

ASSEMBLY BILL NO. 375—ASSEMBLYMAN OCEGUERA

MARCH 16, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises certain provisions governing mortgages.  
(BDR 54-393)

FISCAL NOTE: Effect on Local Government: Increases or Newly  
Provides for Term of Imprisonment in County or City  
Jail or Detention Facility.  
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 loans; requiring the Commissioner to adopt certain regulations concerning investors and limitations on loans to directors, officers and employees; prohibiting a mortgage broker from assigning all or part of his interest in a loan that is secured by a lien on real property under certain circumstances; requiring a mortgage banker to ensure that each loan secured by a lien on real property is serviced by certain third parties and includes a minimum fee for servicing; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law regulates the activities of various mortgage lenders, including the activities of mortgage brokers and mortgage bankers. (Chapters 645B and 645E of NRS) Existing law further provides that, subject to administrative supervision by the Director of the Department of Business and Industry, the Commissioner of Mortgage Lending is required to administer the provisions of law governing the licensing and regulation of mortgage brokers and mortgage bankers. (NRS 645B.060, 645E.300, 645F.250)

**Sections 1 and 7** of this bill require a mortgage broker and a mortgage banker, respectively, to ensure that each loan secured by a lien on real property for which the mortgage broker or mortgage banker engages in activity as a mortgage broker or mortgage banker is serviced by a third party who is not affiliated with the mortgage broker or mortgage banker and that the loan includes a certain minimum fee. **Section 2** of this bill prohibits the Commissioner from issuing, renewing or reinstating a license as a mortgage broker if the mortgage broker is exempt from licensing as a broker-dealer, sales representative, investment advisor or representative of an investment advisor under the laws of this State.



\* A B 3 7 5 \*

Existing law defines an "investor" for purposes of chapter 645B of NRS to mean a person who wishes to acquire or who acquires ownership of or a beneficial interest in a loan that is secured by a lien on real property. (NRS 645B.0121) **Section 3** of this bill requires the Commissioner to establish, by regulation, the financial conditions for an investor to acquire that ownership or beneficial interest in the loan.

Existing law authorizes the Commissioner of Financial Institutions to establish limitations on loans made by a bank to its directors, officers or employees. (NRS 662.145) **Sections 3 and 8** of this bill require the Commissioner of Mortgage Lending to establish similar limitations on loans made by mortgage brokers and mortgage bankers to directors, officers or employees of the mortgage broker or mortgage banker.

Existing law prohibits a mortgage broker from assigning his interest in a loan that is secured by a lien on real property unless the mortgage broker obtains title insurance for the property and records the assignment in the county recorder's office of the county in which the property is located. (NRS 645B.310) **Section 4** of this bill requires the mortgage broker also to obtain the approval of each investor in the loan if, at the time of the assignment, the debtor on the loan is in default on his loan payments.

**Section 9** of this bill provides for the temporary validity of a license as a mortgage broker if the license would otherwise be rendered invalid by the amendatory provisions of **section 2** of this bill.

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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 a new section to read as follows:

*A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker:*

*1. Is serviced by a third party who is not affiliated with the mortgage broker; and*

*2. Includes a fee for servicing the loan in an amount that is not less than 0.25 percent of the total amount of principal of the loan.*

**Sec. 2.** NRS 645B.050 is hereby amended to read as follows:

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

(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) All information required to complete the renewal.

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,



1 the license is cancelled as of June 30 of that year. ~~[The]~~ *Except as*  
2 *otherwise provided in subsection 10, the* Commissioner may  
3 reinstate a cancelled license if the licensee submits to the  
4 Commissioner:

5 (a) An application for renewal;

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

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

9 (d) Except as otherwise provided in this section, a reinstatement  
10 fee of \$200; and

11 (e) All information required to complete the reinstatement.

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

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

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

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

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

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

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

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

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

40 (b) To be issued a license, \$1,000 for the principal office and  
41 \$60 for each branch office.

42 (c) To renew a license, \$500 for the principal office and \$100  
43 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.

***10. The Commissioner shall not issue, renew or reinstate a license as a mortgage broker if the mortgage broker is:***

***(a) A broker-dealer or sales representative who is exempt from licensing pursuant to NRS 90.320; or***

***(b) An investment advisor, sales representative or representative of an investment advisor who is exempt from licensing pursuant to NRS 90.340.***

**Sec. 3.** 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 ***regulations:***

***(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before and after becoming an investor.***

***(2) Establishing limitations on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.***

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

~~[(b)]~~ (c) 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.

~~[(e)]~~ (d) 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)]~~ (e) 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)]~~ (f) 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)]~~ (g) 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.

**Sec. 4.** NRS 645B.310 is hereby amended to read as follows:

645B.310 A mortgage broker shall not assign all or a part of his interest in a loan secured by a lien on real property, unless the mortgage broker:

1. Obtains a policy of title insurance for the real property; ~~[and]~~

2. *Obtains the approval of the assignment from each investor who has acquired ownership of or a beneficial interest in the loan if, at the time of the assignment, the debtor on the loan has defaulted in making a payment required for the loan or any portion of the loan; and*



1       **3.** Records the assignment in the office of the county recorder  
2 of the county in which the real property is located.

3       **Sec. 5.** NRS 645B.490 is hereby amended to read as follows:

4       645B.490 1. Any mortgage broker or mortgage agent  
5 licensed under the provisions of this chapter who is called into the  
6 military service of the United States shall, at his request, be relieved  
7 from compliance with the provisions of this chapter and placed on  
8 inactive status for the period of such military service and for a  
9 period of 6 months after discharge therefrom.

10      2. ~~[A+] Except as otherwise provided in NRS 645B.050, at~~ any  
11 time within 6 months after termination of such service, if the  
12 mortgage broker or mortgage agent complies with the provisions of  
13 subsection 1, the mortgage broker or mortgage agent may be  
14 reinstated, without having to meet any qualification or requirement  
15 other than the payment of the reinstatement fee, as provided in NRS  
16 645B.050 or 645B.430, and the mortgage broker or mortgage agent  
17 is not required to make payment of the renewal fee for the current  
18 year.

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

23       **Sec. 6.** NRS 645B.680 is hereby amended to read as follows:

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

36      2. ~~[The] Except as otherwise provided in NRS 645B.050, the~~  
37 Commissioner shall reinstate a license as a mortgage broker or  
38 mortgage agent that has been suspended by a district court pursuant  
39 to NRS 425.540 if the Commissioner receives a letter issued by the  
40 district attorney or other public agency pursuant to NRS 425.550 to  
41 the person whose license was suspended stating that the person  
42 whose license was suspended has complied with the subpoena or  
43 warrant or has satisfied the arrearage pursuant to NRS 425.560.



1     **Sec. 7.** Chapter 645E of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3     *A mortgage banker shall ensure that each loan secured by a*  
4 *lien on real property for which he engages in activity as a*  
5 *mortgage banker:*

6     1. *Is serviced by a third party who is not affiliated with the*  
7 *mortgage banker; and*

8     2. *Includes a fee for servicing the loan in an amount that is*  
9 *not less than 0.25 percent of the total amount of principal of the*  
10 *loan.*

11     **Sec. 8.** NRS 645E.300 is hereby amended to read as follows:

12     645E.300 1. Subject to the administrative control of the  
13 Director of the Department of Business and Industry, the  
14 Commissioner shall exercise general supervision and control over  
15 mortgage bankers doing business in this State.

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

18     (a) Adopt *regulations establishing limitations on loans made*  
19 *by a mortgage banker to a director, officer or employee of the*  
20 *mortgage banker.*

21     (b) Adopt any *other* regulations that are necessary to carry out  
22 the provisions of this chapter, except as to loan fees.

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

27     ~~[(c)]~~ (d) Conduct an annual examination of each mortgage  
28 banker doing business in this State.

29     ~~[(d)]~~ (e) Conduct such other examinations, periodic or special  
30 audits, investigations and hearings as may be necessary ~~[and proper]~~  
31 for the efficient administration of the laws of this State regarding  
32 mortgage bankers.

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

37     (1) The Legislative Auditor; or

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

40     ~~[(f)]~~ (g) Conduct such examinations and investigations as are  
41 necessary to ensure that mortgage bankers meet the requirements of  
42 this chapter for obtaining a license, both at the time of the  
43 application for a license and thereafter on a continuing basis.



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

4 **Sec. 9.** Notwithstanding the provisions of NRS 645B.050 as  
5 amended by section 2 of this act to the contrary, if the  
6 Commissioner of Mortgage Lending is prohibited by those  
7 provisions from renewing or reinstating a license as a mortgage  
8 broker, the license remains in effect until its expiration unless earlier  
9 suspended, cancelled or revoked.

10 **Sec. 10.** 1. This act becomes effective upon passage and  
11 approval for the purpose of adopting regulations and on October 1,  
12 2007, for all other purposes.

13 2. Section 6 of this act expires by limitation on the date 2 years  
14 after the date on which the provisions of 42 U.S.C. § 666 requiring  
15 each state to establish procedures under which the state has  
16 authority to withhold or suspend, or to restrict the use of  
17 professional, occupational and recreational licenses of persons who:

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

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

23 ➤ are repealed by the Congress of the United States.

