 expired.

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

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

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

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

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

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

38       645A.040 1. Every license issued pursuant to the provisions  
39 of this chapter expires on July 1 of each year if it is not renewed. A  
40 license may be renewed by filing an application for renewal and  
41 paying the annual fee for the succeeding year.

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

44       (a) For filing an application for an initial license, \$500 for the  
45 principal office and \$100 for each branch office. ~~[All money~~



1 ~~received by the Commissioner pursuant to this paragraph must be~~  
2 ~~placed in the Investigative Account created by NRS 232.545.]~~

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

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

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

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

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

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

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

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

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

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

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

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

33 645A.067 Each escrow agency shall pay the assessment levied  
34 by the Commissioner and cooperate fully with the audits and  
35 examinations performed pursuant to ~~[NRS 658.055.]~~ *section 12 of*  
36 *this act.*

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

38 645A.085 1. An escrow agency shall immediately notify the  
39 Commissioner of any change in the ownership of 5 percent or more  
40 of its outstanding voting stock.

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

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





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

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

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

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

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

24 645A.173 1. If an escrow for the sale of real property is  
25 established, the holder of the escrow shall, on the date of  
26 establishment of the escrow, record in writing the number and the  
27 date of expiration of the:

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

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

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

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





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

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

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

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

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

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

24     **2.** *As used in this section:*

25     *(a) "Advertising for a mortgage broker" means advertising or*  
26 *otherwise promoting a mortgage broker or the business, products*  
27 *or services of the mortgage broker using any medium of*  
28 *communication.*

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

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

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

40     *(a) Be a natural person;*

41     *(b) File a written application for a license as a mortgage agent*  
42 *with the office of the Commissioner;*

43     *(c) Comply with the applicable requirements of this chapter;*  
44 *and*



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- 1       (d) *Pay an application fee set by the Commissioner of not more*  
2 *than \$185.*
- 3       2. *An application for a license as a mortgage agent must:*
- 4       (a) *Be verified;*
- 5       (b) *State the name and residence address of the applicant;*
- 6       (c) *Include a provision by which the applicant gives his written*  
7 *consent to an investigation of his credit history, criminal history*  
8 *and background;*
- 9       (d) *Include a verified statement from the mortgage broker with*  
10 *whom the applicant will be associated that expresses the intent of*  
11 *that mortgage broker to associate the applicant with the mortgage*  
12 *broker and to be responsible for the activities of the applicant as a*  
13 *mortgage agent; and*
- 14       (e) *Include any other information or supporting materials*  
15 *required pursuant to the regulations adopted by the Commissioner*  
16 *or by an order of the Commissioner. Such information or*  
17 *supporting materials may include, without limitation, a complete*  
18 *set of fingerprints from the person and other forms of*  
19 *identification of the person.*
- 20       3. *Except as otherwise provided in this chapter, the*  
21 *Commissioner shall issue a license as a mortgage agent to an*  
22 *applicant if:*
- 23       (a) *The application complies with the applicable requirements*  
24 *of this chapter; and*
- 25       (b) *The applicant:*
- 26           (1) *Has not been convicted of, or entered a plea of nolo*  
27 *contendere to, a felony or any crime involving fraud,*  
28 *misrepresentation or moral turpitude;*
- 29           (2) *Has not had a financial services license suspended or*  
30 *revoked within the immediately preceding 10 years;*
- 31           (3) *Has not made a false statement of material fact on his*  
32 *application;*
- 33           (4) *Has not violated any provision of this chapter or*  
34 *chapter 645E of NRS, a regulation adopted pursuant thereto or an*  
35 *order of the Commissioner; and*
- 36           (5) *Has a good reputation for honesty, trustworthiness and*  
37 *integrity and displays competence to transact the business of a*  
38 *mortgage agent in a manner which safeguards the interests of the*  
39 *general public. The applicant must submit satisfactory proof of*  
40 *these qualifications to the Commissioner.*
- 41       4. *Money received by the Commissioner pursuant to this*  
42 *section must be deposited in the Fund for Mortgage Lending*  
43 *created by section 17 of this act.*
- 44       **Sec. 28. 1.** *A license as a mortgage agent issued pursuant*  
45 *to section 27 of this act expires 1 year after the date the license is*



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1 issued, unless it is renewed. To renew a license as a mortgage  
2 agent, the holder of the license must submit to the Commissioner  
3 each year, on or before the date the license expires:

- 4 (a) An application for renewal;  
5 (b) Except as otherwise provided in this section, satisfactory  
6 proof that the holder of the license as a mortgage agent attended  
7 at least 10 hours of certified courses of continuing education  
8 during the 12 months immediately preceding the date on which the  
9 license expires; and  
10 (c) A renewal fee set by the Commissioner of not more than  
11 \$170.

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

- 18 (a) An application for renewal;  
19 (b) The fee required to renew the license pursuant to this  
20 section; and  
21 (c) A reinstatement fee of \$75.

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

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

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

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

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

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

42 2. In addition to any other requirement for the issuance or  
43 renewal of a license as a mortgage agent pursuant to section 27 or  
44 28 of this act, an applicant for the issuance or renewal of the  
45 license shall submit to the Commissioner the statement prescribed



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1 *by the Welfare Division of the Department of Human Resources*  
2 *pursuant to NRS 425.520. The statement must be completed and*  
3 *signed by the applicant.*

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

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

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

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

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

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

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

27 **Sec. 30.** *1. Any mortgage broker or mortgage agent*  
28 *licensed under the provisions of this chapter who is called into the*  
29 *military service of the United States shall, at his request, be*  
30 *relieved from compliance with the provisions of this chapter and*  
31 *placed on inactive status for the period of such military service*  
32 *and for a period of 6 months after discharge therefrom.*

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

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



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1     **Sec. 31.** NRS 645B.010 is hereby amended to read as follows:  
2     645B.010 As used in this chapter, unless the context otherwise  
3 requires, the words and terms defined in NRS ~~[645B.0103]~~  
4 **645B.0105** to 645B.0135, inclusive, have the meanings ascribed to  
5 them in those sections.

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

8     645B.0105 “Commissioner” means the Commissioner of  
9 ~~[Financial Institutions.]~~ **Mortgage Lending.**

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

12    645B.0111 “Division” means the Division of ~~[Financial~~  
13 ~~Institutions]~~ **Mortgage Lending** of the Department of Business and  
14 Industry.

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

17    645B.0123 “Licensee” means a person who is licensed as a  
18 mortgage broker pursuant to this chapter. *The term does not include*  
19 *a person issued a license as a mortgage agent pursuant to section*  
20 *27 of this act.*

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

23    645B.0127 1. “Mortgage broker” means a person who,  
24 directly or indirectly:

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

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

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

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

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

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

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

43    645B.015 Except as otherwise provided in NRS 645B.016, the  
44 provisions of this chapter do not apply to:



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

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

13 3. An employee benefit plan, as defined in 29 U.S.C. §  
14 1002(3), if the loan is made directly from money in the plan by the  
15 plan's trustee.

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

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

20 6. ~~Except as otherwise provided in this subsection and NRS~~  
21 ~~645B.690, any firm or corporation:~~

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

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

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

28 ~~A firm or corporation is not exempt from the provisions of this~~  
29 ~~chapter pursuant to this subsection if it maintains any accounts~~  
30 ~~described in subsection 1 of NRS 645B.175 or if it offers for sale in~~  
31 ~~this state any unregistered security under state or federal law and~~  
32 ~~purports to make investments in promissory notes secured by liens~~  
33 ~~on real property. A firm or corporation which is exempted pursuant~~  
34 ~~to this subsection must submit annually as a condition of its~~  
35 ~~continued exemption a certified statement by an independent~~  
36 ~~certified public accountant that the firm or corporation does not~~  
37 ~~maintain any such accounts. This subsection does not prohibit an~~  
38 ~~exempt firm or corporation from maintaining accounts described in~~  
39 ~~NRS 645B.170 and subsection 4 of NRS 645B.175.~~

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

41 ~~[8.]~~ 7. Any one natural person, or husband and wife, who  
42 provides money for investment in loans secured by a lien on real  
43 property, on his own account, unless such a person makes a loan  
44 secured by a lien on real property using his own money and assigns  
45 all or a part of his interest in the loan to another person, other than



1 his spouse or child, within 5 years after the date on which the loan is  
2 made or the deed of trust is recorded, whichever occurs later.

3 ~~[9-]~~ 8. Agencies of the United States and of this state and its  
4 political subdivisions, including the Public Employees' Retirement  
5 System.

6 ~~[10-]~~ 9. A seller of real property who offers credit secured by a  
7 mortgage of the property sold.

8 **Sec. 37.** NRS 645B.016 is hereby amended to read as follows:  
9 645B.016 Except as otherwise provided in NRS 645B.690:

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

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

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

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

18 2. The Commissioner may require a person who claims an  
19 exemption from the provisions of this chapter pursuant to  
20 subsections 2 to ~~[5, inclusive, or 7 to 10,]~~ 9, inclusive, of NRS  
21 645B.015 to:

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

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

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

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

32 4. If a certificate of exemption expires automatically pursuant  
33 to this section, the person shall not provide any of the services of a  
34 mortgage broker *or mortgage agent* or otherwise engage in, carry  
35 on or hold himself out as engaging in or carrying on the business of  
36 a mortgage broker ~~[ ]~~ *or mortgage agent* unless the person applies  
37 for and is issued:

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

40 (b) Another certificate of exemption.

41 5. The Commissioner may impose upon a person who is  
42 required to apply for a certificate of exemption or who holds a  
43 certificate of exemption an administrative fine of not more than  
44 \$10,000 for each violation that he commits, if the person:



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

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

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

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

12 645B.035 1. A license *as a mortgage broker* entitles a  
13 licensee to engage only in the activities authorized by this chapter.

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

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

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

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

22 645B.050 1. A license *as a mortgage broker* issued pursuant  
23 to this chapter expires each year on June 30, unless it is renewed. To  
24 renew *such* a license, the licensee must submit to the Commissioner  
25 on or before ~~June 30~~ *May 31* of each year:

26 (a) An application for renewal;

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

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

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

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

37 (a) An application for renewal;

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

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

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

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



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

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

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

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

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

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

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

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

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

31       (b) To be issued a license, \$1,000 for the principal office and  
32 \$60 for each branch office.

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

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

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

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

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

43       8. Except as otherwise provided in this chapter, all fees  
44 received pursuant to this chapter must be deposited in the ~~State~~



1 ~~Treasury for credit to the State General Fund.] Fund for Mortgage~~  
2 ~~Lending created by section 17 of this act.~~

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

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

11 645B.050 1. A license *as a mortgage broker* issued pursuant  
12 to this chapter expires each year on June 30, unless it is renewed. To  
13 renew *such* a license, the licensee must submit to the Commissioner  
14 on or before ~~June 30~~ *May 31* of each year:

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

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

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

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

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

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



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

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

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

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

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

16 (b) To be issued a license, \$1,000 for the principal office and  
17 \$60 for each branch office.

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

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

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

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

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

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

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

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

40 645B.051 1. ~~Except as otherwise provided in this~~  
41 *section, in* addition to the requirements set forth in NRS 645B.050,  
42 to renew a license ~~as a mortgage broker:~~

43 (a) If the licensee is a natural person, the licensee must submit to  
44 the Commissioner satisfactory proof that the licensee attended at  
45 least ~~5~~ *10* hours of certified courses of continuing education during



1 the 12 months immediately preceding the date on which the license  
2 expires.

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

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

15 3. As used in this section, "certified course of continuing  
16 education" means a course of continuing education which relates to  
17 the mortgage industry or mortgage transactions and which is ~~is~~:

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

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

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

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

26 645B.060 1. Subject to the administrative control of the  
27 Director of the Department of Business and Industry, the  
28 Commissioner shall exercise general supervision and control over  
29 mortgage brokers *and mortgage agents* doing business in this state.

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

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

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

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

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

44 (2) Procedures for resolving any objections made by the  
45 mortgage broker to the results of the annual examination. The



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1 results of the annual examination may not be opened to public  
2 inspection pursuant to NRS 645B.090 until any objections made by  
3 the mortgage broker have been decided by the Commissioner.

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

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

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

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

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

26 645B.075 Each mortgage broker shall pay the assessment  
27 levied pursuant to ~~[NRS 658.055.]~~ *section 12 of this act.* Each  
28 mortgage broker and mortgage agent shall cooperate fully with the  
29 audits and examinations performed pursuant thereto.

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

31 645B.450 1. ~~[A person shall not act as or provide any of the~~  
32 ~~services of a mortgage agent or otherwise engage in, carry on or~~  
33 ~~hold himself out as engaging in or carrying on the activities of a~~  
34 ~~mortgage agent if the person:~~

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

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

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

43 ~~[3.—A mortgage broker shall register with the Division each~~  
44 ~~person who will be associated with or employed by the mortgage~~  
45 ~~broker as a mortgage agent. A mortgage broker shall register each~~



1 ~~such person with the Division when the person begins his~~  
2 ~~association or employment with the mortgage broker and annually~~  
3 ~~thereafter. A registration expires 12 months after its effective date.~~  
4 ~~—4. To register a person as a mortgage agent, a mortgage broker~~  
5 ~~must:~~  
6 ~~—(a) Submit to the Division a registration form which is provided~~  
7 ~~by the Division and which:~~  
8 ~~—(1) States the name, residence address and business address of~~  
9 ~~the person;~~  
10 ~~—(2) Is signed by the person;~~  
11 ~~—(3) Includes a provision by which the person gives his~~  
12 ~~written consent to an investigation of his credit history, criminal~~  
13 ~~history and background; and~~  
14 ~~—(4) Includes any other information or supporting materials~~  
15 ~~required by the regulations adopted by the Commissioner. Such~~  
16 ~~information or supporting materials may include, without limitation,~~  
17 ~~a complete set of fingerprints from the person, the social security~~  
18 ~~number of the person and other forms of identification of the person.~~  
19 ~~—(b) For each initial registration, pay the actual costs and~~  
20 ~~expenses incurred by the Division to investigate the credit history,~~  
21 ~~criminal history and background of the person. All money received~~  
22 ~~pursuant to this paragraph must be placed in the Investigative~~  
23 ~~Account created by NRS 232.545.~~  
24 ~~—(c) For each annual registration, submit to the Division~~  
25 ~~satisfactory proof that the person attended at least 5 hours of~~  
26 ~~certified courses of continuing education during the 12 months~~  
27 ~~immediately preceding the date on which the registration expires.~~  
28 ~~—5. Not later than the date on which the mortgage broker~~  
29 ~~submits the information for annual registration required by~~  
30 ~~subsection 4, the person being registered shall pay an annual~~  
31 ~~registration fee of \$125. If the person does not pay the annual~~  
32 ~~registration fee, the person shall be deemed to be unregistered for~~  
33 ~~the purposes of this chapter.~~  
34 ~~—6.] 2. A mortgage broker shall not *associate with or* employ a~~  
35 ~~person as a mortgage agent or authorize a person to be associated~~  
36 ~~with the mortgage broker as a mortgage agent if the mortgage~~  
37 ~~[broker has not registered the person] *agent is not licensed* with the~~  
38 ~~Division pursuant to [this section or if the person:~~  
39 ~~—(a) Has been convicted of, or entered a plea of nolo contendere~~  
40 ~~to, a felony or any crime involving fraud, misrepresentation or~~  
41 ~~moral turpitude; or~~  
42 ~~—(b) Has had a financial services license or registration suspended~~  
43 ~~or revoked within the immediately preceding 10 years.~~  
44 ~~—7.] *section 27 of this act.*~~





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

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

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

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

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

13          ~~[(2)]~~ (3) A copy of the written statement that the mortgage  
14 broker delivers or mails to the mortgage agent pursuant to  
15 paragraph (a).

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

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

19       645B.620 1. Whether or not a complaint has been filed, the  
20 Commissioner shall investigate a mortgage broker , *mortgage agent*  
21 or other person if, for any reason, it appears that:

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

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

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

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

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

43       (b) The Attorney General shall, if appropriate:

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



- 1 (2) Bring a civil action to:
- 2 (I) Enjoin the mortgage broker , *mortgage agent* or other
- 3 person from engaging in the conduct, operating the business or
- 4 committing the violation; and
- 5 (II) Enjoin any other person who has encouraged,
- 6 facilitated, aided or participated in the conduct, the operation of the
- 7 business or the commission of the violation, or who is likely to
- 8 engage in such acts, from engaging in or continuing to engage in
- 9 such acts.
- 10 3. If the Attorney General brings a civil action pursuant to
- 11 subsection 2, the district court of any county of this state is hereby
- 12 vested with the jurisdiction in equity to enjoin the conduct, the
- 13 operation of the business or the commission of the violation and
- 14 may grant any injunctions that are necessary to prevent and restrain
- 15 the conduct, the operation of the business or the commission of the
- 16 violation. During the pendency of the proceedings before the district
- 17 court:
- 18 (a) The court may issue any temporary restraining orders as may
- 19 appear to be just and proper;
- 20 (b) The findings of the Commissioner shall be deemed to be
- 21 prima facie evidence and sufficient grounds, in the discretion of the
- 22 court, for the ex parte issuance of a temporary restraining order; and
- 23 (c) The Attorney General may apply for and on due showing is
- 24 entitled to have issued the court's subpoena requiring forthwith the
- 25 appearance of any person to:
- 26 (1) Produce any documents, books and records as may
- 27 appear necessary for the hearing of the petition; and
- 28 (2) Testify and give evidence concerning the conduct
- 29 complained of in the petition.
- 30 **Sec. 45.** NRS 645B.670 is hereby amended to read as follows:
- 31 645B.670 Except as otherwise provided in NRS 645B.690:
- 32 1. For each violation committed by an applicant ~~for~~ *for a*
- 33 *license issued pursuant to this chapter*, whether or not he is issued
- 34 a license, the Commissioner may impose upon the applicant an
- 35 administrative fine of not more than \$10,000, if the applicant:
- 36 (a) Has knowingly made or caused to be made to the
- 37 Commissioner any false representation of material fact;
- 38 (b) Has suppressed or withheld from the Commissioner any
- 39 information which the applicant possesses and which, if submitted
- 40 by him, would have rendered the applicant ineligible to be licensed
- 41 pursuant to the provisions of this chapter; or
- 42 (c) Has violated any provision of this chapter, a regulation
- 43 adopted pursuant to this chapter or an order of the Commissioner in
- 44 completing and filing his application for a license or during the
- 45 course of the investigation of his application for a license.



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- 1       2. For each violation committed by a licensee, the  
2 Commissioner may impose upon the licensee an administrative fine  
3 of not more than \$10,000, may suspend, revoke or place conditions  
4 upon his license, or may do both, if the licensee, whether or not  
5 acting as such:
- 6       (a) Is insolvent;
- 7       (b) Is grossly negligent or incompetent in performing any act for  
8 which he is required to be licensed pursuant to the provisions of this  
9 chapter;
- 10       (c) Does not conduct his business in accordance with law or has  
11 violated any provision of this chapter, a regulation adopted pursuant  
12 to this chapter or an order of the Commissioner;
- 13       (d) Is in such financial condition that he cannot continue in  
14 business with safety to his customers;
- 15       (e) Has made a material misrepresentation in connection with  
16 any transaction governed by this chapter;
- 17       (f) Has suppressed or withheld from a client any material facts,  
18 data or other information relating to any transaction governed by the  
19 provisions of this chapter which the licensee knew or, by the  
20 exercise of reasonable diligence, should have known;
- 21       (g) Has knowingly made or caused to be made to the  
22 Commissioner any false representation of material fact or has  
23 suppressed or withheld from the Commissioner any information  
24 which the licensee possesses and which, if submitted by him, would  
25 have rendered the licensee ineligible to be licensed pursuant to the  
26 provisions of this chapter;
- 27       (h) Has failed to account to persons interested for all money  
28 received for a trust account;
- 29       (i) Has refused to permit an examination by the Commissioner  
30 of his books and affairs or has refused or failed, within a reasonable  
31 time, to furnish any information or make any report that may be  
32 required by the Commissioner pursuant to the provisions of this  
33 chapter or a regulation adopted pursuant to this chapter;
- 34       (j) Has been convicted of, or entered a plea of nolo contendere  
35 to, a felony or any crime involving fraud, misrepresentation or  
36 moral turpitude;
- 37       (k) Has refused or failed to pay, within a reasonable time, any  
38 fees, assessments, costs or expenses that the licensee is required to  
39 pay pursuant to this chapter or a regulation adopted pursuant to this  
40 chapter;
- 41       (l) Has failed to satisfy a claim made by a client which has been  
42 reduced to judgment;
- 43       (m) Has failed to account for or to remit any money of a client  
44 within a reasonable time after a request for an accounting or  
45 remittal;



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1 (n) Has commingled the money or other property of a client  
2 with his own or has converted the money or property of others to his  
3 own use;

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

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

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

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

13 (s) Has employed a person as a mortgage agent or authorized a  
14 person to be associated with the licensee as a mortgage agent at a  
15 time when the licensee knew or, in light of all the surrounding facts  
16 and circumstances, reasonably should have known that the person:

17 (1) Had been convicted of, or entered a plea of nolo  
18 contendere to, a felony or any crime involving fraud,  
19 misrepresentation or moral turpitude; or

20 (2) Had a financial services license or registration suspended  
21 or revoked within the immediately preceding 10 years; or

22 (t) Has not conducted verifiable business as a mortgage broker  
23 for 12 consecutive months, except in the case of a new applicant.  
24 The Commissioner shall determine whether a mortgage broker is  
25 conducting business by examining the monthly reports of activity  
26 submitted by the licensee or by conducting an examination of the  
27 licensee.

28 **Sec. 46.** NRS 645B.680 is hereby amended to read as follows:

29 645B.680 1. If the Commissioner receives a copy of a court  
30 order issued pursuant to NRS 425.540 that provides for the  
31 suspension of all professional, occupational and recreational  
32 licenses, certificates and permits issued to a person who is the  
33 holder of a license as a mortgage broker ~~or~~ *or mortgage agent*, the  
34 Commissioner shall deem the license issued to that person to be  
35 suspended at the end of the 30th day after the date on which the  
36 court order was issued unless the Commissioner receives a letter  
37 issued to the holder of the license by the district attorney or other  
38 public agency pursuant to NRS 425.550 stating that the holder of the  
39 license has complied with the subpoena or warrant or has satisfied  
40 the arrearage pursuant to NRS 425.560.

41 2. The Commissioner shall reinstate a license as a mortgage  
42 broker *or mortgage agent* that has been suspended by a district  
43 court pursuant to NRS 425.540 if the Commissioner receives a letter  
44 issued by the district attorney or other public agency pursuant to  
45 NRS 425.550 to the person whose license was suspended stating



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1 that the person whose license was suspended has complied with the  
2 subpoena or warrant or has satisfied the arrearage pursuant to  
3 NRS 425.560.

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

5 645B.690 1. If a person offers or provides any of the services  
6 of a mortgage broker *or mortgage agent* or otherwise engages in,  
7 carries on or holds himself out as engaging in or carrying on the  
8 business of a mortgage broker *or mortgage agent* and, at the time:

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

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

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

16 2. ~~If a person is exempt from the provisions of this chapter~~  
17 ~~pursuant to subsection 6 of NRS 645B.015 and the person, while~~  
18 ~~exempt, maintains, offers to maintain or holds himself out as~~  
19 ~~maintaining any accounts described in subsection 1 of NRS~~  
20 ~~645B.175 or otherwise engages in, offers to engage in or holds~~  
21 ~~himself out as engaging in any activity that would remove the~~  
22 ~~person from the exemption set forth in subsection 6 of NRS~~  
23 ~~645B.015, the Commissioner shall impose upon the person an~~  
24 ~~administrative fine of not more than \$10,000 for each violation and~~  
25 ~~the Commissioner shall revoke the person's exemption. If the~~  
26 ~~Commissioner revokes an exemption pursuant to this subsection, the~~  
27 ~~person may not again be granted the same or a similar exemption~~  
28 ~~from the provisions of this chapter. The person may apply for a~~  
29 ~~license pursuant to this chapter unless otherwise prohibited by~~  
30 ~~specific statute.~~

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

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

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

44 (c) Conduct a hearing to determine whether the mortgage broker  
45 is conducting business in an unsafe and injurious manner that may



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1 result in danger to the public and whether it is necessary for the  
2 Commissioner to take possession of the property of the mortgage  
3 broker pursuant to NRS 645B.630.

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

5 645B.900 It is unlawful for any person to offer or provide any  
6 of the services of a mortgage broker *or mortgage agent* or otherwise  
7 to engage in, carry on or hold himself out as engaging in or carrying  
8 on the business of a mortgage broker *or mortgage agent* without  
9 first obtaining ~~{a license as a mortgage broker}~~ *the applicable*  
10 *license issued* pursuant to this chapter, unless the person:

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

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

15 645E.020 "Applicant" means a person who applies for  
16 licensure as a mortgage ~~{company}~~ *banker* pursuant to this chapter.

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

18 645E.050 "Commissioner" means the Commissioner of  
19 ~~{Financial Institutions}~~ *Mortgage Lending*.

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

21 645E.070 "Division" means the Division of ~~{Financial~~  
22 ~~Institutions}~~ *Mortgage Lending* of the Department of Business and  
23 Industry.

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

25 645E.090 "Licensee" means a person who is licensed as a  
26 mortgage ~~{company}~~ *banker* pursuant to this chapter.

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

28 645E.100 1. "Mortgage ~~{company}~~ *banker*" means any of  
29 the following:

30 (a) A person who, directly or indirectly:

31 (1) Holds himself out as being able to:

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

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

35 (2) Does not engage in any other act or transaction described  
36 in the definition of "mortgage broker," as set forth in NRS  
37 645B.0127, unless the person is also licensed as a mortgage broker  
38 pursuant to chapter 645B of NRS.

39 (b) A person who, directly or indirectly:

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

43 (2) Does not engage in any other act or transaction described  
44 in the definition of "mortgage broker," as set forth in NRS



1 645B.0127, unless the person is also licensed as a mortgage broker  
2 pursuant to chapter 645B of NRS.

3 2. For the purposes of this section, a person does not make a  
4 loan secured by a lien on real property using his own money if any  
5 portion of the money that is used to make the loan is provided by  
6 another person who acquires ownership of or a beneficial interest in  
7 the loan.

8 **Sec. 53.** NRS 645E.130 is hereby amended to read as follows:  
9 645E.130 The provisions of this chapter do not:

10 1. Limit any statutory or common-law right of a person to  
11 bring a civil action against a mortgage ~~company~~ *banker* for any  
12 act or omission involved in the transaction of business by or on  
13 behalf of the mortgage ~~company~~ *banker*;

14 2. Limit the right of the State to punish a person for the  
15 violation of any law, ordinance or regulation; or

16 3. Establish a basis for a person to bring a civil action against  
17 the State or its officers or employees for any act or omission in  
18 carrying out the provisions of this chapter, including, without  
19 limitation, any act or omission relating to the disclosure of  
20 information or the failure to disclose information pursuant to the  
21 provisions of this chapter.

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

23 645E.150 Except as otherwise provided in NRS 645E.160, the  
24 provisions of this chapter do not apply to:

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

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

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

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

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

44 6. ~~Any firm or corporation~~





1 ~~—(a) Whose principal purpose or activity is lending money on real~~  
2 ~~property which is secured by a mortgage;~~  
3 ~~—(b) Approved by the Federal National Mortgage Association as~~  
4 ~~a seller and servicer; and~~  
5 ~~—(c) Approved by the Department of Housing and Urban~~  
6 ~~Development and the Department of Veterans Affairs.~~  
7 ~~—7.]~~ Any person doing any act under an order of any court.  
8 ~~[8.]~~ 7. Any one natural person, or husband and wife, who  
9 provides money for investment in loans secured by a lien on real  
10 property, on his own account, unless such a person makes a loan  
11 secured by a lien on real property using his own money and assigns  
12 all or a part of his interest in the loan to another person, other than  
13 his spouse or child, within 5 years after the date on which the loan is  
14 made or the deed of trust is recorded, whichever occurs later.  
15 ~~[9.]~~ 8. Agencies of the United States and of this state and its  
16 political subdivisions, including the public employees' retirement  
17 system.  
18 ~~[10.]~~ 9. A seller of real property who offers credit secured by a  
19 mortgage of the property sold.  
20 **Sec. 55.** NRS 645E.160 is hereby amended to read as follows:  
21 645E.160 1. A person who claims an exemption from the  
22 provisions of this chapter pursuant to subsection 1 ~~[or 6]~~ of NRS  
23 645E.150 must:  
24 (a) File a written application for a certificate of exemption with  
25 the Office of the Commissioner;  
26 (b) Pay the fee required pursuant to NRS 645E.280; and  
27 (c) Include with the written application satisfactory proof that  
28 the person meets the requirements of subsection 1 ~~[or 6]~~ of  
29 NRS 645E.150.  
30 2. The Commissioner may require a person who claims an  
31 exemption from the provisions of this chapter pursuant to  
32 subsections 2 to ~~[5, inclusive, or 7 to 10.]~~ 9, inclusive, of NRS  
33 645E.150 to:  
34 (a) File a written application for a certificate of exemption with  
35 the Office of the Commissioner;  
36 (b) Pay the fee required pursuant to NRS 645E.280; and  
37 (c) Include with the written application satisfactory proof that  
38 the person meets the requirements of at least one of those  
39 exemptions.  
40 3. A certificate of exemption expires automatically if, at any  
41 time, the person who claims the exemption no longer meets the  
42 requirements of at least one exemption set forth in the provisions of  
43 NRS 645E.150.  
44 4. If a certificate of exemption expires automatically pursuant  
45 to this section, the person shall not provide any of the services of a



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1 mortgage ~~company~~ banker or otherwise engage in, carry on or  
2 hold himself out as engaging in or carrying on the business of a  
3 mortgage ~~company~~ banker, unless the person applies for and is  
4 issued:

5 (a) A license as a mortgage ~~company~~ banker pursuant to this  
6 chapter; or

7 (b) Another certificate of exemption.

8 5. The Commissioner may impose upon a person who is  
9 required to apply for a certificate of exemption or who holds a  
10 certificate of exemption an administrative fine of not more than  
11 \$10,000 for each violation that he commits, if the person:

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

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

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

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

23 645E.200 1. A person who wishes to be licensed as a  
24 mortgage ~~company~~ banker must file a written application for a  
25 license with the Office of the Commissioner and pay the fee  
26 required pursuant to NRS 645E.280. An application for a license as  
27 a mortgage ~~company~~ banker must:

28 (a) Be verified.

29 (b) State the name, residence address and business address of  
30 the applicant and the location of each principal office and branch  
31 office at which the mortgage ~~company~~ banker will conduct  
32 business in this state, including, without limitation, any office or  
33 other place of business located outside this state from which the  
34 mortgage ~~company~~ banker will conduct business in this state.

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

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

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

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

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



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1 (h) Include any other information required pursuant to the  
2 regulations adopted by the Commissioner or an order of the  
3 Commissioner.

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

7 3. Except as otherwise provided in this chapter, the  
8 Commissioner shall issue a license to an applicant as a mortgage  
9 ~~company~~ *banker* if:

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

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

15 (1) Has a good reputation for honesty, trustworthiness and  
16 integrity and displays competence to transact the business of a  
17 mortgage ~~company~~ *banker* in a manner which safeguards the  
18 interests of the general public. The applicant must submit  
19 satisfactory proof of these qualifications to the Commissioner.

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

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

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

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

33 (6) Has not violated any provision of this chapter or chapter  
34 645B of NRS, a regulation adopted pursuant thereto or an order of  
35 the Commissioner.

36 4. If an applicant is a partnership, corporation or  
37 unincorporated association, the Commissioner may refuse to issue a  
38 license to the applicant if any member of the partnership or any  
39 officer or director of the corporation or unincorporated association  
40 has committed any act or omission that would be cause for refusing  
41 to issue a license to a natural person.

42 5. A person may apply for a license for an office or other place  
43 of business located outside this state from which the applicant will  
44 conduct business in this state if the applicant or a subsidiary or  
45 affiliate of the applicant has a license issued pursuant to this chapter



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1 for an office or other place of business located in this state and if the  
2 applicant submits with the application for a license a statement  
3 signed by the applicant which states that the applicant agrees to:

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

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

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

14 **Sec. 57.** NRS 645E.210 is hereby amended to read as follows:

15 645E.210 1. In addition to the requirements set forth in NRS  
16 645E.200 and 645E.280, a natural person who applies for the  
17 issuance or renewal of a license as a mortgage ~~company~~ *banker*  
18 shall submit to the Commissioner:

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

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

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

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

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

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

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

38 (b) Indicates on the statement submitted pursuant to subsection  
39 1 that he is subject to a court order for the support of a child and is  
40 not in compliance with the order or a plan approved by the district  
41 attorney or other public agency enforcing the order for the  
42 repayment of the amount owed pursuant to the order.

43 4. If an applicant indicates on the statement submitted pursuant  
44 to subsection 1 that he is subject to a court order for the support of a  
45 child and is not in compliance with the order or a plan approved by



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1 the district attorney or other public agency enforcing the order for  
2 the repayment of the amount owed pursuant to the order, the  
3 Commissioner shall advise the applicant to contact the district  
4 attorney or other public agency enforcing the order to determine the  
5 actions that the applicant may take to satisfy the arrearage.

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

7 645E.220 1. A mortgage ~~company~~ banker shall post each  
8 license in a conspicuous place in the office for which the license has  
9 been issued.

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

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

14 645E.230 1. A license entitles a licensee to engage only in  
15 the activities authorized by this chapter.

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

18 (a) Holding a license as a mortgage broker pursuant to chapter  
19 645B of NRS; or

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

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

24 645E.280 1. A license issued to a mortgage ~~company~~  
25 banker pursuant to this chapter expires each year on December 31,  
26 unless it is renewed. To renew a license, the licensee must submit to  
27 the Commissioner on or before December 31 of each year:

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

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

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

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

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

40 (c) A reinstatement fee of \$200.

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



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

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

4 4. If the person fails to submit any item required pursuant to  
5 subsection 3 to the Commissioner on or before December 31 of any  
6 year, the certificate of exemption is cancelled. Except as otherwise  
7 provided in NRS 645E.160, the Commissioner may reinstate a  
8 cancelled certificate of exemption if the person submits to the  
9 Commissioner:

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

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

13 (c) A reinstatement fee of \$100.

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

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

23 (b) To be issued a license, \$1,000 for the principal office and  
24 \$60 for each branch office.

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

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

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

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

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

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

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

39 645E.300 1. Subject to the administrative control of the  
40 Director of the Department of Business and Industry, the  
41 Commissioner shall exercise general supervision and control over  
42 mortgage ~~[companies]~~ *bankers* doing business in this state.

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



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

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

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

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

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

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

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

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

26 645E.320 Each mortgage ~~{company}~~ *banker* shall pay the  
27 assessment levied pursuant to ~~[NRS 658.055]~~ *section 12 of this act*  
28 and cooperate fully with the audits and examinations performed  
29 pursuant thereto.

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

31 645E.350 1. Each mortgage ~~{company}~~ *banker* shall keep  
32 and maintain at all times at each location where the mortgage  
33 ~~{company}~~ *banker* conducts business in this state complete and  
34 suitable records of all mortgage transactions made by the mortgage  
35 ~~{company}~~ *banker* at that location. Each mortgage ~~{company}~~  
36 *banker* shall also keep and maintain at all times at each such  
37 location all original books, papers and data, or copies thereof,  
38 clearly reflecting the financial condition of the business of the  
39 mortgage ~~{company}~~ *banker*.

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

43 (a) Specify the volume of loans made by the mortgage  
44 ~~{company}~~ *banker* for the month or state that no loans were made in  
45 that month;





1 (b) Include any information required pursuant to the regulations  
2 adopted by the Commissioner; and

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

5 3. The Commissioner may adopt regulations prescribing  
6 accounting procedures for mortgage ~~companies~~ *bankers* handling  
7 trust accounts and the requirements for keeping records relating to  
8 such accounts.

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

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

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

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

21 **Sec. 64.** NRS 645E.360 is hereby amended to read as follows:

22 645E.360 1. Except as otherwise provided in this section, not  
23 later than 60 days after the last day of each fiscal year for a  
24 mortgage ~~company~~ *banker*, the mortgage ~~company~~ *banker* shall  
25 submit to the Commissioner a financial statement that:

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

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

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

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

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

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

44 645E.370 1. Except as otherwise provided in this section or  
45 by specific statute, all papers, documents, reports and other written



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1 instruments filed with the Commissioner pursuant to this chapter are  
2 open to public inspection.

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

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

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

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

11 645E.390 1. The Commissioner must be notified of a transfer  
12 of 5 percent or more of the outstanding voting stock of a mortgage  
13 ~~company~~ banker and must approve a transfer of voting stock of a  
14 mortgage ~~company~~ banker which constitutes a change of control.

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

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

32 4. As used in this section, "change of control" means:

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

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

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

39 645E.420 1. Except as otherwise provided in subsection 3,  
40 the amount of any advance fee, salary, deposit or money paid to any  
41 mortgage ~~company~~ banker or other person to obtain a loan  
42 secured by a lien on real property must be placed in escrow pending  
43 completion of the loan or a commitment for the loan.

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



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

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

6 3. Advance payments to cover reasonably estimated costs paid  
7 to third persons are excluded from the provisions of subsections 1  
8 and 2 if the person making them first signs a written agreement  
9 which specifies the estimated costs by item and the estimated  
10 aggregate cost, and which recites that money advanced for costs will  
11 not be refunded. If an itemized service is not performed and the  
12 estimated cost thereof is not refunded, the recipient of the advance  
13 payment is subject to the penalties provided in NRS 645E.960.

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

15 645E.430 1. All money paid to a mortgage ~~company~~  
16 *banker* for payment of taxes or insurance premiums on real property  
17 which secures any loan made by the mortgage ~~company~~ *banker*  
18 must be deposited in an insured depository financial institution and  
19 kept separate, distinct and apart from money belonging to the  
20 mortgage ~~company~~ *banker*. Such money, when deposited, is to be  
21 designated as an "impound trust account" or under some other  
22 appropriate name indicating that the accounts are not the money of  
23 the mortgage ~~company~~ *banker*.

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

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

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

34 5. A mortgage ~~company~~ *banker* shall:

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

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

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

43 (2) That the debtor may specify the disposition of the excess  
44 money within 20 days after receipt of the notice. If the debtor fails  
45 to specify such a disposition within that time, the mortgage



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1 ~~{company}~~ *banker* shall maintain the excess money in the  
2 account.

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

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

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

11 645E.440 1. Money in an impound trust account is not  
12 subject to execution or attachment on any claim against the  
13 mortgage ~~{company}~~ *banker*.

14 2. It is unlawful for a mortgage ~~{company}~~ *banker* knowingly  
15 to keep or cause to be kept any money in a depository financial  
16 institution under the heading of “impound trust account” or any  
17 other name designating such money as belonging to the debtors of  
18 the mortgage ~~{company}~~ *banker*, unless the money has been paid to  
19 the mortgage ~~{company}~~ *banker* by a debtor pursuant to NRS  
20 645E.430 and is being held in trust by the mortgage ~~{company}~~  
21 *banker* pursuant to the provisions of that section.

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

23 645E.470 1. If a person is required to make a payment to a  
24 mortgage ~~{company}~~ *banker* pursuant to the terms of a loan secured  
25 by a lien on real property, the mortgage ~~{company}~~ *banker* may not  
26 charge the person a late fee, an additional amount of interest or any  
27 other penalty in connection with that payment if the payment is  
28 delivered to the mortgage ~~{company}~~ *banker* before 5 p.m. on:

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

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

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

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

41 645E.620 1. Whether or not a complaint has been filed, the  
42 Commissioner may investigate a mortgage ~~{company}~~ *banker* or  
43 other person if, for any reason, it appears that:

44 (a) The mortgage ~~{company}~~ *banker* is conducting business in  
45 an unsafe and injurious manner or in violation of any provision of



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1 this chapter, a regulation adopted pursuant to this chapter or an  
2 order of the Commissioner;

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

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

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

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

20 (b) Bring a civil action to:

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

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

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

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

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

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

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



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

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

4 645E.630 1. In addition to any other action that is permitted  
5 pursuant to this chapter, if the Commissioner has reasonable cause  
6 to believe that:

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

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

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

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

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

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

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

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

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

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

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

39 645E.640 1. If the Commissioner takes possession of the  
40 property of a mortgage ~~company~~ *banker* pursuant to NRS  
41 645E.630, the licensee, officers, directors, partners, associates or  
42 stockholders of the mortgage ~~company~~ *banker* may, within 60  
43 days after the date on which the Commissioner takes possession of  
44 the property, make good any deficit in the assets or capital of the



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1 mortgage ~~company~~ *banker* or remedy any unsafe and injurious  
2 conditions or practices of the mortgage ~~company~~ *banker*.

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

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

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

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

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

23 645E.680 1. If the Commissioner receives a copy of a court  
24 order issued pursuant to NRS 425.540 that provides for the  
25 suspension of all professional, occupational and recreational  
26 licenses, certificates and permits issued to a person who is the  
27 holder of a license as a mortgage ~~company~~ *banker*, the  
28 Commissioner shall deem the license issued to that person to be  
29 suspended at the end of the 30th day after the date on which the  
30 court order was issued unless the Commissioner receives a letter  
31 issued to the holder of the license by the district attorney or other  
32 public agency pursuant to NRS 425.550 stating that the holder of the  
33 license has complied with the subpoena or warrant or has satisfied  
34 the arrearage pursuant to NRS 425.560.

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

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

44 645E.900 It is unlawful for any person to offer or provide any  
45 of the services of a mortgage ~~company~~ *banker* or otherwise to





1 engage in, carry on or hold himself out as engaging in or carrying on  
2 the business of a mortgage ~~{company}~~ *banker* without first  
3 obtaining a license as a mortgage ~~{company}~~ *banker* pursuant to this  
4 chapter, unless the person:

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

7 **Sec. 76.** NRS 645E.910 is hereby amended to read as follows:  
8 645E.910 It is unlawful for any foreign corporation,  
9 association or business trust to conduct any business as a mortgage  
10 ~~{company}~~ *banker* within this state, unless it:

- 11 1. Qualifies under chapter 80 of NRS; and
- 12 2. Complies with the provisions of this chapter or, if it claims  
13 an exemption from the provisions of this chapter, complies with the  
14 requirements for that exemption.

15 **Sec. 77.** NRS 40.750 is hereby amended to read as follows:  
16 40.750 1. As used in this section, “financial institution”  
17 means a bank, mortgage broker, mortgage ~~{company}~~ *banker*,  
18 credit union, thrift company or savings and loan association, or any  
19 subsidiary or affiliate of a bank, mortgage broker, mortgage  
20 ~~{company}~~ *banker*, credit union, thrift company or savings and loan  
21 association, which is authorized to transact business in this state and  
22 which makes or acquires, in whole or in part, any loan of the kind  
23 described in subsection 2.

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

31 3. In addition to its actual damages, a financial institution may  
32 recover exemplary or punitive damages in an amount not to exceed  
33 50 percent of the actual damages awarded.

34 4. The cause of action provided by this section:

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

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



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

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

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

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

9     90.530 The following transactions are exempt from NRS  
10 90.460 and 90.560:

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

13     2. A nonissuer transaction in an outstanding security if the  
14 issuer of the security has a class of securities subject to registration  
15 under section 12 of the Securities Exchange Act of 1934, 15 U.S.C.  
16 § 78l, and has been subject to the reporting requirements of section  
17 13 or 15(c) of the Securities Exchange Act of 1934, 15 U.S.C. §§  
18 78m and 78o(d), for not less than 90 days next preceding the  
19 transaction, or has filed and maintained with the Administrator for  
20 not less than 90 days preceding the transaction information, in such  
21 form as the Administrator, by regulation, specifies, substantially  
22 comparable to the information the issuer would be required to file  
23 under section 12(b) or 12(g) of the Securities Exchange Act of 1934,  
24 15 U.S.C. §§ 78l(b) and 78l(g), were the issuer to have a class of its  
25 securities registered under section 12 of the Securities Exchange Act  
26 of 1934, 15 U.S.C. § 78l, and paid a fee with the filing of \$150.

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

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

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

34     (c) At the time of the transaction, a recognized securities manual  
35 designated by the Administrator by regulation or order contains the  
36 names of the issuer's officers and directors, a statement of the  
37 financial condition of the issuer as of a date within the preceding 18  
38 months, and a statement of income or operations for each of the last  
39 2 years next preceding the date of the statement of financial  
40 condition, or for the period as of the date of the statement of  
41 financial condition if the period of existence is less than 2 years;

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



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- 1 (e) At the time of the transaction, the issuer of the security has a  
2 class of equity security listed on the New York Stock Exchange,  
3 American Stock Exchange or other exchange designated by the  
4 Administrator, or on the National Market System of the National  
5 Association of Securities Dealers Automated Quotation System. The  
6 requirements of this paragraph do not apply if:
- 7 (1) The security has been outstanding for at least 180 days;  
8 (2) The issuer of the security is actually engaged in business  
9 and is not developing his business, in bankruptcy or in receivership;  
10 and  
11 (3) The issuer of the security has been in continuous  
12 operation for at least 5 years.
- 13 4. A nonissuer transaction in a security that has a fixed  
14 maturity or a fixed interest or dividend provision if there has been  
15 no default during the current fiscal year or within the 3 preceding  
16 years, or during the existence of the issuer, and any predecessors if  
17 less than 3 years, in the payment of principal, interest or dividends  
18 on the security.
- 19 5. A nonissuer transaction effected by or through a registered  
20 broker-dealer pursuant to an unsolicited order or offer to purchase.
- 21 6. A transaction between the issuer or other person on whose  
22 behalf the offering of a security is made and an underwriter, or a  
23 transaction among underwriters.
- 24 7. A transaction in a bond or other evidence of indebtedness  
25 secured by a real estate mortgage, deed of trust, personal property  
26 security agreement, or by an agreement for the sale of real estate or  
27 personal property, if the entire mortgage, deed of trust or agreement,  
28 together with all the bonds or other evidences of indebtedness  
29 secured thereby, is offered and sold as a unit.
- 30 8. A transaction by an executor, administrator, sheriff, marshal,  
31 receiver, trustee in bankruptcy, guardian or conservator.
- 32 9. A transaction executed by a bona fide secured party without  
33 the purpose of evading this chapter.
- 34 10. An offer to sell or sale of a security to a financial or  
35 institutional investor or to a broker-dealer.
- 36 11. Except as otherwise provided in this subsection, a  
37 transaction pursuant to an offer to sell securities of an issuer if:
- 38 (a) The transaction is part of an issue in which there are not  
39 more than 25 purchasers in this state, other than those designated in  
40 subsection 10, during any 12 consecutive months;
- 41 (b) No general solicitation or general advertising is used in  
42 connection with the offer to sell or sale of the securities;
- 43 (c) No commission or other similar compensation is paid or  
44 given, directly or indirectly, to a person, other than a broker-dealer



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1 licensed or not required to be licensed under this chapter, for  
2 soliciting a prospective purchaser in this state; and

3 (d) One of the following conditions is satisfied:

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

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

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

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

19 (a) No commission or other similar compensation is paid or  
20 given, directly or indirectly, for soliciting a prospective subscriber;

21 (b) No public advertising or general solicitation is used in  
22 connection with the offer to sell or sale;

23 (c) The number of offers does not exceed 50;

24 (d) The number of subscribers does not exceed 10; and

25 (e) No payment is made by a subscriber.

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

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



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1 (a) No commission or other similar compensation other than a  
2 standby commission, is paid or given, directly or indirectly, for  
3 soliciting a security holder in this state; or

4 (b) The issuer first files a notice specifying the terms of the offer  
5 to sell, together with a nonrefundable fee of \$150, and the  
6 Administrator does not by order disallow the exemption within the  
7 next 5 full business days.

8 15. A transaction involving an offer to sell, but not a sale, of a  
9 security not exempt from registration under the Securities Act of  
10 1933, 15 U.S.C. §§ 77a et seq., if:

11 (a) A registration or offering statement or similar document as  
12 required under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq.,  
13 has been filed, but is not effective;

14 (b) A registration statement, if required, has been filed under  
15 this chapter, but is not effective; and

16 (c) No order denying, suspending or revoking the effectiveness  
17 of registration, of which the offeror is aware, has been entered by  
18 the Administrator or the Securities and Exchange Commission, and  
19 no examination or public proceeding that may culminate in that kind  
20 of order is known by the offeror to be pending.

21 16. A transaction involving an offer to sell, but not a sale, of a  
22 security exempt from registration under the Securities Act of 1933,  
23 15 U.S.C. §§ 77a et seq., if:

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

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

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

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

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



1 Administrator does not, by order, disallow the exemption within the  
2 next 10 days.

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

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

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

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

14 19. A transaction involving the offer to sell or sale of one or  
15 more promissory notes directly secured by a first lien on a single  
16 parcel of real estate or participating interests in the notes, if the  
17 notes and interests are originated by a mortgagee approved by the  
18 Secretary of Housing and Urban Development under sections 203  
19 and 211 of the National Housing Act, 12 U.S.C. §§ 1709 and 1715b,  
20 and are offered or sold, subject to the conditions specified in  
21 subsection 18, to a depository institution or insurance company, the  
22 Federal Home Loan Mortgage Corporation, the Federal National  
23 Mortgage Association or the Government National Mortgage  
24 Association.

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

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

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

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

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

38 (a) A mortgage ~~company~~ *banker* licensed pursuant to chapter  
39 645E of NRS to engage in those transactions; or

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

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

44 *1. A division, office, authority, commission, board or other*  
45 *entity set forth in NRS 232.510 may adopt regulations to establish*



1 *procedures to conduct business electronically with persons who*  
2 *have business with that division, office, authority, commission,*  
3 *board or other entity. The regulations may include, without*  
4 *limitation, the establishment of fees to cover the costs to the*  
5 *division, office, authority, commission, board or other entity of*  
6 *conducting business electronically.*

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

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

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

19 232.510 1. The Department of Business and Industry is  
20 hereby created.

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

- 22 (a) Consumer Affairs Division.
- 23 (b) Division of Financial Institutions.
- 24 (c) Housing Division.
- 25 (d) Manufactured Housing Division.
- 26 (e) Real Estate Division.
- 27 (f ) Division of Insurance.
- 28 (g) Division of Industrial Relations.
- 29 (h) Office of Labor Commissioner.
- 30 (i) Taxicab Authority.
- 31 (j) Nevada Athletic Commission.
- 32 (k) Office of the Nevada Attorney for Injured Workers.
- 33 (l) Transportation Services Authority.
- 34 (m) *Division of Mortgage Lending.*

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

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

41 232.520 The Director:

42 1. Shall appoint a chief or executive director, or both of them,  
43 of each of the divisions, offices, commissions, boards, agencies or  
44 other entities of the Department, unless the authority to appoint such  
45 a chief or executive director, or both of them, is expressly vested in





1 another person, board or commission by a specific statute. In  
2 making the appointments, the Director may obtain lists of qualified  
3 persons from professional organizations, associations or other  
4 groups recognized by the Department, if any. The Chief of the  
5 Consumer Affairs Division is the Commissioner of Consumer  
6 Affairs, the Chief of the Division of Financial Institutions is the  
7 Commissioner of Financial Institutions, the Chief of the Housing  
8 Division is the Administrator of the Housing Division, the Chief of  
9 the Manufactured Housing Division is the Administrator of the  
10 Manufactured Housing Division, the Chief of the Real Estate  
11 Division is the Real Estate Administrator, the Chief of the Division  
12 of Insurance is the Commissioner of Insurance, the Chief of the  
13 Division of Industrial Relations is the Administrator of the Division  
14 of Industrial Relations, the Chief of the Office of Labor  
15 Commissioner is the Labor Commissioner, the Chief of the Taxicab  
16 Authority is the Taxicab Administrator, the Chief of the  
17 Transportation Services Authority is the Chairman of the Authority,  
18 *the Chief of the Division of Mortgage Lending is the*  
19 *Commissioner of Mortgage Lending* and the chief of any other  
20 entity of the Department has the title specified by the Director,  
21 unless a different title is specified by a specific statute.

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

34 3. May:

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

44 (b) Provide coordination among the divisions and other entities  
45 within the Department, in a manner which does not encroach upon



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1 their statutory powers and duties, as they adopt and enforce  
2 regulations, execute agreements, purchase goods, services or  
3 equipment, prepare legislative requests and lease or use office space.

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

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

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

18 6. May, except as otherwise provided by specific statute, adopt  
19 by regulation a schedule of fees and deposits to be charged in  
20 connection with the programs administered by him pursuant to  
21 chapters 348A and 349 of NRS. Except as otherwise provided by  
22 specific statute, the amount of any such fee or deposit must not  
23 exceed 2 percent of the principal amount of the financing.

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

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

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

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

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



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1     **Sec. 82.** NRS 232.545 is hereby amended to read as follows:

2     232.545 1. An Investigative Account for Financial  
3 Institutions is hereby created in the State General Fund. The  
4 Account consists of money which is:

5       (a) Received by the Department of Business and Industry in  
6 connection with the licensing of financial institutions and the  
7 investigation of persons associated with those institutions; and

8       (b) Required by law to be placed therein.

9     2. The Director of the Department of Business and Industry or  
10 his designee may authorize expenditures from the Investigative  
11 Account to pay the expenses incurred:

12       (a) In investigating applications for licensing of financial  
13 institutions and in investigating persons associated with those  
14 institutions;

15       (b) In conducting special investigations relating to financial  
16 institutions and persons associated with those institutions; and

17       (c) In connection with mergers, consolidations, conversions,  
18 receiverships and liquidations of financial institutions.

19     3. As used in this section, "financial institution" means an  
20 institution for which licensing or registration is required by the  
21 provisions of titles 55 and 56 and chapters 604 ~~[-645B, 645E]~~ and  
22 649 of NRS.

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

24     604.090 1. Except as otherwise provided in subsection 2, it is  
25 unlawful to operate a check-cashing or deferred deposit service  
26 without being registered with the Commissioner.

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

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

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

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

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

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

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



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

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

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

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

10 675.040 This chapter does not apply to:

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

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

18 3. An employee benefit plan, as defined in 29 U.S.C. §  
19 1002(3), if the loan is made directly from money in the plan by the  
20 plan's trustee.

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

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

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

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

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

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

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

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

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

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

42 675.230 1. Except as otherwise provided in subsection 2, a  
43 licensee may not conduct the business of making loans under this  
44 chapter within any office, suite, room or place of business in which  
45 any other business is solicited or engaged in, except an insurance



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1 agency or notary public, or in association or conjunction with any  
2 other business, unless authority to do so is given by the  
3 Commissioner.

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

6 (a) A mortgage broker if:

7 (1) The licensee and the mortgage broker:

8 (I) Operate as separate legal entities;

9 (II) Maintain separate accounts, books and records;

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

11 (IV) Maintain separate licenses; and

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

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

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

18 (I) Operate as separate legal entities;

19 (II) Maintain separate accounts, books and records;

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

21 (IV) Maintain separate licenses; and

22 (2) The mortgage ~~company~~ *banker* is licensed by this state  
23 pursuant to chapter 645E of NRS and, if the mortgage ~~company~~  
24 *banker* is also licensed as a mortgage broker pursuant to chapter  
25 645B of NRS, does not receive money to acquire or repay loans or  
26 maintain trust accounts as provided by NRS 645B.175.

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

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

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

33 (b) Notwithstanding the provisions of section 28 of this act to  
34 the contrary, expires on a date between July 1, 2004, and June 30,  
35 2005, as specified in a written notice provided with the license to the  
36 mortgage agent. The Commissioner of Mortgage Lending shall  
37 provide various expiration dates for the licenses issued on or before  
38 July 1, 2004, as needed to allow for the efficient administration of  
39 the requirements of this act. The fee required for such a license that  
40 is effective for less than 1 year must be prorated in an appropriate  
41 manner as determined by the Commissioner of Mortgage Lending.

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

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



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

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

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

20     1. In preparing the reprint and supplements to the Nevada  
21 Revised Statutes, appropriately change any references to "mortgage  
22 company" to "mortgage banker."

23     2. In preparing supplements to the Nevada Administrative  
24 Code, appropriately change any references to "mortgage company"  
25 to "mortgage banker."

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

28     2. Sections 1 to 20, inclusive, 21.5 to 39, inclusive, and 41 to  
29 88, inclusive, of this act become effective upon passage and  
30 approval for the purposes of adopting regulations and performing  
31 any other preparatory administrative tasks that are necessary to carry  
32 out the provisions of this act, and:

33     (a) Sections 1 to 20, inclusive, 21.5 to 25, inclusive, 31, 32, 33,  
34 35, 36, 38, 39, 41, 42, 42.5, 45 and 48.5 to 88, inclusive, of this act  
35 become effective on July 1, 2003, for all other purposes.

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

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

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



- 1 (b) Are in arrears in the payment for the support of one or more  
2 children,  
3 are repealed by the Congress of the United States.  
4 4. Sections 21 and 40 of this act become effective on the date  
5 on which the provisions of 42 U.S.C. § 666 requiring each state to  
6 establish procedures under which the State has authority to withhold  
7 or suspend, or to restrict the use of professional, occupational and  
8 recreational licenses of persons who:  
9 (a) Have failed to comply with a subpoena or warrant relating to  
10 a proceeding to determine the paternity of a child or to establish or  
11 enforce an obligation for the support of a child; or  
12 (b) Are in arrears in the payment for the support of one or more  
13 children,  
14 are repealed by the Congress of the United States.

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### TEXT OF REPEALED SECTION

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**645B.0103 “Applicant” defined.** “Applicant” means a person who applies for licensure as a mortgage broker pursuant to this chapter.

