

ASSEMBLY BILL NO. 332—ASSEMBLYMEN HOGAN, PARKS,
ANDERSON, CLABORN, DENIS, KIHUEN, MORTENSON,
MUNFORD, PIERCE, SEGERBLOM AND WOMACK

MARCH 15, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning loans secured by
liens on real property. (BDR 55-203)

FISCAL NOTE: Effect on Local Government: No.
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 real property; making various changes concerning appraisals of real property used to secure certain loans; clarifying the designation of certain documents as open to public inspection; revising provisions concerning the duty of the Commissioner of Mortgage Lending to provide certain information concerning the findings and results of investigations of mortgage brokers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a mortgage broker or mortgage agent from accepting money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker has obtained a written appraisal of the real property securing the loan or obtains a waiver from each investor in the loan. (NRS 645D.300) This bill requires a written appraisal to be accompanied by a description of the method used by the appraiser to establish the value of the real property and eliminates the option to obtain a waiver.

Existing law requires the Commissioner of Mortgage Lending to conduct an annual examination of each mortgage broker doing business in this State and 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. (NRS 645B.060) This bill requires the Commissioner to conduct examinations of mortgage brokers to determine the method of appraisal used by each appraiser who provides a mortgage broker with a written appraisal of real property that is used to secure a loan.

Existing law designates certain documents filed with the Commissioner pursuant to chapter 645B of NRS as open to public inspection. (NRS 645B.090)



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This bill clarifies that the documents designated as open to public inspection include documents filed with the Commissioner in connection with: (1) an application for the issuance or renewal of a license as a mortgage broker or mortgage agent; (2) notification of the transfer of 5 percent or more of the outstanding voting stock of a mortgage broker; and (3) an application for approval of a change of control of a mortgage broker.

Existing law requires the Commissioner to provide, upon request, certain information concerning the findings and results of any investigation of a mortgage broker completed during the immediately preceding 5 years which resulted in a finding by the Commissioner that the mortgage broker violated a provision of chapter 645B of NRS, a regulation adopted pursuant to the chapter or an order of the Commissioner. (NRS 645B.090) This bill requires the Commissioner, upon request, to provide the information concerning the investigation even if the Commissioner determines that no violation was committed.

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

Section 1. NRS 645B.060 is hereby amended to read as follows:

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

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

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

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

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

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

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

(d) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary and proper for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt



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1 regulations specifying the general guidelines that will be followed
2 when a periodic or special audit of a mortgage broker is conducted
3 pursuant to this chapter.

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

8 (1) The Legislative Auditor; or

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

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

16 ***(g) Conduct such examinations of a mortgage broker as are***
17 ***necessary to determine the method used by each appraiser who***
18 ***provides the mortgage broker with a written appraisal of real***
19 ***property required by NRS 645B.300.***

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

23 **Sec. 2.** NRS 645B.090 is hereby amended to read as follows:

24 645B.090 ~~11-1~~ Except as otherwise provided in this section or
25 by specific statute ~~1-111~~:

26 ***1. All*** papers, documents, reports and other written instruments
27 filed with the Commissioner pursuant to this chapter are open to
28 public inspection ~~1-~~

29 ~~2. Except as otherwise provided in subsection 3, the,1~~ ,
30 ***including, without limitation, written instruments filed with the***
31 ***Commissioner in connection with:***

32 ***(a) An application for the issuance or renewal of a license as a***
33 ***mortgage broker or mortgage agent;***

34 ***(b) A notification of a transfer of 5 percent or more of the***
35 ***outstanding voting stock of a mortgage broker; and***

36 ***(c) An application for approval of a change of control of a***
37 ***mortgage broker. As used in this paragraph, "change of control"***
38 ***has the meaning ascribed to it in NRS 645B.095.***

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

42 (a) Impede or otherwise interfere with an investigation that is
43 currently pending against a mortgage broker;

44 (b) Have an undesirable effect on the welfare of the public ; ~~for~~
45 ~~the welfare of any mortgage broker or mortgage agent;~~ or



(c) Give any mortgage broker a *clear and demonstrable* competitive advantage over any other mortgage broker.

3. ~~{Except as otherwise provided in NRS 645B.092, the}~~ *The* Commissioner shall disclose the following information concerning a mortgage broker to any person who requests it:

(a) The findings and results of any investigation which has been completed during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter ~~{and which has resulted in a finding by the Commissioner that the mortgage broker committed}~~ *concerning* a violation of a provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner; and

(b) The nature *and results* of any disciplinary action that has been taken during the immediately preceding 5 years against the mortgage broker *or his mortgage agent* pursuant to the provisions of this chapter.

Sec. 3. NRS 645B.300 is hereby amended to read as follows:

645B.300 1. ~~{Except as otherwise provided in subsection 4, a}~~ *A* mortgage broker or mortgage agent shall not accept money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker has obtained a written appraisal of the real property securing the loan.

2. The written appraisal of the real property:

(a) Must be ~~{performed}~~ :

(1) Performed by an appraiser who is authorized to perform appraisals in this State; and

(2) Accompanied by a description of the method used by the appraiser to establish the value of the real property.

(b) Must not be performed by the mortgage broker or a mortgage agent, unless the mortgage broker or mortgage agent is certified or licensed to perform such an appraisal pursuant to chapter 645C of NRS.

3. A copy of the written appraisal of the real property , *including the description of the method used by the appraiser,* must be:

(a) Maintained at each office of the mortgage broker where money is accepted from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on the real property; and

(b) Made available during normal business hours for inspection by each such investor and the Commissioner.

4. ~~{A mortgage broker is not required to obtain a written appraisal of the real property pursuant to this section if the mortgage broker obtains a written waiver of the appraisal from each investor}~~



1 ~~who acquires ownership of or a beneficial interest in a loan secured~~
2 ~~by a lien on the real property. A mortgage broker or mortgage agent~~
3 ~~shall not act as the attorney in fact or the agent of an investor with~~
4 ~~respect to the giving of a written waiver pursuant to this subsection.~~

5 ~~—5.]~~ As used in this section, “appraisal” has the meaning
6 ascribed to it in NRS 645C.030.

7 **Sec. 4.** This act becomes effective on July 1, 2007.

