

SENATE BILL NO. 546—COMMITTEE ON COMMERCE AND LABOR

MARCH 26, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to mortgage lending.  
(BDR 54-1412)

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 financial transactions; revising provisions governing duties, licensing, bonding and regulation of an escrow agent and escrow agency; revising the provisions governing the licensing and regulation of mortgage brokers, mortgage bankers and mortgage agents; providing for the Commissioner to adopt regulations related to assessments and various costs related to legal and accounting services; revising certain provisions related to various foreign corporations complying with title 55 or 56 of NRS or chapter 80, 645A, 645B or 645E of NRS; requiring certain holders of escrow to report specified information to the Division of Mortgage Lending and to carry out specified activities related to escrow for the sale or refinance of real property; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law regulates escrow agencies and agents. (NRS chapter 645A) **Sections 1-13** of this bill do the following: (1) create requirements for how money in certain escrow accounts must be handled; (2) provide for required duties of an escrow agent or agency; (3) provide for additional requirements for applicants of a license as an escrow agency or agent; (4) revise provisions relating to various bonds of an escrow agency or agent; and (5) revise provisions relating to penalties for certain acts.

Existing law regulates mortgage brokers and mortgage agents. (NRS chapter 645B) **Sections 14-34** of this bill do the following: (1) create new requirements in regard to a qualified employee of a mortgage broker; (2) revise the definitions of "mortgage broker" and "mortgage agent"; (3) revise the requirements for an initial license as a mortgage broker or mortgage agent; (4) revise the provisions relating to



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entities exempted from chapter 645B of NRS; (5) revise the fees that may be charged for a license as a mortgage broker or mortgage agent; (6) revise the requirements for a continuing course of education; (7) allow for biannual, instead of annual, examinations of a mortgage broker; (8) revise the advertising requirements of a mortgage broker; (9) revise the requirements and duties of a mortgage broker or mortgage agent; (10) revise the powers of the Commissioner of the Division of Mortgage Lending of the Department of Business and Industry; and (11) revise the penalties that may be applied to a mortgage broker or mortgage agent.

Existing law regulates mortgage bankers. (NRS chapter 645E) **Sections 35-58** of this bill do the following: (1) create new requirements in regard to a qualified employee of a mortgage banker; (2) allow a mortgage banker to associate with a mortgage agent; (3) revise the advertising requirements of a mortgage banker; (4) revise the requirements to renew a license as a mortgage banker in relation to courses of continuing education; (5) revise the definition of "mortgage banker"; (6) revise the exemptions for certain entities from the provisions of chapter 645E of NRS; (7) revise the requirements for an initial license as a mortgage banker; (8) revise the fees that may be charged for a license as a mortgage banker; (9) revise the requirements and duties of a mortgage banker; (10) revise the powers of the Commissioner of the Division of Mortgage Lending of the Department of Business and Industry; and (11) revise the penalties that may be applied to a mortgage banker.

Existing law provides for the regulation of mortgage lending generally. (Chapter 645F of NRS) **Sections 58-70** of this bill do the following: (1) create an education fund to be overseen by the Commissioner of the Division of Mortgage Lending of the Department of Business and Industry; (2) provide for additional requirements for a license as a mortgage broker, mortgage agent or mortgage banker; (3) provide for written examinations for certain applicants for a license as a mortgage broker, mortgage agent or mortgage banker; (4) provide for additional requirements for a course of continuing education; and (5) provide for the Commissioner to adopt regulations related to assessments and various costs related to legal and accounting services.

Existing law provides for the regulation of foreign corporations. (Chapter 80 of NRS) **Section 71** of this bill revises certain provisions relating to various foreign corporations complying with title 55 or 56 of NRS or chapter 80, 645A, 645B or 645E of NRS.

Existing law provides for the regulation of title insurance. (Chapter 692A of NRS) **Section 72** of this bill requires certain holders of escrow to report certain information to the Division of Mortgage Lending of the Department of Business and Industry and to carry out certain activities relating to escrow for the sale or refinance of real property.

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

**Section 1.** Chapter 645A is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

**Sec. 2. 1. *Except as otherwise provided in subsection 2, the money held pursuant to subsection 1 of NRS 645A.160 must be released:***

***(a) In accordance with any written servicing agreements between the parties; or***



1     ***(b) If not specified in any written servicing agreements, to***  
2     ***each investor who owns a beneficial interest in the loan in exact***  
3     ***proportion to the beneficial interest that each investor owns in the***  
4     ***loan.***

5     ***2. An investor may waive in writing the right to receive***  
6     ***money received pursuant to paragraph (b) of subsection 1. In***  
7     ***regard to such a written waiver, an escrow agent or agency cannot***  
8     ***act as the attorney-in-fact or the agent or agency of the investor***  
9     ***with respect to the granting of the written waiver.***

10    ***Sec. 3. An escrow agency or agent shall account for any***  
11    ***money the agency or agent collects, upon reasonable notice from***  
12    ***the following persons:***

13    ***1. An investor, in regard to any money in which the investor***  
14    ***has a beneficial interest.***

15    ***2. A debtor, in regard to any money the debtor has paid.***

16    ***3. The Commissioner, in regard to any money collected***  
17    ***pursuant to a certain agreement.***

18    ***Sec. 4. In regard to money collected pursuant to subsection 2***  
19    ***of NRS 645A.160:***

20    ***1. An escrow agency has a fiduciary duty to each debtor with***  
21    ***respect to such money.***

22    ***2. An escrow agency shall not make payments with such***  
23    ***money in a manner that causes a policy of insurance to be***  
24    ***cancelled or causes property taxes or similar payments to become***  
25    ***delinquent.***

26    ***3. Such money is not subject to execution or attachment on***  
27    ***any claim against the escrow agency or agent.***

28    ***Sec. 5. The Commissioner may enforce the provisions of any***  
29    ***federal law or regulation which is related to escrow agencies or***  
30    ***agents and which allows for such enforcement.***

31    ***Sec. 6. An escrow agency or agent shall not knowingly keep***  
32    ***or cause to be kept any money in a financial institution under a***  
33    ***name, including, without limitation, "impound trust account,"***  
34    ***which designates such money as belonging to investors or debtors***  
35    ***of the escrow agency or agent, unless the money has been paid to***  
36    ***the escrow agency or agent by an investor or debtor and is being***  
37    ***held in trust by the escrow agency pursuant to this chapter.***

38    ***Sec. 7. NRS 645A.020 is hereby amended to read as follows:***  
39    ***645A.020 1. A person who wishes to be licensed as an***  
40    ***escrow agent or agency must file a written application in the Office***  
41    ***of the Commissioner.***

42    ***2. The application must:***

43    ***(a) Be verified.***

44    ***(b) Be accompanied by the appropriate fee prescribed in***  
45    ***NRS 645A.040.***



(c) State the location of the applicant's principal office and branch offices in the State and residence address.

(d) State the name under which the applicant will conduct business.

(e) List the names, residence and business addresses of all persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each.

(f) Indicate the general plan and character of the business.

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

(h) Require a financial statement of the applicant.

(i) Require such other information as the Commissioner determines necessary.

(j) If for *a license as* an escrow agency, designate a natural person to receive service of process in this State for the agency.

(k) Include all information required to complete the application.

*(l) Require a complete set of fingerprints to be forwarded to the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for the following persons:*

*(1) Any owner, general partner, officer, director, trustee, or other person of similar status or control, as determined by the Commissioner, of an applicant; and*

*(2) Any applicant for a license as an escrow agent.*

*(m) If for a license as an escrow agency, designate an escrow agent to manage the office, and the agent must have:*

*(1) At least 2 years of verifiable experience in the escrow industry; and*

*(2) Knowledge of generally accepted accounting practices and bookkeeping procedures, as evidenced by educational degrees or verifiable work experience.*

3. If the Commissioner determines, after investigation, that the experience, character, financial condition, business reputation and general fitness of the applicant are such as to command the confidence of the public and to warrant the belief that the business conducted will protect and safeguard the public ~~[, he]~~ *and that the applicant has met all applicable requirements, the Commissioner* shall issue a license to the applicant as an escrow agent or agency.

~~4. [The Commissioner may waive the investigation required by subsection 3 if the applicant submits with his application satisfactory proof that he, in good standing, currently holds a license, or held a license, within 1 year before the date he submits his application, which was issued pursuant to the provisions of NRS 692A.103.~~



1 ~~—5.]~~ An escrow agent or agency shall immediately notify the  
2 Division of any material change in the information contained in the  
3 application.

4 ~~[6.]~~ 5. A person may not be licensed as an escrow agent or  
5 agency or be a principal officer, director, *owner, employee* or  
6 trustee of an escrow agency if he is the holder of an active license  
7 issued pursuant to chapter 645 *or 645B* of NRS.

8 **Sec. 8.** NRS 645A.041 is hereby amended to read as follows:

9 645A.041 1. Except as otherwise provided in NRS  
10 645A.042, as a condition to doing business in this State, each  
11 escrow agency shall deposit with the Commissioner and keep in full  
12 force and effect a corporate surety bond payable to the State of  
13 Nevada, in the amount set forth in subsection 4, which is executed  
14 by a corporate surety satisfactory to the Commissioner and which  
15 names as principals the escrow agency and all escrow agents  
16 employed by or associated with the escrow agency.

17 2. At the time of filing an application for a license as an escrow  
18 agent, the applicant shall file with the Commissioner proof that the  
19 applicant is named as a principal on the corporate surety bond  
20 deposited with the Commissioner by the escrow agency with whom  
21 he is associated or employed.

22 3. The bond must be in substantially the following form:

23  
24 Know All Men by These Presents, that ....., as  
25 principal, and ....., as surety, are held and firmly bound  
26 unto the State of Nevada for the use and benefit of any person who  
27 suffers damages because of a violation of any of the provisions of  
28 chapter 645A of NRS, in the sum of ....., lawful money of the  
29 United States, to be paid to the State of Nevada for such use and  
30 benefit, for which payment well and truly to be made, and that we  
31 bind ourselves, our heirs, executors, administrators, successors and  
32 assigns, jointly and severally, firmly by these presents.

33 The condition of that obligation is such that: Whereas, the  
34 principal has been issued a license as an escrow agency or escrow  
35 agent by the Commissioner of ~~{Financial Institutions}~~ *Mortgage*  
36 *Lending* of the Department of Business and Industry of the State of  
37 Nevada and is required to furnish a bond, which is conditioned as  
38 set forth in this bond:

39 Now, therefore, if the principal, his agents and employees,  
40 strictly, honestly and faithfully comply with the provisions of  
41 chapter 645A of NRS, and pay all damages suffered by any person  
42 because of a violation of any of the provisions of chapter 645A of  
43 NRS, or by reason of any fraud, dishonesty, misrepresentation or  
44 concealment of material facts growing out of any transaction



governed by the provisions of chapter 645A of NRS, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the .....(day) of .....(month) of .....(year), and remains in force until the surety is released from liability by the Commissioner of ~~Financial Institutions~~ *Mortgage Lending* or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of ~~Financial Institutions~~ *Mortgage Lending* of the Department of Business and Industry of the State of Nevada.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at ..... Nevada, this .....(day) of .....(month) of .....(year).

.....(Seal)

Principal

.....(Seal)

Surety

By .....

Attorney-in-fact

.....

Licensed resident agent

4. Each escrow agency shall deposit a corporate surety bond that complies with the provisions of this section or a substitute form of security that complies with the provisions of NRS 645A.042 in the following amount based upon the average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160:

AVERAGE MONTHLY BALANCE	AMOUNT OF BOND OR SECURITY REQUIRED
\$50,000 or less.....	\$20,000
More than \$50,000 but not more than \$250,000.....	<del>50,000</del> \$75,000
More than \$250,000 but not more than \$500,000.....	<del>100,000</del> \$150,000
More than \$500,000 but not more than \$750,000.....	<del>150,000</del> \$200,000
More than \$750,000 but not more than \$1,000,000.....	<del>200,000</del> \$300,000
More than \$1,000,000.....	<del>250,000</del> \$350,000

The Commissioner shall determine the appropriate amount of the surety bond or substitute form of security that must be deposited initially by the escrow agency based upon the expected average



1 monthly balance of the trust account or escrow account maintained  
2 by the escrow agency pursuant to NRS 645A.160. After the initial  
3 deposit, the Commissioner shall, on a semiannual basis, determine  
4 the appropriate amount of the surety bond or substitute form of  
5 security that must be deposited by the escrow agency based upon the  
6 average monthly balance of the trust account or escrow account  
7 maintained by the escrow agency pursuant to NRS 645A.160.

8 **Sec. 9.** NRS 645A.090 is hereby amended to read as follows:

9 645A.090 1. ~~[The]~~ *In regard to any person, including,*  
10 *without limitation, a person licensed as an escrow agent or*  
11 *agency, the Commissioner may refuse to grant a license [any] as an*  
12 *escrow agent or agency, [or] may suspend or revoke any license, or*  
13 *may impose a fine of not more than \$500 for each violation [by*  
14 *entering an order to that effect, with his findings in respect thereto,*  
15 *if upon a hearing,] if* it is determined that the ~~[applicant or licensee:]~~  
16 *person, as applicable:*

17 (a) ~~[In the case of an escrow agency, is insolvent;~~

18 ~~—(b)]~~ Has violated any provision of this chapter or any regulation  
19 adopted pursuant thereto or has aided and abetted another to do so;

20 ~~[(c) In the case of an escrow agency, is in such a financial~~  
21 ~~condition that he cannot continue in business with safety to his~~  
22 ~~customers;~~

23 ~~—(d)]~~ (b) Has committed fraud in connection with any transaction  
24 governed by this chapter ~~;~~

25 ~~—(e)]~~ *or has engaged in any other conduct which constitutes a*  
26 *deceitful, fraudulent or dishonest business practice;*

27 (c) Has intentionally or knowingly made any misrepresentation  
28 or false statement to, or concealed any essential or material fact  
29 from, any principal or designated agent of a principal in the course  
30 of the escrow business;

31 ~~[(f)]~~ (d) Has intentionally or knowingly made or caused to be  
32 made to the Commissioner any false representation of a material  
33 fact or has suppressed or withheld from the Commissioner any  
34 information which the ~~[applicant or licensee]~~ *person* possesses ~~;~~

35 ~~—(g)]~~ *and which would render the person ineligible for a license*  
36 *pursuant to this chapter;*

37 (e) Has failed without reasonable cause to furnish to the parties  
38 of an escrow their respective statements of the settlement within a  
39 reasonable time after the close of escrow;

40 ~~[(h)]~~ (f) Has failed without reasonable cause to deliver, within a  
41 reasonable time after the close of escrow, to the respective parties of  
42 an escrow transaction any money, documents or other properties  
43 held in escrow in violation of the provisions of the escrow  
44 instructions;



~~[(g)]~~ (g) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter;

~~[(h)]~~ (h) Has been convicted of , *or entered a plea of nolo contendere to, in any jurisdiction*, a felony relating to the practice of escrow agents or agencies or ~~[any misdemeanor]~~ *crime* of which an essential element is fraud ~~;~~

~~—(k) In the case of an escrow agency, has failed to maintain complete and accurate records of all transactions within the last 6 years;~~

~~—(l), misrepresentation, violence or moral turpitude;~~

(i) Has commingled the money of others with his own , ~~[or]~~ converted the money of others to his own use ~~;~~

~~—(m), or does not maintain at all times sufficient money in trust accounts to pay all money due or owing to all clients;~~

(j) Has failed, before the close of escrow, to obtain written escrow instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;

~~[(n)]~~ *or*

(k) Has failed to disclose in writing that he is acting in the dual capacity of escrow agent or agency and undisclosed principal in any transaction . ~~;~~ ~~or~~

~~—(o) In the case of an escrow agency, has:~~

~~——(1) Failed to maintain adequate supervision of an escrow agent; or~~

~~——(2) Instructed an escrow agent to commit an act which would be cause for the revocation of the escrow agent's license and the escrow agent committed the act. An escrow agent is not subject to disciplinary action for committing such an act under instruction by the escrow agency.]~~

2. *For an applicant, the Commissioner may also refuse to issue a license as an escrow agent or agency if it is determined that the applicant or any person who is an owner, general partner, officer, director, trustee, or other person of similar status or control, as determined by the Commissioner, of an applicant:*

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

(b) *Has failed to demonstrate a good reputation for honesty, trustworthiness and integrity and to display the competence necessary to transact the business of an escrow agent or agency in a manner which safeguards the interests of the general public;*





1 (c) Has had a license that was issued pursuant to the  
2 provisions of chapter 692A of NRS suspended or revoked within  
3 the 10 years preceding the date of the application; or

4 (d) Has, within 10 years before the date of applying for a  
5 current license, had suspended or revoked a license issued  
6 pursuant to this chapter or a comparable license issued by any  
7 other state, district or territory of the United States or any foreign  
8 country.

9 3. For an escrow agent, the Commissioner may also impose a  
10 fine of not more than \$500 for each violation, may suspend,  
11 revoke or place conditions on a license or may do both, if it is  
12 determined that the escrow agent:

13 (a) Was grossly negligent or incompetent in performing his  
14 duties;

15 (b) Has repeatedly violated the policies and procedures of the  
16 escrow agency with whom he is associated or by whom he is  
17 employed;

18 (c) Has violated any provision applicable to a escrow agent  
19 from chapter 107 or 598 of NRS or from a federal law or  
20 regulation; or

21 (d) Has violated an order of the Commissioner or has assisted  
22 or offered to assist another person in committing such a violation.

23 4. For an escrow agency, the Commissioner may also impose  
24 a fine of not more than \$500 for each violation, may suspend or  
25 revoke or place conditions on a license or may do both, if it is  
26 determined that the escrow agency, whether or not acting as such:

27 (a) Is insolvent.

28 (b) Is in such financial condition that it cannot continue in  
29 business with safety to its customers;

30 (c) Has failed to maintain complete and accurate records of all  
31 transactions within the last 6 years;

32 (d) Has:

33 (1) Failed to maintain adequate supervision of an escrow  
34 agent; or

35 (2) Instructed an escrow agent to commit an act which  
36 would be cause for the revocation of the escrow agent's license  
37 and the escrow agent committed the act, although for the purposes  
38 of this subparagraph, the escrow agent is not subject to  
39 disciplinary action for committing such an act, as the act was  
40 committed under instruction by the escrow agency;

41 (e) Has employed a person as an escrow agent, or authorized a  
42 person to be associated with the agency as an escrow agent, while  
43 the agency knew or reasonably should have known that the  
44 person:



*(1) Had been convicted of, or entered a plea of nolo contendere to, in any jurisdiction, a felony relating to the practice of escrow agents or any crime involving fraud, misrepresentation, violence or moral turpitude; or*

*(2) Had a financial services license or registration suspended or revoked within the last 10 years; or*

*(f) Has violated any provision applicable to the escrow agency from chapter 107 or 598 of NRS or from a federal law or regulation.*

5. It is sufficient cause for the imposition of a fine or the refusal, suspension or revocation of the license of a partnership, corporation or any other association that any member of the partnership or any officer or director of the corporation or association has been guilty of any act or omission which would be cause for such action had the applicant or licensee been a natural person.

~~[3.] 6. The Commissioner may suspend any license [for not more than 30 days,] pending a hearing, if upon examination into the affairs of the licensee it is determined that any of the grounds enumerated in [subsection 1 or 2 exist.~~

~~—4. The Commissioner may refuse to issue a license to any person who, within 10 years before the date of applying for a current license, has had suspended or revoked a license issued pursuant to this chapter or a comparable license issued by any other state, district or territory of the United States or any foreign country.~~

~~—5.] this section would impact the health, safety or welfare of the public.~~

7. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

**Sec. 10.** NRS 645A.160 is hereby amended to read as follows:

645A.160 All money deposited in escrow to be delivered upon the close of the escrow or upon any other contingency must be ~~kept separate from money belonging to the escrow agent or agency and must be~~ handled in the following manner:

1. *If the money is paid to an escrow agent or agency that is acting as a third-party agent for purposes of collecting any payment for a loan secured by a lien on real property or for the performance of services related to such a loan or both, the money must:*

*(a) Be deposited in an institution that is federally insured;*

*(b) Be kept separate from money belonging to the escrow agent or agency and from money received pursuant to subsection 2 or 3; and*

*(c) Be designated under an appropriate name indicating that the money is not the money of the escrow agent or agency;*



2. *If the money is paid to an escrow agent or agency acting as a third-party agent for purposes of collecting any payment for taxes or insurance premiums on real property, the money must:*

(a) *Be deposited in an institution that is federally insured;*

(b) *Be kept separate from money belonging to the escrow agent or agency and from money received pursuant to subsection 1 or 3; and*

(c) *Be designated under an appropriate name, such as "impound trust account," indicating that the money is not the money of the escrow agent or agency; or*

3. *If the money that is paid to an escrow agent or agency does not fit the descriptions in subsection 1 or 2, the money must:*

(a) *Be deposited in a financial institution that is federally insured or insured by a private insurer approved pursuant to NRS 678.755 unless another financial institution has been designated in writing in the instructions for the escrow* ~~[- The money when deposited must be]~~ ;

(b) *Be kept separate from money belonging to the escrow agent or agency and money received pursuant to subsection 1 or 2; and*

(c) *Be designated as "trust funds" or "escrow accounts" or under some other appropriate name indicating that the money is not the money of the escrow agent or agency.*

**Sec. 11.** NRS 645A.173 is hereby amended to read as follows:

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

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

(b) Certificate of cooperation issued pursuant to NRS 645.605, ➔ of any real estate broker, broker-salesman or salesman who will be paid compensation from money held in the escrow for performing the services of a real estate broker, broker-salesman or salesman in the transaction that is the subject of the escrow. The holder of the escrow is not required to verify independently the validity of the number of the license or certificate.

2. If an escrow for the sale *or refinance* of real property is established and the real property is or will be secured by a mortgage or deed of trust, the holder of the escrow shall ~~[- on]~~ :

(a) *On* the date of establishment of the escrow, record in writing the number and the date of expiration of the license issued pursuant to chapter 645B or 645E of NRS of any mortgage broker or mortgage banker associated with the mortgage or deed of trust ~~[- The holder of the escrow is not required to verify]~~ ;



1 (b) *Verify* independently the validity of the number of the  
2 license ~~[-]~~ *issued by the Division and shall do so in a manner to be*  
3 *prescribed by the Division;*

4 (c) *If the mortgage broker or mortgage banker opening the*  
5 *escrow does not hold a valid license issued pursuant to chapter*  
6 *645B or 645E of NRS, or the person is not exempt from the*  
7 *provisions of those chapters, submit information on the person to*  
8 *the Division in a manner to be prescribed by the Division.*

9 3. *The Commissioner may adopt any regulations necessary to*  
10 *enforce this section.*

11 **Sec. 12.** NRS 645A.210 is hereby amended to read as follows:

12 645A.210 It is unlawful for any person, unless exempted under  
13 NRS 645A.015, to *offer, to* engage in or carry on, or hold himself  
14 out as engaging in or carrying on, the escrow business or act in the  
15 capacity of an escrow agent or agency without ~~[first obtaining]~~  
16 *holding* a license *in good standing* as an escrow agent or agency.

17 **Sec. 13.** NRS 645A.230 is hereby amended to read as follows:

18 645A.230 ~~[Any person who violates:~~

19 ~~— 1. NRS 645A.160, 645A.210 or 645A.220 is guilty of a gross~~  
20 ~~misdemeanor.]~~

21 1. *A person, or any general partner, director, officer, agent or*  
22 *employee of a person, who violates NRS 645A.160, 645A.210 or*  
23 *645A.220, or any regulation determined and stated by the*  
24 *Commissioner to be necessary to the enforcement of those*  
25 *provisions, is guilty of:*

26 (a) *A misdemeanor if the amount involved is less than \$250;*

27 (b) *A gross misdemeanor if the amount involved is \$250 or*  
28 *more but less than \$1,000; or*

29 (c) *A category D felony if the amount involved is \$1,000 or*  
30 *more, and shall be punished as provided in NRS 193.130.*

31 2. *Any person, or any general partner, director, officer, agent*  
32 *or employee of a person, who violates any other provision of this*  
33 *chapter is guilty of a misdemeanor.*

34 3. *In addition to any other penalty, if a person is convicted of,*  
35 *or enters a plea of nolo contendere to, a violation described in*  
36 *subsection 1, the court shall order the person to pay:*

37 (a) *Court costs; and*

38 (b) *Reasonable costs of the investigation and prosecution of*  
39 *the violation.*

40 **Sec. 14.** Chapter 645B is hereby amended by adding thereto  
41 the provisions set forth as sections 15 to 19, inclusive, of this act.

42 **Sec. 15.** *“Mortgage banker” has the meaning ascribed to it*  
43 *in NRS 645E.100.*

44 **Sec. 16.** *“Qualified employee” means:*

45 1. *A natural person who:*



1 (a) Holds a license as a mortgage agent which is in good  
2 standing and not a license as a mortgage broker;

3 (b) Is designated by a mortgage broker to act on behalf of that  
4 mortgage broker; and

5 (c) Meets any additional requirements set forth by the  
6 Commissioner in regulation; or

7 2. A natural person who:

8 (a) Holds a license as a mortgage broker which is in good  
9 standing and does not hold a license as a mortgage agent;

10 (b) Is the person who primarily supervises his mortgage  
11 business; and

12 (c) Meets any additional requirements set forth by the  
13 Commissioner in regulation.

14 **Sec. 17.** 1. Every mortgage broker that is not a natural  
15 person shall designate a person to act as a qualified employee  
16 pursuant to the duties and requirements set forth by the  
17 Commissioner by regulation

18 2. Every mortgage broker that is a natural person shall  
19 designate either himself or another natural person to act as a  
20 qualified employee pursuant to the duties and requirements set  
21 forth by the Commission by regulation.

22 **Sec. 18.** In addition to any other requirements provided by  
23 this chapter, a person who wishes to receive an initial license as a  
24 mortgage broker or mortgage agent must meet the requirements of  
25 section 64 of this act.

26 **Sec. 19.** 1. At any one time, a mortgage agent may only be  
27 employed by or associated with:

28 (a) One mortgage broker at a specific office location; or

29 (b) One mortgage banker at a specific office location.

30 2. When employed or associated with a mortgage broker, a  
31 mortgage agent must abide by the provisions of this chapter, any  
32 regulations made pursuant to this chapter and any orders of the  
33 Commissioner.

34 **Sec. 20.** NRS 645B.010 is hereby amended to read as follows:

35 645B.010 As used in this chapter, unless the context otherwise  
36 requires, the words and terms defined in NRS 645B.0105 to  
37 645B.0135, inclusive, *and sections 15 and 16 of this act*, have the  
38 meanings ascribed to them in those sections.

39 **Sec. 21.** NRS 645B.0125 is hereby amended to read as  
40 follows:

41 645B.0125 1. "Mortgage agent" means ~~[(a)]~~ :

42 (a) A natural person who:

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



~~[(b)]~~ (2) 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 ~~[(b)]~~; or

(b) *A natural person who:*

(1) *Is an employee or independent contractor of a mortgage banker; and*

(2) *Is authorized by the mortgage banker to engage in, on behalf of the mortgage banker, any activity that would require the person, if he were not an employee or independent contractor of the mortgage banker, to be licensed as a mortgage banker pursuant to chapter 645E of NRS.*

2. *The term includes any natural person who:*

(a) *Is an employee or independent contractor of a mortgage broker or mortgage banker, as applicable, and, on behalf of the mortgage broker or mortgage banker, as applicable, processes a loan secured by a lien on real property; or*

(b) *Conducts telemarketing on behalf of the mortgage broker or mortgage banker, as applicable, if the telemarketing relates to an activity that a mortgage broker or mortgage banker, as applicable, holds himself out to do.*

3. The term does not include a person who:

(a) Is licensed as a mortgage broker ~~[(b)]~~ *or mortgage banker;*

(b) Is a general partner, officer or director of a mortgage broker ~~[(b)]~~ *or mortgage banker;* or

(c) Performs only clerical or ministerial tasks for a mortgage broker ~~[(b)]~~ *or mortgage banker.*

**Sec. 22.** 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 *, for himself or as an agent for another,* notes secured by liens on real property;

or



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

2. The term does not include ~~the~~:

(a) 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 ~~the~~; or

(b) *An institutional investor that purchases closed loans, loan portfolios or servicing rights for loans originated by a mortgage broker or a person exempt from the provisions of this chapter, including, without limitation, banks, insurance companies and governmental agencies that engage in such purchases.*

**Sec. 23.** 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 *which is expressly authorized* 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 ~~the~~ or thrift companies ~~for insurance companies, unless the business conducted in this State is not subject to~~ *and who is under direct* supervision by the regulatory authority of ~~the other jurisdiction, in which case licensing pursuant to this chapter is required.~~ *this State, another state or the United States. Such a person must be able to provide proof of authorization and supervision upon the request of, and in a manner to be determined by, the Commissioner.*

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



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

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

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

8 **Sec. 24.** NRS 645B.020 is hereby amended to read as follows:

9 645B.020 1. A person who wishes to be licensed as a  
10 mortgage broker must file a written application for a license with the  
11 Office of the Commissioner and pay the fee required pursuant to  
12 NRS 645B.050. An application for a license as a mortgage broker  
13 must:

14 (a) Be verified.

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

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

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

23 (1) ~~[If the applicant is not a natural person, have]~~ *Have* an  
24 interest in the mortgage broker as ~~[a]~~ *an owner*, principal, partner,  
25 officer, director, ~~[or]~~ *trustee, or other person with similar status or*  
26 *control, as determined by the Commissioner*, specifying the  
27 capacity and title of each such person.

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

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

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

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

40 (h) Include all information required to complete the application.

41 (i) *Include any information regarding any civil or criminal*  
42 *proceedings brought against the applicant or, if the applicant is*  
43 *not a natural person, against a principal, partner, officer, director,*  
44 *trustee, or other person who has similar status or control, as*  
45 *determined by the Commissioner, of the applicant.*





(j) *Include any information relating to any written complaints that resulted in a censure, reprimand, fine or any other type of action which is not an exoneration by any state or federal regulator against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, trustee, or other person with similar status or control, as determined by the Commissioner, 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.

3. *The location of each principal office and branch office in this State must not be on land that is zoned primarily for residential use.*

4. 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}~~ *all applicable requirements ; {of this chapter;}* and

(b) The applicant and ~~{each}~~ *any* general partner, officer , ~~{or}~~ director ~~{or}~~ , *trustee, or other person who has similar status or control, as determined by the Commissioner, 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 qualifications to the Commissioner.

(2) Has not been convicted of, or entered a plea of nolo contendere to, *in any jurisdiction*, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation , *violence* or moral turpitude ; ~~{}~~

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

(4) Has not had a license that was issued pursuant to the provisions of this chapter or chapter 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.

*5. Any person who has been convicted of, or who has entered a plea of nolo contendere to, in any jurisdiction, any crime involving fraud, misrepresentation, violence or moral turpitude is not eligible to receive a license as a mortgage broker. The person remains ineligible for the issuance of the license until 3 years after:*

*(a) The person pays any fine or restitution order; or*

*(b) The expiration of any period of parole, probation or sentence of the person, whichever is later.*

**Sec. 25.** 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 statement required pursuant to NRS 645B.085, any fee or assessment that is due, or* 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;

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

(e) All information required to complete the reinstatement ~~and~~, *including, without limitation, any statements required pursuant to NRS 645B.085; and*

*(f) The payment of any fees or assessments that are due.*

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:



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; and

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

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

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

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

15 (c) Except as otherwise provided in this section, a reinstatement  
16 fee of *not more than* \$100.

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

20 (a) To file an original application for a license, *not more than*  
21 \$1,500 for the principal office and *not more than* \$40 for each  
22 branch office. The person must also pay such additional expenses  
23 incurred in the process of investigation as the Commissioner deems  
24 necessary.

25 (b) To be issued a license, *not more than* \$1,000 for the  
26 principal office and *not more than* \$60 for each branch office.

27 (c) To renew a license, *not more than* \$500 for the principal  
28 office and *not more than* \$100 for each branch office.

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

32 (a) To file an application for a certificate of exemption, *not*  
33 *more than* \$200.

34 (b) To renew a certificate of exemption, *not more than* \$100.

35 7. To be issued a duplicate copy of any license or certificate of  
36 exemption, a person must make a satisfactory showing of its loss  
37 and pay a fee of *not more than* \$10.

38 8. Except as otherwise provided in this chapter ~~[H]~~ *or section 66*  
39 *of this act*, all fees received pursuant to this chapter must be  
40 deposited in the Fund for Mortgage Lending created by  
41 NRS 645F.270.

42 9. The Commissioner may ~~[, by regulation, increase]~~ *adjust*  
43 any fee set forth in this section if the Commissioner determines that  
44 such an ~~[increase]~~ *adjustment* is necessary for the Commissioner to  
45 carry out his duties pursuant to this chapter. The amount of any



1 ~~[increase]~~ *adjustment* in a fee pursuant to this subsection must not  
2 exceed the amount determined to be necessary for the  
3 Commissioner to carry out his duties pursuant to this chapter.

4 **Sec. 26.** NRS 645B.051 is hereby amended to read as follows:

5 645B.051 1. Except as otherwise provided in this section, in  
6 addition to the requirements set forth in NRS 645B.050, to renew a  
7 license as a mortgage broker:

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

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

19 2. The Commissioner may provide by regulation that ~~[any]~~, *if*  
20 *a person attends more than 10* hours of ~~[a]~~ certified ~~[course]~~  
21 *courses* of continuing education ~~[attended]~~ during a 12-month  
22 period, ~~[but not needed]~~ *the extra hours may be used* to satisfy ~~[a~~  
23 ~~requirement set forth in this section]~~ *the requirement* for the  
24 *immediately following* 12-month period ~~[in which the course was~~  
25 ~~taken, may be used to satisfy a requirement set forth in this section~~  
26 ~~for a later 12-month period.]~~, *and for that immediately following*  
27 *12-month period only.*

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

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

34 ~~—(b) Any organization designated for this purpose by the~~  
35 ~~Commissioner by regulation.]~~ *which meets the requirements of*  
36 *section 65 of this act.*

37 **Sec. 27.** NRS 645B.060 is hereby amended to read as follows:

38 645B.060 1. Subject to the administrative control of the  
39 Director of the Department of Business and Industry, the  
40 Commissioner shall exercise general supervision and control over  
41 mortgage brokers and mortgage agents doing business in this State.

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

44 (a) Adopt any regulations that are necessary to carry out the  
45 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 may conduct biannual examinations of a mortgage broker instead of annual examinations, as described in paragraph (c) of subsection 2, if the mortgage broker:*

*(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;*



*(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;*

*(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and*

*(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.*

**Sec. 28.** NRS 645B.085 is hereby amended to read as follows:

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

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

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

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

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

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

**Sec. 29.** NRS 645B.189 is hereby amended to read as follows:

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

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

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the



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1 Commissioner or required pursuant to an order of the Commissioner  
2 entered in accordance with subsections 7 and 8 of NRS 645B.185.

3 3. Each mortgage broker *who has received his initial license*  
4 *within the last 12 months* shall submit any proposed advertisement  
5 that the mortgage broker intends to use in carrying on his business  
6 to the Commissioner for approval.

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

10 (a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive  
11 trade practices; and

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

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

22 6. *A mortgage broker shall not include the name, trade name,*  
23 *logo or tagline of any other type of mortgage company in a written*  
24 *solicitation for financial services directed to a consumer without*  
25 *the consent of the other mortgage company, unless the solicitation*  
26 *clearly and conspicuously identifies the other mortgage company*  
27 *name and states that:*

28 (a) *The mortgage broker is not sponsored by or affiliated with*  
29 *the other mortgage company; and*

30 (b) *The solicitation is not authorized by the other mortgage*  
31 *company.*

32 7. *The statement described in subsection 6 must be made in*  
33 *close proximity to, and in the same or larger font size as, the first*  
34 *and the most prominent use or uses of the name, trade name, logo*  
35 *or tagline of the other mortgage company in the solicitation,*  
36 *including on an envelope or through an envelope window.*

37 8. *A mortgage broker shall not use the name of another*  
38 *mortgage company or a name similar to that of another mortgage*  
39 *company in a solicitation directed to consumers if that use could*  
40 *cause a reasonable person to be confused, mistaken, or deceived*  
41 *initially or otherwise as to:*

42 (a) *The other mortgage company's sponsorship, affiliation,*  
43 *connection or association with the mortgage broker using the*  
44 *name; or*





1       (b) *The other mortgage company's approval or endorsement of*  
2 *the mortgage broker using the name or of the mortgage broker's*  
3 *services or products.*

4       9. *A mortgage broker shall not include a consumer's loan*  
5 *number or loan amount, whether or not publicly available, in a*  
6 *solicitation for services or products without the consent of the*  
7 *consumer, unless the solicitation clearly and conspicuously states,*  
8 *when applicable, that the mortgage broker is not sponsored by or*  
9 *affiliated with any mortgage company related to the loan or the*  
10 *consumer and that the solicitation is not authorized by any*  
11 *mortgage company related to the loan or the consumer, and states*  
12 *that the consumer's loan information was not provided to that*  
13 *mortgage broker by any mortgage company related to the loan or*  
14 *the consumer. This statement must be made in close proximity to,*  
15 *and in the same or larger font as, the first and the most prominent*  
16 *use or uses of the consumer's loan information in the solicitation,*  
17 *including on an envelope or through an envelope window*  
18 *containing the solicitation.*

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

21       **Sec. 30.** NRS 645B.410 is hereby amended to read as follows:

22       645B.410 1. ~~[(To)]~~ *Except as otherwise provided in this*  
23 *chapter, to* obtain a license as a mortgage agent, a person must:

24       (a) Be a natural person;

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

27       (c) Comply with ~~[(the)]~~ *all* applicable requirements ; ~~[(of this~~  
28 ~~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)]~~ *two* complete ~~[(set)]~~ *sets* of fingerprints which the  
39 Division may forward to the Central Repository for Nevada Records  
40 of Criminal History for submission to the Federal Bureau of  
41 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 ;  
12 ~~[of this chapter;]~~ and

13 (b) The applicant:

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

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

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

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

25 (5) Has a good reputation for honesty, trustworthiness and  
26 integrity and displays competence to transact the business of a  
27 mortgage agent in a manner which safeguards the interests of the  
28 general public ~~[. The applicant must submit]~~ ; and

29 (6) *Has submitted* satisfactory proof of ~~[these]~~ *the*  
30 *qualifications required for a license* to the Commissioner.

31 4. ~~[Money]~~ *Except as otherwise provided in section 66 of this*  
32 *act, all money* received by the Commissioner pursuant to this  
33 section must be deposited in the Fund for Mortgage Lending created  
34 by NRS 645F.270.

35 5. *The Commissioner may deny a license as a mortgage agent*  
36 *to any person who has been convicted of, or entered a plea of nolo*  
37 *contendere to, in any jurisdiction, a crime involving fraud,*  
38 *misrepresentation, violence or moral turpitude. The Commissioner*  
39 *may deny such a person a license for at least 3 years after:*

40 (a) *The person pays any fine or restitution order;* or

41 (b) *The expiration of the period of parole, probation or*  
42 *sentence of the person, whichever is later.*

43 **Sec. 31.** NRS 645B.430 is hereby amended to read as follows:

44 645B.430 1. A license as a mortgage agent issued pursuant to  
45 NRS 645B.410 expires 1 year after the date the license is issued,



1 unless it is renewed. To renew a license as a mortgage agent, the  
2 holder of the license must submit to the Commissioner each year, on  
3 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 at  
7 least 10 hours of certified courses of continuing education during  
8 the 12 months immediately preceding the date on which the license  
9 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 *not more than* \$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 pay  
24 a fee of *not more than* \$10.

25 4. To change the mortgage broker with whom the mortgage  
26 agent is associated, a person must pay a fee of *not more than* \$10.

27 5. ~~[Money]~~ *Except as otherwise provided in section 66 of this*  
28 *act, all money* received by the Commissioner pursuant to this  
29 section must be deposited in the Fund for Mortgage Lending created  
30 by NRS 645F.270.

31 6. The Commissioner may provide by regulation that ~~[any] if a~~  
32 *person attends more than 10* hours of ~~[a]~~ certified ~~[course]~~ *courses*  
33 of continuing education ~~[attended]~~ during a 12-month period, ~~[but~~  
34 ~~not-needed]~~ *the extra hours may be used* to satisfy ~~[a requirement~~  
35 ~~set forth in this section]~~ *the requirement* for the *immediately*  
36 *following* 12-month period ~~[in which the hours were taken, may be~~  
37 ~~used to satisfy a requirement set forth in this section for a later~~  
38 ~~12-month period.]~~ *, and for the immediately following 12-month*  
39 *period only.*

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

42 **Sec. 32.** NRS 645B.450 is hereby amended to read as follows:

43 645B.450 1. ~~[A person licensed as a mortgage agent pursuant~~  
44 ~~to the provisions of NRS 645B.410 may not be associated with or~~  
45 ~~employed by more than one mortgage broker at the same time.~~



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

5 ~~[3.]~~ 2. If a mortgage agent terminates his association or  
6 employment with a mortgage broker for any reason, the mortgage  
7 broker shall, not later than ~~[the third business day]~~ 30 days  
8 following *knowledge of* the date of termination:

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

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

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

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

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

19 **Sec. 33.** NRS 645B.460 is hereby amended to read as follows:

20 645B.460 1. A mortgage broker shall exercise reasonable  
21 supervision over the activities of his mortgage agents. Such  
22 reasonable supervision must include, as appropriate:

23 (a) The establishment of written or oral policies and procedures  
24 for his mortgage agents; ~~[and]~~

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

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

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

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

34 (4) The handling by his mortgage agents of any fee, deposit  
35 or money paid to the mortgage broker or his mortgage agents or  
36 held in trust by the mortgage broker or his mortgage agents pursuant  
37 to this chapter ~~[;]~~ *; and*

38 *(c) The reporting to the Division of any fraudulent activity*  
39 *engaged in by any of its mortgage agents.*

40 2. The Commissioner shall allow a mortgage broker to take  
41 into consideration the total number of mortgage agents associated  
42 with or employed by the mortgage broker when the mortgage broker  
43 determines the form and extent of the policies and procedures for  
44 those mortgage agents and the system to review, oversee and inspect  
45 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. 34.** NRS 645B.670 is hereby amended to read as follows:

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

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

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

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

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

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than \$10,000, may suspend, revoke or place conditions upon his license, ~~for~~ may do both, *may require the disgorgement of any profit made or may require that restitution be made to any party shown by a preponderance of the evidence to be injured by the mortgage broker as a result of a violation of this chapter, a regulation adopted pursuant to this chapter, or an order of the Commissioner*, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;



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(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, *in any jurisdiction*, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation, *violence* or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

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

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

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

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

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

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

(1) Had been convicted of, or entered a plea of nolo contendere to, *in any jurisdiction*, a felony relating to the practice of



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mortgage agents or any crime involving fraud, misrepresentation ,  
*violence* or moral turpitude; or

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

(t) Has failed to pay a tax as required pursuant to the provisions  
of chapter 363A of NRS; ~~for~~

(u) Has not conducted verifiable business as a mortgage broker  
for 12 consecutive months, except in the case of a new applicant.  
The Commissioner shall determine whether a mortgage broker is  
conducting business by examining the monthly reports of activity  
submitted by the mortgage broker or by conducting an examination  
of the mortgage broker ~~for~~;

*(v) Has violated any provision applicable to a mortgage broker  
from chapter 107 or 598 of NRS or from a federal law or  
regulation; or*

*(w) Has coerced, intimidated, or directly or indirectly  
compensated an appraiser for the purposes of influencing the  
independent judgment of the appraiser with respect to the value of  
the real estate being offered as security according to an  
application for a mortgage loan.*

3. For each violation committed by a mortgage agent, the  
Commissioner may impose upon the mortgage agent an  
administrative fine of not more than \$10,000, may suspend, revoke  
or place conditions upon his license, ~~for~~ may do both, *may require  
the disgorgement of any profit made, or may require that  
restitution be made to any party shown by a preponderance of the  
evidence to be injured by the mortgage agent as a result of a  
violation of this chapter, a regulation adopted pursuant to this  
chapter, or an order of the Commissioner*, if the mortgage agent,  
whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for  
which he is required to be licensed pursuant to the provisions of this  
chapter;

(b) Has made a material misrepresentation in connection with  
any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts,  
data or other information relating to any transaction governed by the  
provisions of this chapter which the mortgage agent knew or, by the  
exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the  
Commissioner any false representation of material fact or has  
suppressed or withheld from the Commissioner any information  
which the mortgage agent possesses and which, if submitted by him,  
would have rendered the mortgage agent ineligible to be licensed  
pursuant to the provisions of this chapter;



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(e) Has been convicted of, or entered a plea of nolo contendere to, *in any jurisdiction*, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation, *violence* or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

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

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

(i) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; ~~for~~

(j) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation ~~or~~;

*(k) Has violated any provision applicable to a mortgage agent from chapter 107 or 598 of NRS or from a federal law or regulation; or*

*(l) Has coerced, intimidated, or directly or indirectly compensated an appraiser for the purposes of influencing the independent judgment of the appraiser with respect to the value of the real estate being offered as security as set forth in an application for a mortgage loan.*

**Sec. 35.** Chapter 645E is hereby amended by adding thereto the provisions set forth as sections 36 to 45, inclusive, of this act.

**Sec. 36.** *"Mortgage agent" has the meaning ascribed to it in NRS 645B.0125.*

**Sec. 37.** *"Mortgage broker" has the meaning ascribed to it in NRS 645B.0127.*

**Sec. 38.** *"Qualified employee" means:*

*1. A natural person who:*

*(a) Holds a license as a mortgage agent which is in good standing and not a license as a mortgage banker;*

*(b) Is designated by a mortgage banker to act on behalf of that mortgage banker; and*

*(c) Meets any additional requirements set forth by the Commissioner in regulation; or*

*2. A natural person who:*

*(a) Holds a license as a mortgage banker which is in good standing and does not hold a license as a mortgage agent;*





1     (b) Is the person who primarily supervises his mortgage  
2 business; and

3     (c) Meets any additional requirements set forth by the  
4 Commissioner in regulation.

5     **Sec. 39.** 1. Every mortgage banker that is not a natural  
6 person shall designate a person to act as a qualified employee  
7 pursuant to the duties and requirements set forth by the  
8 Commissioner by regulation.

9     2. Every mortgage banker that is a natural person shall  
10 designate either himself or another natural person to act as a  
11 qualified employee pursuant to the duties and requirements set  
12 forth by the Commissioner by regulation.

13     **Sec. 40.** 1. A mortgage banker may employ or be associated  
14 with a mortgage agent pursuant to the provisions of this chapter  
15 and chapter 645B of NRS.

16     2. When employed or associated with a mortgage banker, a  
17 mortgage agent must abide by the provisions of this chapter, any  
18 regulations made pursuant to this chapter, any orders of the  
19 Commissioner, and any provisions regarding a license as a  
20 mortgage agent which are contained in chapter 645B of NRS.

21     **Sec. 41.** 1. A mortgage banker shall not associate with or  
22 employ a person as a mortgage agent or authorize a person to be  
23 associated with the mortgage banker as a mortgage agent if the  
24 mortgage agent is not licensed with the Division.

25     2. If a mortgage agent terminates his association or  
26 employment with a mortgage banker for any reason, the mortgage  
27 banker shall, not later than 30 days following knowledge of the  
28 date of termination:

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

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

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

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

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

40     **Sec. 42.** 1. A mortgage banker shall exercise reasonable  
41 supervision over the activities of his mortgage agents. Such  
42 reasonable supervision must include, without limitation, as  
43 appropriate:

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





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

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

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

8           (3) *Documents prepared by his mortgage agents that may*  
9 *have a material effect upon the rights or obligations of a party to*  
10 *such a transaction; and*

11           (4) *The handling by his mortgage agents of any fee, deposit*  
12 *or money paid to the mortgage banker or his mortgage agents or*  
13 *held in trust by the mortgage banker or his mortgage agents*  
14 *pursuant to this chapter; and*

15       (c) *The reporting to the Division of any fraudulent activity*  
16 *engaged in by any of its mortgage agents.*

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

23       3. *The Commissioner may adopt regulations prescribing*  
24 *standards for determining whether a mortgage banker has*  
25 *exercised reasonable supervision over the activities of a mortgage*  
26 *agent pursuant to this section.*

27       **Sec. 43.** 1. *In addition to any requirements set forth in this*  
28 *chapter, each advertisement that a mortgage banker uses in*  
29 *carrying on his business must comply with the requirements of:*

30           (a) *NRS 598.0903 to 598.0999, inclusive, concerning deceptive*  
31 *trade practices; and*

32           (b) *Any applicable federal statute or regulation concerning*  
33 *deceptive advertising and the advertising of interest rates.*

34       2. *If a mortgage banker violates any provision of NRS*  
35 *598.0903 to 598.0999, inclusive, concerning deceptive trade*  
36 *practices or any federal statute or regulation concerning deceptive*  
37 *advertising or the advertising of interest rates, in addition to any*  
38 *sanction or penalty imposed by state or federal law upon the*  
39 *mortgage banker for the violation, the Commissioner may take*  
40 *any disciplinary action set forth in this chapter against the*  
41 *mortgage banker.*

42       3. *A mortgage banker shall not include the name, trade*  
43 *name, logo or tagline of any other type of mortgage company in a*  
44 *written solicitation for financial services directed to a consumer*



1 *without the consent of the other mortgage company, unless the*  
2 *solicitation clearly and conspicuously states that:*

3 *(a) The mortgage banker is not sponsored by or affiliated with*  
4 *the other mortgage company; and*

5 *(b) The solicitation is not authorized by the other mortgage*  
6 *company, which must be identified by name.*

7 *4. The statement described in subsection 1 must be made in*  
8 *close proximity to, and in the same or larger font size as, the first*  
9 *and the most prominent use or uses of the name, trade name, logo*  
10 *or tagline in the solicitation, including on an envelope or through*  
11 *an envelope window containing the solicitation.*

12 *5. A mortgage banker shall not use the name of another*  
13 *mortgage company or a name similar to that of another mortgage*  
14 *company in a solicitation directed to consumers if that use could*  
15 *cause a reasonable person to be confused, mistaken, or deceived*  
16 *initially or otherwise as to either of the following:*

17 *(a) The other mortgage company's sponsorship, affiliation,*  
18 *connection or association with the mortgage banker using the*  
19 *name; or*

20 *(b) The other mortgage company's approval or endorsement of*  
21 *the mortgage banker using the name of the other mortgage*  
22 *company or of the mortgage banker's services or products.*

23 *6. A mortgage banker shall not include a consumer's loan*  
24 *number or loan amount, whether or not publicly available, in a*  
25 *solicitation for services or products without the consent of the*  
26 *consumer, unless the solicitation clearly and conspicuously states,*  
27 *when applicable, that the mortgage banker is not sponsored by or*  
28 *affiliated with any mortgage company related to the loan or the*  
29 *consumer, that the solicitation is not authorized by any mortgage*  
30 *company related to the loan or the consumer and that the*  
31 *consumer's loan information was not provided to that mortgage*  
32 *banker by any mortgage company related to the loan or the*  
33 *consumer. This statement must be made in close proximity to, and*  
34 *in the same or larger font as, the first and the most prominent use*  
35 *or uses of the consumer's loan information in the solicitation,*  
36 *including on an envelope or through an envelope window*  
37 *containing the solicitation.*

38 *7. The Commissioner may adopt any regulations that are*  
39 *necessary to carry out the provisions of this section.*

40 **Sec. 44. 1. Except as otherwise provided in this section, in**  
41 **addition to the requirements set forth in NRS 645E.280, to renew**  
42 **a license as a mortgage banker:**

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



1 *during the 12 months immediately preceding the date on which the*  
2 *license 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*  
6 *at least 10 hours of certified courses of continuing education*  
7 *during the 12 months immediately preceding the date on which the*  
8 *license expires.*

9 *2. The Commissioner may provide by regulation that if a*  
10 *person attends more than 10 hours of certified courses of*  
11 *continuing education during a 12-month period, the extra hours*  
12 *may be used to satisfy the requirement for the immediately*  
13 *following 12-month period, and for that immediately following*  
14 *12-month period only.*

15 *3. As used in this section, "certified course of continuing*  
16 *education" means a course of continuing education which relates*  
17 *to the mortgage industry or mortgage transactions and which*  
18 *meets the requirements of section 65 of this act.*

19 **Sec. 45.** *In addition to any other requirements provided by*  
20 *this chapter, a person who wishes to receive an initial license as a*  
21 *mortgage banker must meet the requirements of section 64 of this*  
22 *act.*

23 **Sec. 46.** NRS 645E.010 is hereby amended to read as follows:  
24 645E.010 As used in this chapter, unless the context otherwise  
25 requires, the words and terms defined in NRS 645E.020 to  
26 645E.100, inclusive, *and sections 36, 37 and 38 of this act* have the  
27 meanings ascribed to them in those sections.

28 **Sec. 47.** NRS 645E.100 is hereby amended to read as follows:  
29 645E.100 1. "Mortgage banker" means any of 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



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

2. *The term does not include an institutional investor that purchases closed loans, loan portfolios or servicing rights for loans originated by a mortgage banker or a person exempt from the provisions of this chapter, including, without limitation, banks, insurance companies and governmental agencies that engage in such purchases.*

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

**Sec. 48.** NRS 645E.130 is hereby amended to read as follows:

645E.130 The provisions of this chapter do not:

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

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

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

**Sec. 49.** NRS 645E.150 is hereby amended to read as follows:

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

1. Any person *who is* doing business *which is expressly authorized* 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~~ *or* thrift companies ~~for insurance companies, unless the business conducted in this State is not subject to~~ *and who is under direct* supervision by the regulatory authority of ~~the other jurisdiction, in which case licensing pursuant to this chapter is required.~~ *this State, another state or the United States. Such a person must be able to provide proof of authorization and supervision upon the request of, and in a manner determined by, the Commissioner.*

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



1 supervision by the regulatory authority of the other jurisdiction, in  
2 which case licensing pursuant to this chapter is required.

3 3. An employee benefit plan, as defined in 29 U.S.C. §  
4 1002(3), if the loan is made directly from money in the plan by the  
5 plan's trustee.

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

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

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

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

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

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

23 **Sec. 50.** NRS 645E.160 is hereby amended to read as follows:

24 645E.160 1. A person who claims an exemption from the  
25 provisions of this chapter pursuant to subsection 1 of NRS 645E.150  
26 must:

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

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

30 (c) Include with the written application satisfactory proof that  
31 the person meets the requirements of subsection 1 of  
32 NRS 645E.150.

33 2. The Commissioner may require a person who claims an  
34 exemption from the provisions of this chapter pursuant to  
35 subsections 2 to 9, inclusive, of NRS 645E.150 to:

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

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

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

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



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

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

(b) Another certificate of exemption.

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

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

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

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

**Sec. 51.** NRS 645E.200 is hereby amended to read as follows:

645E.200 1. A person who wishes to be licensed as a mortgage banker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645E.280. An application for a license as a mortgage banker 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 banker will conduct business in this State, including, without limitation, any office or other place of business located outside this State from which the mortgage banker will conduct business in this State.

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

(d) If the applicant is not a natural person, list the name, ~~{residence}~~ *residential* address and business address of each person who will have an interest in the mortgage banker as a principal, partner, officer, director, ~~{or}~~ trustee, *or other person with similar status or control, as determined by the Commissioner*, specifying the capacity and title of each such person.

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



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

(g) Include a financial statement of the applicant.

(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, office, director, trustee, or other person with similar status or control, as determined by the Commissioner, of the applicant.*

(i) *Include any information relating to any written complaints that resulted in a censure, reprimand, fine or any other type of action which is not an exoneration by any state or federal regulator against the applicant or, if the applicant is not a natural person, against a principal, partner, officer, director, trustee, or other person with similar status or control, as determined by the Commissioner, 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 banker will conduct business in this State at one or more branch offices, the mortgage banker must apply for a license for each such branch office.

3. *The location of each principal office and branch office in this State must not be on land that is zoned primarily for residential use.*

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

(a) The application complies with ~~{the}~~ *all applicable* requirements ; ~~{of this chapter;}~~ and

(b) The applicant and ~~{each}~~ *any* general partner, officer , ~~{or}~~ *director , trustee, or other person with similar status or control, as determined by the Commissioner,* 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 banker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(2) Has not been convicted of, or entered a plea of nolo contendere to, *in any jurisdiction*, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation , *violence* or moral turpitude.

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





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

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

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

~~[4-]~~ 5. If an applicant is a partnership, corporation or unincorporated association, the Commissioner may refuse to issue a license to the applicant if any member of the partnership or any officer or director of the corporation or unincorporated association has committed any act or omission that would be cause for refusing to issue a license to a natural person.

~~[5-]~~ 6. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant or a subsidiary or affiliate of the applicant has a license issued pursuant to this chapter for an office or other place of business located in this State and if the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

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

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

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

*7. Any person who has been convicted of, or who has entered a plea of nolo contendere to, in any jurisdiction, any crime involving fraud, misrepresentation, violence or moral turpitude is not eligible to receive a license as a mortgage banker. The person remains ineligible for the issuance of the license until 3 years after:*

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

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

➤ *whichever is later.*



\* S B 5 4 6 \*

1     **Sec. 52.** 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]~~ *all*  
8 *applicable* 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 , *has failed to provide any statements required*  
13 *pursuant to NRS 645E.360 or has failed to pay any fees or*  
14 *assessments* to the Commissioner on or before ~~[December 31]~~  
15 *November 30* of any year, the license is cancelled ~~[ ]~~ *as of*  
16 *December 31 of that same year*. The Commissioner may reinstate a  
17 cancelled license if the licensee submits to the Commissioner:

18     (a) An application for renewal that complies with ~~[the]~~ *all*  
19 *applicable* requirements ; ~~[of this chapter;]~~

20     (b) The fee required to renew the license pursuant to this  
21 section; ~~[and]~~

22     (c) A reinstatement fee of \$200 ~~[ ]~~ ; *and*

23     (d) *All information required to complete the reinstatement,*  
24 *including any statements required pursuant to NRS 645E.360 and*  
25 *payment of any fees or assessments which are due.*

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

31     (a) An application for renewal that complies with ~~[the]~~ *all*  
32 *applicable* requirements ; ~~[of this chapter;]~~ and

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

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

40     (a) An application for renewal that complies with ~~[the~~  
41 ~~requirements of this chapter;]~~ *all applicable requirements;*

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

43     (c) A reinstatement fee of not more than \$100.



\* S B 5 4 6 \*

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

(a) To file an original application for a license, *not more than* \$1,500 for the principal office and *not more than* \$40 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, *not more than* \$1,000 for the principal office and *not more than* \$60 for each branch office.

(c) To renew a license, *not more than* \$500 for the principal office and *not more than* \$100 for each branch office.

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

(a) To file an application for a certificate of exemption, *not more than* \$200.

(b) To renew a certificate of exemption, *not more than* \$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 ~~§~~ *or section 66 of this act*, all fees received pursuant to this chapter must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

**Sec. 53.** NRS 645E.300 is hereby amended to read as follows:

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

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

(e) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a



1 governmental agency upon the express condition that they remain  
2 confidential. This paragraph does not limit examination by:

3 (1) The Legislative Auditor; or

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

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

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

14 **Sec. 54.** NRS 645E.360 is hereby amended to read as follows:

15 645E.360 1. Except as otherwise provided in this section, not  
16 later than ~~{60}~~ *120* days after the last day of each fiscal year for a  
17 mortgage banker, the mortgage banker shall submit to the  
18 Commissioner a financial statement that:

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

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

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

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

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

36 **Sec. 55.** NRS 645E.370 is hereby amended to read as follows:

37 645E.370 1. Except as otherwise provided in this section or  
38 by specific statute, all papers, documents, reports and other written  
39 instruments filed with the Commissioner pursuant to this chapter are  
40 open to public inspection.

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



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

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

**Sec. 56.** NRS 645E.620 is hereby amended to read as follows:

645E.620 1. Whether or not a complaint has been filed, the Commissioner may investigate a ~~[mortgage banker or other]~~ person, *whether or not he is a mortgage banker or mortgage agent*, if ~~[.]~~ for any reason, it appears that:

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

(b) The person is offering or providing any of the services of a mortgage banker *or mortgage agent*, or otherwise engaging in, carrying on or holding himself out as engaging in or carrying on the business of a mortgage banker *or mortgage agent*, without being licensed *pursuant to this chapter or chapter 645B of NRS, as applicable*, or exempt from licensing pursuant to the provisions of this chapter; or

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

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

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

(b) Bring a civil action to:

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

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

3. If the ~~[Commissioner]~~ *Attorney General* brings a civil action pursuant to subsection 2, the district court of any county of this State is hereby vested with the jurisdiction in equity to enjoin the



1 conduct, the operation of the business or the commission of the  
2 violation and may grant any injunctions that are necessary to  
3 prevent and restrain the conduct, the operation of the business or the  
4 commission of the violation. During the pendency of the  
5 proceedings before the district court:

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

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

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

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

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

18 **Sec. 57.** NRS 645E.670 is hereby amended to read as follows:

19 645E.670 1. For each violation committed by an applicant,  
20 whether or not he is issued a license, the Commissioner may impose  
21 upon the applicant an administrative fine of not more than \$10,000,  
22 if the applicant:

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

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

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

33 2. For each violation committed by a licensee, the  
34 Commissioner may impose upon the licensee an administrative fine  
35 of not more than \$10,000, may suspend, revoke or place conditions  
36 upon his license, ~~for~~ may do both, *may require the disgorgement*  
37 *of any profit made, or may require that restitution be made to any*  
38 *party shown by a preponderance of the evidence to be injured by*  
39 *the licensee as a result of a violation of this chapter, a regulation*  
40 *adopted pursuant to this chapter or an order of the Commissioner,*  
41 if the licensee, whether or not acting as such:

42 (a) Is insolvent;

43 (b) Is grossly negligent or incompetent in performing any act for  
44 which he is required to be licensed pursuant to the provisions of this  
45 chapter;



(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, *in any jurisdiction*, a felony relating to the practice of mortgage bankers *or mortgage agents, as applicable*, or any crime involving fraud, misrepresentation, *violence* or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as *may be* required pursuant to the provisions of chapter 363A of NRS;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use; ~~{or}~~

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





1       (q) Has coerced, intimidated, or directly or indirectly  
2       compensated an appraiser for the purposes of influencing the  
3       independent judgment of the appraiser with respect to the value of  
4       the real estate being offered as security as set forth in an  
5       application for a mortgage loan;

6       (r) Has failed to exercise reasonable supervision over the  
7       activities of a person conducting business on behalf of the  
8       mortgage banker;

9       (s) Has instructed a person associated with the mortgage  
10      banker to commit an act that would cause revocation of the license  
11      of the mortgage banker, whether or not the person commits the  
12      act; or

13      (t) Has violated any provision applicable to a licensee from  
14      chapter 107 or 598 of NRS or from a federal law or regulation.

15      3. For each violation committed by a mortgage agent, the  
16      Commissioner may impose upon the mortgage agent an  
17      administrative fine of not more than \$10,000, may suspend, revoke  
18      or place conditions upon his license, may do both, may require the  
19      disgorgement of any profit made, or may require that restitution  
20      be made to any party shown by a preponderance of the evidence to  
21      be injured by the mortgage agent as a result of a violation of this  
22      chapter, a regulation adopted pursuant to this chapter or an order  
23      of the Commissioner, if the mortgage agent, whether or not acting  
24      as such:

25      (a) Is grossly negligent or incompetent in performing any act  
26      for which he is required to be licensed pursuant to the provisions  
27      of this chapter;

28      (b) Has made a material misrepresentation in connection with  
29      any transaction governed by this chapter;

30      (c) Has suppressed or withheld from a client any material  
31      facts, data or other information relating to any transaction  
32      governed by the provisions of this chapter which the mortgage  
33      agent knew or, by the exercise of reasonable diligence, should  
34      have known;

35      (d) Has knowingly made or caused to be made to the  
36      Commissioner any false representation of material fact or has  
37      suppressed or withheld from the Commissioner any information  
38      which the mortgage agent possesses and which, if submitted by  
39      him, would have rendered the mortgage agent ineligible to be  
40      licensed;

41      (e) Has been convicted of, or entered a plea of nolo contendere  
42      to, in any jurisdiction, a felony relating to the practice of mortgage  
43      agents or any crime involving fraud, misrepresentation, violence  
44      or moral turpitude;



1 (f) *Has failed to account for or to remit any money of a client*  
2 *within a reasonable time after a request for an accounting or*  
3 *remittal;*

4 (g) *Has commingled the money or other property of a client*  
5 *with his own or has converted the money or property of others to*  
6 *his own use;*

7 (h) *Has engaged in any other conduct constituting a deceitful,*  
8 *fraudulent or dishonest business practice;*

9 (i) *Has repeatedly violated the policies and procedures of the*  
10 *mortgage banker with whom he is associated or by whom he is*  
11 *employed;*

12 (j) *Has violated any provision of this chapter, a regulation*  
13 *adopted pursuant to this chapter or an order of the Commissioner*  
14 *or has assisted or offered to assist another person to commit such*  
15 *a violation; or*

16 (k) *Has coerced, intimidated or directly or indirectly*  
17 *compensated an appraiser for the purposes of influencing the*  
18 *independent judgment of the appraiser with respect to the value of*  
19 *the real estate being offered as security according to an*  
20 *application for a mortgage loan.*

21 4. An order that imposes discipline and the findings of fact and  
22 conclusions of law supporting that order are public records.

23 Sec. 58. NRS 645E.900 is hereby amended to read as follows:

24 645E.900 It is unlawful for any person to offer or provide any  
25 of the services of a mortgage banker *or mortgage agent* or  
26 otherwise to engage in, carry on or hold himself out as engaging in  
27 or carrying on the business of a mortgage banker *or mortgage agent*  
28 without first obtaining a license as a mortgage banker ~~[pursuant to~~  
29 ~~this chapter,]~~ *or mortgage agent, as applicable*, unless the person:

30 1. Is exempt from the provisions of this chapter; and

31 2. Complies with the requirements for that exemption.

32 Sec. 59. Chapter 645F of NRS is hereby amended by adding  
33 thereto the provisions set forth as sections 60 to 67, inclusive, of this  
34 act.

35 Sec. 60. *“Mortgage agent” has the meaning ascribed to it in*  
36 *NRS 645B.0125.*

37 Sec. 61. *“Qualified employee” includes the qualified*  
38 *employees described in sections 16 and 38 of this act.*

39 Sec. 62. *As used in sections 60 to 67, inclusive, of this act,*  
40 *“Fund” means the Mortgage Lending Education and Research*  
41 *Fund.*

42 Sec. 63. 1. *The Mortgage Lending Education and Research*  
43 *Fund is hereby created as a special revenue fund. The Fund must*  
44 *be used by the Commissioner for the following:*



1 (a) *Establishing and administering an education program for*  
2 *persons who hold licenses pursuant to chapter 645B or 645E of*  
3 *NRS, including, without limitation, providing courses of*  
4 *continuing education and administering written examinations;*

5 (b) *Conducting research relating to mortgage lending; and*

6 (c) *Providing consumer awareness public service*  
7 *announcements and publications.*

8 2. *The interest and income on the money in the Fund, after*  
9 *deducting any applicable charges, must be credited to the Fund.*

10 3. *The Commissioner may adopt any regulations necessary to*  
11 *carry out the provisions of this section.*

12 **Sec. 64.** 1. *The Division shall not issue an initial license as*  
13 *a mortgage broker, mortgage agent or mortgage banker to a*  
14 *person unless the person:*

15 (a) *Completes at least 30 hours of education on mortgage*  
16 *lending as follows:*

17 (1) *Ten hours on the relevant laws of this State;*

18 (2) *Five hours on ethics;*

19 (3) *Four hours on relevant federal laws;*

20 (4) *Seven hours on loan origination, processing, appraisal*  
21 *or underwriting; or*

22 (b) *Successfully passes a written examination determined by*  
23 *the Division.*

24 2. *The Division:*

25 (a) *May hire a testing organization to create, administer and*  
26 *score a written examination; and*

27 (b) *May create waivers for a written examination.*

28 3. *If the applicant of a license as a mortgage broker or*  
29 *mortgage banker is not a natural person, the person designated as*  
30 *a qualified employee of the applicant must meet the requirements*  
31 *of subsection 1.*

32 4. *The Commissioner may adopt regulations to carry out the*  
33 *provisions of this section, including, without limitation,*  
34 *regulations relating to the content of a written examination, the*  
35 *scoring of a written examination or any possible waivers of a*  
36 *written examination.*

37 **Sec. 65.** 1. *A course of continuing education that is*  
38 *required pursuant to chapter 645B or 645E of NRS must meet the*  
39 *requirements set forth by the Commissioner by regulation.*

40 2. *The Commissioner shall establish regulations:*

41 (a) *Relating to the requirements for courses of continuing*  
42 *education, including, without limitation, regulations relating to*  
43 *the providers and instructors of such courses, records kept for*  
44 *such courses, approval and revocation of approval of such*



1 *courses, monitoring of such courses and disciplinary action taken*  
2 *in regard to such courses.*

3 *(b) Allowing for the participation of representatives of the*  
4 *mortgage lending industry pertaining to the creation of*  
5 *regulations regarding such courses.*

6 **Sec. 66.** 1. *The Division may assign not more than \$20 of*  
7 *each initial licensing fee and renewal fee collected pursuant to*  
8 *chapters 645B and 645E of NRS toward the establishment and*  
9 *maintenance of the Fund.*

10 2. *If the money collected pursuant to subsection 1 is not*  
11 *sufficient to cover the costs associated with the Fund, such costs*  
12 *may be paid from the unallocated reserves of the Division.*

13 **Sec. 67.** 1. *The Commissioner may determine the best*  
14 *method of payment for the costs of:*

15 *(a) Legal services provided by the Attorney General;*

16 *(b) Certified public accountants; and*

17 *(c) Other related activities.*

18 2. *The Commissioner shall adopt regulations in regard to:*

19 *(a) Establishing a reasonable basis for assessments collected*  
20 *by the Division; and*

21 *(b) Payment of the costs described in subsection 1.*

22 **Sec. 68.** NRS 645F.010 is hereby amended to read as follows:

23 645F.010 As used in this chapter, unless the context otherwise  
24 requires, the words and terms defined in NRS 645F.020 to  
25 645F.060, inclusive, *and sections 60 to 61 of this act* have the  
26 meanings ascribed to them in those sections.

27 **Sec. 69.** NRS 645F.180 is hereby amended to read as follows:

28 645F.180 1. The Commissioner may appoint deputy  
29 commissioners of mortgage lending, examiners, assistants, clerks,  
30 stenographers and other employees necessary to assist him in the  
31 performance of his duties pursuant to this chapter, chapters 645A,  
32 645B and 645E of NRS or any other law. These employees shall  
33 perform such duties as are assigned to them by the Commissioner.

34 2. The Commissioner may employ or contract with a certified  
35 public accountant to review and conduct independent audits and  
36 examinations of escrow agencies, mortgage brokers and mortgage  
37 bankers. The Commissioner ~~[shall]~~ *may* levy an assessment upon  
38 each licensed escrow agency, mortgage broker and mortgage banker  
39 to cover all *or a portion of* the costs related to the employment of or  
40 the contract with the certified public accountant and the  
41 performance of the audits and examinations.

42 3. Assessments collected by the Commissioner pursuant to  
43 subsection 2 must be deposited in the State Treasury for deposit to  
44 the Fund for Mortgage Lending created by NRS 645F.270 and



1 accounted for separately. The Commissioner ~~{shall}~~ *may* use the  
2 money for the purposes specified in subsection 2.

3 **Sec. 70.** NRS 645F.290 is hereby amended to read as follows:

4 645F.290 1. The Commissioner ~~{shall}~~ *may* collect an  
5 assessment pursuant to this section from each:

6 (a) Escrow agency that is supervised pursuant to chapter 645A  
7 of NRS;

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

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

12 2. The Commissioner shall determine the total amount of all  
13 assessments to be collected from the entities identified in subsection  
14 1, but that amount must not exceed the amount necessary to recover  
15 the cost of legal services provided by the Attorney General to the  
16 Commissioner and to the Division. The total amount of all  
17 assessments collected ~~{must}~~ *may* be reduced by any amounts  
18 collected by the Commissioner from an entity for the recovery of the  
19 costs of legal services provided by the Attorney General in a  
20 specific case.

21 3. The Commissioner ~~{shall}~~ *may* collect from each entity  
22 identified in subsection 1 an assessment ~~{that is}~~, *and if he collects*  
23 *the assessment, it must be* based on:

24 (a) An equal basis; or

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

26 4. The assessment ~~{required}~~ *authorized* by this section is in  
27 addition to any other assessment, fee or cost required by law to be  
28 paid by an entity identified in subsection 1.

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

32 **Sec. 71.** NRS 80.015 is hereby amended to read as follows:

33 80.015 1. For the purposes of this chapter, the following  
34 activities do not constitute doing business in this State:

35 (a) Maintaining, defending or settling any proceeding;

36 (b) Holding meetings of the board of directors or stockholders or  
37 carrying on other activities concerning internal corporate affairs;

38 (c) Maintaining accounts in banks or credit unions;

39 (d) Maintaining offices or agencies for the transfer, exchange  
40 and registration of the corporation's own securities or maintaining  
41 trustees or depositaries with respect to those securities;

42 (e) Making sales through independent contractors;

43 (f) Soliciting or receiving orders outside of this State through or  
44 in response to letters, circulars, catalogs or other forms of



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1 advertising, accepting those orders outside of this State and filling  
2 them by shipping goods into this State;

3 (g) Creating or acquiring indebtedness, mortgages and security  
4 interests in real or personal property;

5 (h) Securing or collecting debts or enforcing mortgages and  
6 security interests in property securing the debts;

7 (i) Owning, without more, real or personal property;

8 (j) Isolated transactions completed within 30 days and not a part  
9 of a series of similar transactions;

10 (k) The production of motion pictures as defined in  
11 NRS 231.020;

12 (l) Transacting business as an out-of-state depository institution  
13 pursuant to the provisions of title 55 of NRS; and

14 (m) Transacting business in interstate commerce.

15 2. The list of activities in subsection 1 is not exhaustive.

16 3. A person who is not doing business in this State within the  
17 meaning of this section need not qualify or comply with any  
18 provision of this chapter, chapter 645A, 645B or 645E of NRS or  
19 title 55 or 56 of NRS unless he:

20 (a) Maintains an office in this State for the transaction of  
21 business; ~~for~~

22 (b) Solicits or accepts deposits in the State, except pursuant to  
23 the provisions of chapter 666 or 666A of NRS ~~§~~;

24 (c) *Solicits business for the activities of a mortgage broker as*  
25 *defined by NRS 645B.0127 and the activities of a mortgage banker*  
26 *as defined by NRS 645E.100; or*

27 (d) *Arranges a mortgage loan secured by real property which*  
28 *is not commercial property as defined by NRS 645E.040.*

29 4. The fact that a person is not doing business in this State  
30 within the meaning of this section:

31 (a) Does not affect the determination of whether any court,  
32 administrative agency or regulatory body in this State may exercise  
33 personal jurisdiction over the person in any civil action, criminal  
34 action, administrative proceeding or regulatory proceeding; and

35 (b) Except as otherwise provided in subsection 3, does not affect  
36 the applicability of any other provision of law with respect to the  
37 person and may not be offered as a defense or introduced in  
38 evidence in any civil action, criminal action, administrative  
39 proceeding or regulatory proceeding to prove that the person is not  
40 doing business in this State, including, without limitation, any civil  
41 action, criminal action, administrative proceeding or regulatory  
42 proceeding involving an alleged violation of chapter 597, 598 or  
43 598A of NRS.



1       5. As used in this section and for the purposes of NRS 80.016,  
2 “deposits” means demand deposits, savings deposits and time  
3 deposits, as those terms are defined in chapter 657 of NRS.

4       **Sec. 72.** Chapter 692A of NRS is hereby amended by adding  
5 the following provision:

6       1. *If an escrow for the sale or refinance of real property is*  
7 *established, the holder of the escrow shall, on the date of*  
8 *establishment of the escrow, record in writing the number and the*  
9 *date of expiration of the:*

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

11       (b) *Certificate of cooperation issued pursuant to NRS 645.605,*  
12 *↪ of any real estate broker, broker-salesman or salesman who will*  
13 *be paid compensation from money held in the escrow for*  
14 *performing the services of a real estate broker, broker-salesman or*  
15 *salesman in the transaction that is the subject of the escrow. The*  
16 *holder of the escrow is not required to verify independently the*  
17 *validity of the number of the license or certificate.*

18       2. *If an escrow for the sale or refinance of real property is*  
19 *established and the real property is or will be secured by a*  
20 *mortgage or deed of trust, the holder of the escrow shall:*

21       (a) *On the date of establishment of the escrow, record in*  
22 *writing the number and the date of expiration of the license issued*  
23 *pursuant to chapter 645B or 645E of NRS of any mortgage broker*  
24 *or mortgage banker associated with the mortgage or deed of trust;*

25       (b) *Verify independently the validity of the number of the*  
26 *license issued by the Division and shall do so in a manner to be*  
27 *prescribed by the Division;*

28       (c) *If the mortgage broker or mortgage banker opening the*  
29 *escrow does not hold a valid license issued pursuant to chapter*  
30 *645B or 645E of NRS, or the person is not exempt from the*  
31 *provisions of those chapters, submit information on the person to*  
32 *the Division in a manner to be prescribed by the Division.*

33       3. As used in this section, “Division” means the Division of  
34 *Mortgage Lending of the Department of Business and Industry.*

35       **Sec. 73.** 1. If a principal or branch office of a mortgage  
36 broker was established before the date of passage and approval of  
37 this act, that office is exempt from NRS 645B.020, as amended by  
38 subsection 3 of section 24 of this act.

39       2. If a principal or branch office of a mortgage banker was  
40 established before the date of passage and approval of this act, that  
41 office is exempt from NRS 645E.200, as amended by subsection 3  
42 of section 51 of this act.

43       3. Any person who received or will receive a mortgage agent  
44 license between October 1, 2004, and June 30, 2008, must fulfill the  
45 requirements of subsection 1 of section 64 of this act before



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1 January 1, 2009, in the same manner as a person obtaining an initial  
2 license. If the person who received a mortgage agent license  
3 between October 1, 2004, and June 30, 2008, does not do so, the  
4 license of that person is suspended until he does do so.

5 4. Any natural person who received or will receive a mortgage  
6 broker or mortgage banker license between October 1, 2005, and  
7 June 30, 2008, must fulfill the requirements of subsection 1 of  
8 section 64 of this act before January 1, 2009, in the same manner as  
9 a natural person obtaining an initial license. If the natural person  
10 who received a mortgage broker or mortgage banker license  
11 between October 1, 2004, and June 30, 2008, does not do so, the  
12 license of that natural person is suspended until he does do so.

13 **Sec. 74.** 1. This section and sections 24 and 51 of this act  
14 become effective upon passage and approval.

15 2. Sections 1 to 23, inclusive, 25 to 50, inclusive, and 52 to 73,  
16 inclusive, of this act become effective:

17 (a) Upon passage and approval for purpose of adopting  
18 regulations, administering examinations as set forth in section 64 of  
19 this act and approving courses of continuing education as set forth in  
20 section 65 of this act; and

21 (b) On July 1, 2008, for all other purposes.

