

ASSEMBLY BILL NO. 151—ASSEMBLYMEN CONKLIN, BUCKLEY, OCEGUERA, LESLIE, DONDERO LOOP; AIZLEY, ANDERSON, CLABORN, DENIS, GANSERT, HAMBRICK, HARDY, HOGAN, HORNE, KIHUEN, KIRKPATRICK, KOIVISTO, MANENDO, MASTROLUCA, MCCLAIN, MORTENSON, MUNFORD, PIERCE, SEGERBLOM, SMITH, SPIEGEL AND STEWART

FEBRUARY 10, 2009

JOINT SPONSORS: SENATORS CARLTON, PARKS, COPENING, SCHNEIDER; COFFIN AND WOODHOUSE

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning mortgage lending. (BDR 54-567)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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

AN ACT relating to mortgage lending; requiring a mortgage broker to include his license number on any loan secured by a lien on real property for which he engages in activity as a mortgage broker; requiring certain financial institutions that offer nontraditional mortgage loan products to make certain disclosures to borrowers with respect to nontraditional mortgage loans; requiring such financial institutions to certify such disclosures to the Commissioner of Financial Institutions; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 **Section 1** of this bill requires a mortgage broker to include his license number
- 2 on each loan secured by a lien on real property for which he engages in activity as a
- 3 mortgage broker. If a mortgage broker fails to comply with **section 1**, the
- 4 Commissioner of Mortgage Lending may impose an administrative fine of not more



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than \$10,000 and may place conditions on the license of the mortgage broker or suspend or revoke the license. (NRS 645B.670) In addition, a mortgage broker who fails to comply with **section 1** is guilty of a misdemeanor. (NRS 645B.950)

Section 2 of this bill requires a financial institution that offers nontraditional mortgage loan products to make certain written disclosures to a borrower with respect to a nontraditional loan secured by a lien on real property. The disclosures must be written in language that is easy to understand and printed in at least 10-point type or font. In addition, **section 2** requires the financial institution to certify to the Commissioner of Financial Institutions that the disclosures have been made. **Section 2** also authorizes the financial institution to contract with a nonprofit or government-operated consumer credit counseling or housing counseling agency or a nonprofit or government-operated legal services agency to make the required certifications. A financial institution that fails to comply with **section 2** is guilty of a misdemeanor. (NRS 668.115)

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto a new section to read as follows:

A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker includes the license number of the mortgage broker.

Sec. 2. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A financial institution which is required to be licensed pursuant to the provisions of this title or title 56 of NRS and which offers nontraditional mortgage loan products that are secured by liens on real property shall, with respect to each nontraditional mortgage loan made by the financial institution, disclose to the borrower adequate information concerning the actual costs and risks of the nontraditional mortgage loan product offered.

2. The disclosure required by subsection 1 must be written in language that is easy to understand, must be printed in at least 10-point bold type or font and must include, without limitation:

(a) Information concerning potential increases in monthly payments, including information describing the circumstances under which interest rates or negative amortization could reach the contractual limits;

(b) Information concerning the maximum monthly payment that the borrower may be required to pay if amortizing payments are required and the interest rate and negative amortization caps are reached;

(c) Information concerning the circumstances under which structural payment changes will occur, the amount of the new



1 *payments and the method of calculating the amount of the new*
2 *payments;*

3 *(d) Information concerning negative amortization, including*
4 *information describing the potential for increases in the principal*
5 *balance and decreases in home equity and any other potential*
6 *adverse consequences to the borrower resulting from negative*
7 *amortization;*

8 *(e) If a nontraditional mortgage loan product includes*
9 *prepayment penalties, information explaining the prepayment*
10 *penalties and the amount of the penalties;*

11 *(f) If the financial institution offers full-document home loans*
12 *in addition to low-document home loans, no-document home*
13 *loans or stated-document home loans, information concerning any*
14 *pricing premium that attaches to the low-document home loans,*
15 *no-document home loans or stated-document home loans; and*

16 *(g) For payment option adjustable-rate mortgages,*
17 *information explaining each payment option available and the*
18 *effect on the loan balance of each payment option.*

19 *3. A financial institution required to make a disclosure*
20 *pursuant to subsection 1 shall, with respect to each nontraditional*
21 *mortgage loan made by the financial institution, certify to the*
22 *Commissioner that the financial institution has made the*
23 *disclosure required by subsection 1. The financial institution may*
24 *contract with a nonprofit or government-operated consumer credit*
25 *counseling or housing counseling agency or a nonprofit or*
26 *government-operated legal services agency which has been*
27 *operating as such for the immediately preceding 7 years to provide*
28 *the certification required by this subsection.*

29 *4. As used in this section:*

30 *(a) "Low-document home loan" has the meaning ascribed to it*
31 *in NRS 598D.100.*

32 *(b) "No-document home loan" has the meaning ascribed to it*
33 *in NRS 598D.100.*

34 *(c) "Nonprofit or government-operated consumer credit*
35 *counseling or housing counseling agency" means:*

36 *(1) A person or organization which is recognized as a*
37 *charitable organization pursuant to section 501(c)(3) of the*
38 *Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3), and which*
39 *is certified by the United States Department of Housing and Urban*
40 *Development as a Housing Counseling Agency;*

41 *(2) A government agency or government-operated*
42 *organization which is certified by the United States Department of*
43 *Housing and Urban Development as a Housing Counseling*
44 *Agency; or*



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(3) A person or organization which is recognized as exempt under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3), and which:

(I) As its primary business, provides specialized personal and group counseling services to a person who is seeking to purchase a home or obtain legal advice regarding a real estate transaction and who is suffering or who may suffer economic hardship because of the extension of credit;

(II) Acts as an agent for a person who is suffering or who may suffer economic hardship because of the extension of credit in his efforts to resolve his economic hardships;

(III) May receive money or any other thing of value for disbursement to one or more of the creditors of a person who is suffering or who may suffer economic hardship because of the extension of credit; and

(IV) If it has a board of directors, has a board of directors with a majority of members who are not employed by the agency or otherwise receive any direct or indirect financial benefit from the provision of any services by the agency.

(d) "Nonprofit or government-operated legal services agency" means an organization that provides legal services to low-income persons without charge, and:

(1) Is a government agency or government-operated organization; or

(2) Is recognized as a charitable organization pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3).

(e) "Nontraditional mortgage loan product" has the meaning ascribed to it in NRS 658.190 and also includes an adjustable-rate mortgage, a low-document home loan, a no-document home loan and a stated-document home loan.

(f) "Stated-document home loan" has the meaning ascribed to it in NRS 598D.100.

Sec. 3. 1. The provisions of this act apply only to loans secured by liens on real property and nontraditional mortgage loan products offered on or after the effective date of this act.

2. For a loan secured by a lien on real property that is made on or after the effective date of this act but before October 1, 2009, a mortgage broker who does not include his license number on the loan as required by section 1 of this act may, without penalty, cure his failure to comply with section 1 of this act not later than 30 days after the date the loan is made.

3. For a nontraditional mortgage loan product offered on or after the effective date of this act but before October 1, 2009, a financial institution that:



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- 1 (a) Is subject to the requirements of section 2 of this act; and
- 2 (b) Fails to comply with the provisions of section 2 of this act,
- 3 ➔ may, without penalty, cure the failure to comply with section 2 of
- 4 this act not later than 30 days after the date the nontraditional
- 5 mortgage loan is made.
- 6 **Sec. 4.** This act becomes effective upon passage and approval.

