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SENATE BILL NO. 433—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE DIVISION OF MORTGAGE LENDING)

MARCH 29, 2005

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Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to mortgage lending.  
(BDR 54-380)

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

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

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AN ACT relating to mortgage lending; prohibiting the Division of Mortgage Lending of the Department of Business and Industry from issuing a license as a mortgage agent to a person unless he completes certain courses of instruction; setting forth the requirements for a course of continuing education to qualify as a certified course of continuing education for mortgage brokers, mortgage agents and mortgage bankers; requiring the holder of an escrow relating to a lien on real property to prepare a written record under certain circumstances; expanding the definitions of “mortgage agent” and “mortgage broker” to include certain persons; requiring an application for a license as a mortgage broker to include certain information regarding civil or criminal proceedings brought against the applicant; revising the circumstances under which the Commissioner of Mortgage Lending must issue a license to an applicant; increasing certain fees; setting forth the circumstances under which the Commissioner is not required to conduct the annual examination for mortgage brokers; and providing other matters properly relating thereto.



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

**Section 1.** Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 6, inclusive, of this act.

**Sec. 2.** *“Certified course of continuing education” means a course of continuing education which relates to the mortgage industry or mortgage transactions, meets the requirements of section 4 of this act and is certified by:*

*1. The National Association of Mortgage Brokers or its successor;*

*2. Any organization approved by the Commissioner by regulation;*

*3. The Division; or*

*4. An education committee appointed by the Commissioner.*

**Sec. 3.** *The Division shall not issue a license as a mortgage agent to a person unless the person has completed at least 30 hours of education in the following courses:*

*1. At least 10 hours of education in the review of the laws of this State;*

*2. At least 5 hours of education in ethics;*

*3. At least 4 hours of education in the Real Estate Settlement Procedures Act;*

*4. At least 4 hours of education in the Truth in Lending Act; and*

*5. At least 7 hours of education in loan origination, processing, appraisal and underwriting.*

**Sec. 4.** *1. A course of continuing education is not a certified course of continuing education unless:*

*(a) The course consists of at least 2 hours of education through distance learning or instruction in a classroom;*

*(b) The provider of the course issues a certified copy of the record of attendance, record of completion of the course or, if the provider is a college or university, a transcript to the person who attended the course that sets forth:*

*(1) The name of the provider of the course;*

*(2) The name of the person who attended the course;*

*(3) The number of hours of instruction;*

*(4) The date of completion of the course, if the course was provided through distance learning, or the dates of attendance, if the course was provided through instruction in a classroom;*

*(5) The title of the course;*



1       (6) A statement that the course meets the requirements to  
2 be a certified course of continuing education as provided in this  
3 section and NRS 645B.051;

4       (7) The signature of a person who is authorized to sign on  
5 behalf of the provider of the course; and

6       (8) If an examination is conducted, an indication of  
7 whether the person who attended the course passed or failed the  
8 examination; and

9       (c) If the provider of the course is a professional organization,  
10 the course is not restricted to members of the professional  
11 organization.

12       2. The Division shall accept a record or transcript issued in  
13 accordance with paragraph (b) of subsection 1 for the purpose of  
14 renewal or reinstatement of a license.

15       3. A provider of a course shall keep a copy of a record or  
16 transcript issued in accordance with paragraph (b) of subsection 1  
17 for at least 3 years after the date of the completion of a course.

18       **Sec. 5.** 1. In addition to any other information required  
19 pursuant to this chapter, each application for a license must  
20 include any additional information required by the Commissioner.

21       2. The Commissioner may adopt regulations relating to  
22 applying for the issuance of a license pursuant to this chapter.

23       **Sec. 6.** 1. If an escrow relating to a lien on real property is  
24 created pursuant to this chapter, the holder of the escrow shall, on  
25 the date of establishment of the escrow, record in writing the  
26 number and the date of expiration of the license issued pursuant  
27 to this chapter or chapter 645E of NRS of any mortgage broker or  
28 mortgage banker associated with the mortgage or deed of trust.  
29 The holder of the escrow is not required to verify independently  
30 the validity of the number of the license.

31       2. If the Commissioner imposes an administrative fine  
32 against a person pursuant to this chapter for a violation of this  
33 section, the amount of the administrative fine must not exceed the  
34 amount of any gain or economic benefit that the person derived  
35 from the violation, or \$10,000, whichever amount is greater.

36       **Sec. 7.** NRS 645B.010 is hereby amended to read as follows:

37       645B.010 As used in this chapter, unless the context otherwise  
38 requires, the words and terms defined in NRS 645B.0105 to  
39 645B.0135, inclusive, *and section 2 of this act* have the meanings  
40 ascribed to them in those sections.

41       **Sec. 8.** NRS 645B.0125 is hereby amended to read as follows:

42       645B.0125 1. "Mortgage agent" means a natural person who:

43       (a) Is an employee or independent contractor of a mortgage  
44 broker who is required to be licensed pursuant to this chapter; and



(b) Is authorized by the mortgage broker to engage in, on behalf of the mortgage broker, any activity that would require the person, if he were not an employee or independent contractor of the mortgage broker, to be licensed as a mortgage broker pursuant to this chapter.

2. *The term includes any person who processes any loan for the mortgage broker.*

3. The term does not include a person who:

(a) Is licensed as a mortgage broker;

(b) Is a general partner, officer or director of a mortgage broker; or

(c) Performs only clerical or ministerial tasks for a mortgage broker.

**Sec. 9.** NRS 645B.0127 is hereby amended to read as follows:

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

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

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

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

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

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

2. *The term includes any person who is a wholesale lender or processes contracts for another person.*

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

**Sec. 10.** NRS 645B.015 is hereby amended to read as follows:

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

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



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

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

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

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

6. Any person doing any act under an order of any court.

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

8. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

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

**Sec. 11.** NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. An application for a license as a mortgage broker must:

(a) Be verified.

(b) State the name, ~~residence~~ *residential* address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will conduct business within this State.

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

(d) List the name, ~~residence~~ *residential* address and business address of each person who will:

(1) ~~If the applicant is not a natural person, have~~ *Have* an interest in the mortgage broker as a principal, partner, officer, director or trustee, *or any other person who may exercise significant control over the operation of the mortgage broker,* specifying the capacity and title of each such person.



(2) Be associated with or employed by the mortgage broker as a mortgage agent.

(e) If the applicant is a natural person, include the social security number of the applicant.

(f) Include a general business plan and a description of the policies and procedures that the mortgage broker and his mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

(g) State the length of time the applicant has been engaged in the business of a broker.

(h) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

(i) *Include any information regarding any civil or criminal proceedings brought against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant.*

(j) *Include any information relating to a complaint filed against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant, with any licensing board in another state and any action taken by the licensing board against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant.*

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

2. If a mortgage broker will conduct business at one or more branch offices within this State, the mortgage broker must apply for a license for each such branch office. *The location of each principal office and branch office at which the mortgage broker will conduct business within this State must not be on land that is zoned primarily for residential use.*

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

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

(b) The applicant submits the statement required pursuant to NRS 645B.023, if the applicant is required to do so; and

(c) The applicant and each ~~general~~ *principal*, partner, officer, ~~or~~ *director, primary stockholder or trustee* of the applicant, if the applicant is a partnership, corporation or unincorporated association:



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

(2) Has not been convicted of, or entered a plea of nolo contendere to, ~~[a felony relating to the practice of mortgage brokers]~~ *forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, possession with the intent to sell a controlled substance* or any crime involving fraud, misrepresentation or moral turpitude ~~[ ]~~ *in a court in this State, the United States or any foreign jurisdiction.*

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

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

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

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

**Sec. 12.** NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A person who wishes to be licensed as a mortgage broker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645B.050. An application for a license as a mortgage broker must:

(a) Be verified.

(b) State the name, ~~[residence]~~ *residential* address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will conduct business within this State.

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

(d) List the name, ~~[residence]~~ *residential* address and business address of each person who will:

(1) ~~[If the applicant is not a natural person, have]~~ *Have* an interest in the mortgage broker as a principal, partner, officer, director or trustee, *or any other person who may exercise significant control over the operation of the mortgage broker,* specifying the capacity and title of each such person.



(2) Be associated with or employed by the mortgage broker as a mortgage agent.

(e) Include a general business plan and a description of the policies and procedures that the mortgage broker and his mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

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

(g) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

(h) *Include any information regarding any civil or criminal proceedings brought against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant.*

(i) *Include any information relating to a complaint filed against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant, with any licensing board in another state and any action taken by the licensing board against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, primary stockholder or trustee of the applicant.*

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

2. If a mortgage broker will conduct business at one or more branch offices within this State, the mortgage broker must apply for a license for each such branch office. *The location of each principal office and branch office at which the mortgage broker will conduct business within this State must not be on land that is zoned primarily for residential use.*

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

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

(b) The applicant and each ~~general~~ *principal*, partner, officer, ~~or~~ *director*, *primary stockholder or trustee* of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage broker in a manner which safeguards the interests of the





1 general public. The applicant must submit satisfactory proof of  
2 ~~[these]~~ *those* qualifications to the Commissioner.

3 (2) Has not been convicted of, or entered a plea of nolo  
4 contendere to, ~~[a felony relating to the practice of mortgage brokers]~~  
5 *forgery, embezzlement, obtaining money under false pretenses,*  
6 *larceny, extortion, conspiracy to defraud, possession with the*  
7 *intent to sell a controlled substance* or any crime involving fraud,  
8 misrepresentation or moral turpitude ~~[.]~~ *in a court in this State, the*  
9 *United States or any foreign jurisdiction.*

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

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

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

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

23 **Sec. 13.** NRS 645B.050 is hereby amended to read as follows:

24 645B.050 1. A license as a mortgage broker issued pursuant  
25 to this chapter expires each year on June 30, unless *, subject to the*  
26 *authority of the Commissioner to deny, revoke, suspend, condition*  
27 *or limit licenses,* it is renewed. To renew such a license, the licensee  
28 must submit to the Commissioner on or before May 31 of each year:

29 (a) An application for renewal;

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

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

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

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

40 (a) An application for renewal;

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

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

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



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

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

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

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

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

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

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

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

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

(a) To file an original application or a license, \$1,500 for the principal office and ~~[\$40]~~ \$250 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, \$1,000 for the principal office and ~~[\$60]~~ \$250 for each branch office.

(c) To renew a license, \$500 for the principal office and ~~[\$100]~~ \$250 for each branch office.

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

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

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

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

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.



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

**Sec. 14.** NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless, *subject to the authority of the Commissioner to deny, revoke, suspend, condition or limit licenses*, it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each year:

(a) An application for renewal;

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

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

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

(a) An application for renewal;

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

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

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

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

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

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

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



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]~~ \$250 for each branch office. The person  
12 must also pay such additional expenses incurred in the process of  
13 investigation as the Commissioner deems necessary.

14 (b) To be issued a license, \$1,000 for the principal office and  
15 ~~[\$60]~~ \$250 for each branch office.

16 (c) To renew a license, \$500 for the principal office and ~~[\$100]~~  
17 \$250 for each branch office.

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

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

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

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

26 8. Except as otherwise provided in this chapter, all fees  
27 received pursuant to this chapter must be deposited in the Fund for  
28 Mortgage Lending created by NRS 645F.270.

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

36 **Sec. 15.** NRS 645B.051 is hereby amended to read as follows:

37 645B.051 1. Except as otherwise provided in this section, in  
38 addition to the requirements set forth in NRS 645B.050, to renew a  
39 license as a mortgage broker:

40 (a) If the licensee is a natural person, the licensee must submit to  
41 the Commissioner satisfactory proof that the licensee attended at  
42 least ~~[10]~~ 20 hours of certified courses of continuing education *in*  
43 *accordance with subsections 3 and 4* during the 12 months  
44 immediately preceding the date on which the license expires.



(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least ~~10~~ 20 hours of certified courses of continuing education *in accordance with subsections 3 and 4* during the 12 months immediately preceding the date on which the license expires.

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

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

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

~~—(b) Any organization designated for this purpose by the Commissioner by regulation.] A licensee may receive credit for a certified course of continuing education:~~

~~(a) Not more than once if he teaches the certified course of continuing education; or~~

~~(b) For any course for which the licensee, as determined by the Commissioner, completed at least 90 percent of the work required for the course within the immediately preceding 24-month period if he has not received credit for completing the same course within that period.~~

4. *At least once during each 24-month period, the licensee must complete a certified course of continuing education that includes:*

*(a) Five hours of instruction in law and ethics; and*

*(b) Five hours of instruction in federal and state law.*

**Sec. 16.** NRS 645B.060 is hereby amended to read as follows:

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

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

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

(b) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this



chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(c) ~~Conduct~~ *Except as otherwise provided in subsection 4, conduct* an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

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

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

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

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

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

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

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

*4. The Commissioner is not required to conduct the annual examination described in paragraph (c) of subsection 2 if the mortgage broker:*

*(a) Received a positive rating, as determined by the Commissioner, in the last annual examination;*

*(b) Has not had an adverse change in financial condition as evidenced by the audited financial statements of the mortgage broker; and*



1       (c) *Has not had any complaints received by the Division*  
2 *against the mortgage broker that resulted in any significant*  
3 *administrative action by the Division.*

4       **Sec. 17.** NRS 645B.085 is hereby amended to read as follows:

5       645B.085 1. Except as otherwise provided in this section, not  
6 later than ~~90~~ 120 days after the last day of each fiscal year for a  
7 mortgage broker, the mortgage broker shall submit to the  
8 Commissioner a financial statement that:

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

10       (b) Has been prepared from the books and records of the  
11 mortgage broker by an independent public accountant who holds a  
12 permit to engage in the practice of public accounting in this State  
13 that has not been revoked or suspended.

14       2. The Commissioner may grant a reasonable extension for the  
15 submission of a financial statement pursuant to this section if a  
16 mortgage broker requests such an extension before the date on  
17 which the financial statement is due.

18       3. If a mortgage broker maintains any accounts described in  
19 subsection 1 of NRS 645B.175, the financial statement submitted  
20 pursuant to this section must be audited. If a mortgage broker  
21 maintains any accounts described in subsection 4 of NRS 645B.175,  
22 those accounts must be audited. The public accountant who prepares  
23 the report of an audit shall submit a copy of the report to the  
24 Commissioner at the same time that he submits the report to the  
25 mortgage broker.

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

28       **Sec. 18.** NRS 645B.189 is hereby amended to read as follows:

29       645B.189 1. If, in carrying on his business, a mortgage  
30 broker uses an advertisement that is designed, intended or  
31 reasonably likely to solicit money from private investors, the  
32 mortgage broker shall include in each such advertisement a  
33 statement of disclosure in substantially the following form:

34  
35               Money invested through a mortgage broker is not guaranteed  
36               to earn any interest or return and is not insured.  
37

38       2. A mortgage broker shall include in each advertisement that  
39 the mortgage broker uses in carrying on his business any statements  
40 of disclosure required pursuant to the regulations adopted by the  
41 Commissioner or required pursuant to an order of the Commissioner  
42 entered in accordance with subsections 7 and 8 of NRS 645B.185.

43       3. Each mortgage broker shall , *for 1 year after the issuance of*  
44 *his license as a mortgage broker,* submit any proposed  
45 advertisement that the mortgage broker intends to use in carrying on





1 his business to the Commissioner for approval. *After that year,*  
2 *the mortgage broker shall submit the proposed advertisement to*  
3 *the Commissioner for his approval upon request by the*  
4 *Commissioner.*

5 4. In addition to the requirements set forth in this chapter, each  
6 advertisement that a mortgage broker uses in carrying on his  
7 business must comply with the requirements of:

8 (a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive  
9 trade practices; and

10 (b) Any applicable federal statute or regulation concerning  
11 deceptive advertising and the advertising of interest rates.

12 5. If a mortgage broker violates any provision of NRS  
13 598.0903 to 598.0999, inclusive, concerning deceptive trade  
14 practices or any federal statute or regulation concerning deceptive  
15 advertising or the advertising of interest rates, in addition to any  
16 sanction or penalty imposed by state or federal law upon the  
17 mortgage broker for the violation, the Commissioner may take any  
18 disciplinary action set forth in subsection 2 of NRS 645B.670  
19 against the mortgage broker.

20 6. The Commissioner may adopt any regulations that are  
21 necessary to carry out the provisions of this section.

22 **Sec. 19.** NRS 645B.410 is hereby amended to read as follows:

23 645B.410 1. To obtain a license as a mortgage agent, a  
24 person must:

25 (a) Be a natural person;

26 (b) File a written application for a license as a mortgage agent  
27 with the Office of the Commissioner;

28 (c) Comply with the applicable requirements of this chapter; and

29 (d) Pay an application fee set by the Commissioner of not more  
30 than \$185.

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

32 (a) Be verified;

33 (b) State the name and ~~residence~~ *residential* address of the  
34 applicant;

35 (c) Include a provision by which the applicant gives his written  
36 consent to an investigation of his credit history, criminal history and  
37 background;

38 (d) Include ~~a complete set~~ *two complete sets* of fingerprints  
39 which the Division may forward to the Central Repository for  
40 Nevada Records of Criminal History for submission to the Federal  
41 Bureau of Investigation for its report;

42 (e) Include a verified statement from the mortgage broker with  
43 whom the applicant will be associated that expresses the intent of  
44 that mortgage broker to associate the applicant with the mortgage





1 broker and to be responsible for the activities of the applicant as a  
2 mortgage agent; and

3 (f) Include any other information or supporting materials  
4 required pursuant to the regulations adopted by the Commissioner or  
5 by an order of the Commissioner. Such information or supporting  
6 materials may include, without limitation, other forms of  
7 identification of the person.

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

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

13 (b) The applicant:

14 (1) Has not been convicted of, or entered a plea of nolo  
15 contendere to, a felony relating to the practice of mortgage agents or  
16 any crime involving fraud, misrepresentation or moral turpitude;

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

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

21 (4) Has not violated any provision of this chapter or chapter  
22 645E of NRS, a regulation adopted pursuant thereto or an order of  
23 the Commissioner; and

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

29 4. Money received by the Commissioner pursuant to this  
30 section must be deposited in the Fund for Mortgage Lending created  
31 by NRS 645F.270.

32 *5. The Commissioner shall deny a license as a mortgage*  
33 *agent to any person who has been convicted of, or entered a plea*  
34 *of nolo contendere to, forgery, embezzlement, obtaining money*  
35 *under false pretenses, larceny, extortion, conspiracy to defraud,*  
36 *possession with the intent to sell a controlled substance or any*  
37 *crime involving fraud, misrepresentation or moral turpitude in a*  
38 *court in this State, the United States or any foreign jurisdiction.*  
39 *The person remains ineligible for the issuance of the license until*  
40 *3 years after:*

41 *(a) The person pays any fine or restitution ordered by the*  
42 *court; or*

43 *(b) The expiration of the period of the parole, probation or*  
44 *sentence of the person,*

45 *↳ whichever is later.*



**Sec. 20.** NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires 1 year after the date the license is issued, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must submit to the Commissioner each year, on or before the date the license expires:

(a) An application for renewal;

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

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

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

(a) An application for renewal;

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

(c) A reinstatement fee of \$75.

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

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

5. Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

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

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

**Sec. 21.** NRS 645B.450 is hereby amended to read as follows:

645B.450 1. A person licensed as a mortgage agent pursuant to the provisions of NRS 645B.410 may not be associated with or employed by more than one mortgage broker at the same time.



2. A mortgage broker shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage broker as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to NRS 645B.410.

3. If a mortgage agent terminates his association or employment with a mortgage broker for any reason, the mortgage broker shall, not later than ~~{the third business day following}~~ **30 calendar days after** the date of termination:

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

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

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

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

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

**Sec. 22.** NRS 645B.460 is hereby amended to read as follows:

645B.460 1. A mortgage broker shall exercise reasonable supervision over the activities of his mortgage agents. Such reasonable supervision must include, as appropriate:

(a) The establishment of written or oral policies and procedures for his mortgage agents; and

(b) The establishment of a system to review, oversee and inspect the activities of his mortgage agents, including, without limitation:

(1) Transactions handled by his mortgage agents pursuant to this chapter;

(2) Communications between his mortgage agents and a party to such a transaction;

(3) Documents prepared by his mortgage agents that may have a material effect upon the rights or obligations of a party to such a transaction; ~~{and}~~

(4) The handling by his mortgage agents of any fee, deposit or money paid to the mortgage broker or his mortgage agents or held in trust by the mortgage broker or his mortgage agents pursuant to this chapter ~~{;}~~ **; and**

**(5) The reporting to the Division of any fraudulent activity engaged in by his mortgage agents.**

2. The Commissioner shall allow a mortgage broker to take into consideration the total number of mortgage agents associated with or employed by the mortgage broker when the mortgage broker determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.



3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage broker has exercised reasonable supervision over the activities of a mortgage agent pursuant to this section.

**Sec. 23.** Chapter 645E of NRS is hereby amended by adding thereto the provisions set forth as sections 24 to 27, inclusive, of this act.

**Sec. 24.** *“Certified course of continuing education” means a course of continuing education which relates to the mortgage industry or mortgage transactions, meets the requirements of section 25 of this act and is certified by:*

*1. The National Association of Mortgage Brokers or its successor;*

*2. Any organization approved by the Commissioner by regulation;*

*3. The Division; or*

*4. An education committee appointed by the Commissioner.*

**Sec. 25.** *1. A course of continuing education is not a certified course of continuing education unless:*

*(a) The course consists of at least 2 hours of education through distance learning or instruction in a classroom;*

*(b) The provider of the course issues a certified copy of the record of attendance, record of completion of the course or, if the provider is a college or university, a transcript to the person who attended the course that sets forth:*

*(1) The name of the provider of the course;*

*(2) The name of the person who attended the course;*

*(3) The number of hours of instruction;*

*(4) The date of completion of the course, if the course was provided through distance learning, or the dates of attendance, if the course was provided through instruction in a classroom;*

*(5) The title of the course;*

*(6) A statement that the course meets the requirements to be a certified course of continuing education as provided in this section and NRS 645B.051;*

*(7) The signature of a person who is authorized to sign on behalf of the provider of the course; and*

*(8) If an examination is conducted, an indication of whether the person who attended the course passed or failed the examination; and*

*(c) If the provider of the course is a professional organization, the course is not restricted to members of the professional organization.*



1       2. The Division shall accept a record or transcript issued in  
2 accordance with paragraph (b) of subsection 1 for the purpose of  
3 renewal or reinstatement of a license.

4       3. A provider of a course shall keep a copy of a record or  
5 transcript issued in accordance with paragraph (b) of subsection 1  
6 for at least 3 years after the date of the completion of a course.

7       **Sec. 26.** 1. Except as otherwise provided in this section, in  
8 addition to the requirements set forth in NRS 645E.280, to renew  
9 a license as a mortgage banker:

10       (a) If the licensee is a natural person, the licensee must submit  
11 to the Commissioner satisfactory proof that the licensee attended  
12 at least 20 hours of certified courses of continuing education in  
13 accordance with subsections 3 and 4 during the 12 months  
14 immediately preceding the date on which the license expires.

15       (b) If the licensee is not a natural person, the licensee must  
16 submit to the Commissioner satisfactory proof that each natural  
17 person who supervises the daily business of the licensee attended  
18 at least 20 hours of certified courses of continuing education in  
19 accordance with subsections 3 and 4 during the 12 months  
20 immediately preceding the date on which the license expires.

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

27       3. A licensee may receive credit for a certified course of  
28 continuing education:

29       (a) Not more than once if he teaches the certified course of  
30 continuing education; or

31       (b) For any course for which the licensee, as determined by the  
32 Commissioner, completed at least 90 percent of the work required  
33 for the course within the immediately preceding 24-month period  
34 if he has not received credit for completing the same course within  
35 that period.

36       4. At least once during each 24-month period, the licensee  
37 must complete a certified course of continuing education that  
38 includes:

39       (a) Five hours of instruction in law and ethics; and

40       (b) Five hours of instruction in federal and state law.

41       **Sec. 27.** 1. If an escrow relating to a lien on real property is  
42 created pursuant to this chapter, the holder of the escrow shall, on  
43 the date of establishment of the escrow, record in writing the  
44 number and the date of expiration of the license issued pursuant  
45 to this chapter or chapter 645B of NRS of any mortgage broker or



1 *mortgage banker associated with the mortgage or deed of trust.*  
2 *The holder of the escrow is not required to verify independently*  
3 *the validity of the number of the license.*

4 *2. If the Commissioner imposes an administrative fine*  
5 *against a person pursuant to this chapter for a violation of this*  
6 *section, the amount of the administrative fine must not exceed the*  
7 *amount of any gain or economic benefit that the person derived*  
8 *from the violation, or \$10,000, whichever amount is greater.*

9 **Sec. 28.** NRS 645E.150 is hereby amended to read as follows:

10 645E.150 Except as otherwise provided in NRS 645E.160, the  
11 provisions of this chapter do not apply to:

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

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

24 3. An employee benefit plan, as defined in 29 U.S.C. §  
25 1002(3), if the loan is made directly from money in the plan by the  
26 plan's trustee.

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

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

31 6. Any person doing any act under an order of any court.

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

39 8. Agencies of the United States and of this State and its  
40 political subdivisions, including the Public Employees' Retirement  
41 System.

42 9. A seller of real property who offers credit secured by a  
43 mortgage of the property sold.



1     **Sec. 29.** NRS 645E.280 is hereby amended to read as follows:

2     645E.280 1. A license issued to a mortgage banker pursuant  
3 to this chapter expires each year on December 31, unless it is  
4 renewed. To renew a license, the licensee must submit to the  
5 Commissioner on or before ~~December 31~~ *November 30* of each  
6 year:

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

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

11 2. If the licensee fails to submit any item required pursuant to  
12 subsection 1 to the Commissioner on or before ~~December 31~~  
13 *November 30* of any year, the license is cancelled ~~and~~ *as of*  
14 *December 31 of that year*. The Commissioner may reinstate a  
15 cancelled license if the licensee submits to the Commissioner:

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

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

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

21 3. Except as otherwise provided in NRS 645E.160, a certificate  
22 of exemption issued pursuant to this chapter expires each year on  
23 December 31, unless it is renewed. To renew a certificate of  
24 exemption, a person must submit to the Commissioner on or before  
25 ~~December 31~~ *November 30* of each year:

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

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

29 4. If the person fails to submit any item required pursuant to  
30 subsection 3 to the Commissioner on or before ~~December 31~~  
31 *November 30* of any year, the certificate of exemption is cancelled  
32 ~~and~~ *as of December 31 of that year*. Except as otherwise provided in  
33 NRS 645E.160, the Commissioner may reinstate a cancelled  
34 certificate of exemption if the person submits to the Commissioner:

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

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

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

39 5. A person must pay the following fees to apply for, to be  
40 issued or to renew a license as a mortgage banker pursuant to this  
41 chapter:

42     (a) To file an original application for a license, \$1,500 for the  
43 principal office and ~~\$40~~ *\$250* for each branch office. The person  
44 must also pay such additional expenses incurred in the process of  
45 investigation as the Commissioner deems necessary.





(b) To be issued a license, \$1,000 for the principal office and ~~[\$60]~~ \$250 for each branch office.

(c) To renew a license, \$500 for the principal office and ~~[\$100]~~ \$250 for each branch office.

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

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

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

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

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

**Sec. 30.** The amendatory provisions of this act relating to the requirements for the issuance or renewal of a license as a mortgage broker, mortgage agent or mortgage banker apply only to a license that is issued or renewed on or after October 1, 2005.

**Sec. 31.** 1. This section and sections 1 to 11, inclusive, 13 and 15 to 30, inclusive, of this act become effective on October 1, 2005.

2. Sections 11 and 13 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

↪ are repealed by the Congress of the United States.

3. Sections 12 and 14 of this act become effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

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

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

↪ are repealed by the Congress of the United States.

