

## Amendment No. 808

Assembly Amendment to Assembly Bill No. 523

(BDR 54-773)

**Proposed by:** Assembly Committee on Ways and Means**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 523 (§§ 8, 59, 82, 84.5).

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

DY/WLK



Date: 5/18/2009

A.B. No. 523—Implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. (BDR 54-773)



## ASSEMBLY BILL NO. 523—COMMITTEE ON COMMERCE AND LABOR

MARCH 23, 2009

Referred to Committee on Commerce and Labor

SUMMARY—Implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. (BDR 54-773)

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; establishing provisions for the implementation of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; increasing certain administrative fines; ~~establishing a recovery fund for persons defrauded by mortgage brokers, mortgage agents, residential mortgage loan originators or mortgage bankers;~~ providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

This bill implements the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008. ~~Sections 2-18 and 76-80~~ ~~1,5-18, 21, 23, 24, 50.1-50.7 and 55-85~~ of this bill establish provisions for the licensing and registration with the nationwide mortgage licensing system and registry of residential mortgage loan originators, in compliance with federal law.

~~Section 58~~ ~~55~~ of this bill ~~also~~ ~~increases~~ the administrative fine the Commissioner of Mortgage Lending may impose upon an applicant for or a holder of a license as a mortgage broker, mortgage agent or residential mortgage loan originator for certain violations from \$10,000 to \$25,000 for each violation. (NRS 645B.670)

~~Section 85.5 of this bill repeals provisions for the licensing of certain persons on behalf of a corporation or limited liability company as mortgage agents. (NRS 645B.455)~~

~~Sections 65-75 of this bill establish the Mortgage Education, Research and Recovery Fund for persons defrauded by mortgage brokers, mortgage agents, residential mortgage loan originators or mortgage bankers. The provisions of this bill are patterned closely after the provisions in chapter 645 of NRS which establish a recovery fund for persons defrauded by real estate brokers. (NRS 645.841-645.849) Section 66 creates the Fund. Section 67 provides for funding for the Fund. Sections 68-70 and 72-74 provide for administration of the Fund and payment of claims against the Fund. Section 71 requires the license of a licensee to be automatically suspended until he repays to the Fund any amount paid from the Fund to settle a claim against that licensee. Section 75 provides that this bill does not limit the authority of the Division of Mortgage Lending of the Department of Business and Industry to take disciplinary action against a licensee.~~

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~18,~~ 8, inclusive, of this act.

Sec. 1.5. “Clerical or ministerial tasks” means communication with a person to obtain, and the receipt, collection and distribution of, information necessary for the processing or underwriting of a mortgage loan.

Sec. 2. “Nationwide Mortgage Licensing System and Registry” or “Registry” means the mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for licensing and registration of residential mortgage loan originators.

Sec. 3. ~~“Nontraditional mortgage loan product” means any mortgage product other than a 30 year fixed rate mortgage.~~ (Deleted by amendment.)

Sec. 4. ~~“Registered loan originator” means a natural person who, except for subsection 3 of section 6 of this act, meets the definition of a residential mortgage loan originator and:~~

~~1. Is an employee of a depository institution, a subsidiary that is owned and controlled by a depository financial institution and regulation by a federal banking agency, or an institution regulated by the Farm Credit Administration; and~~

~~2. Is registered with and maintains a unique identifier through the Registry.~~ (Deleted by amendment.)

Sec. 5. “Residential mortgage loan” means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or residential real estate upon which is constructed or intended to be constructed a dwelling. For purposes of this section, “dwelling” has the meaning ascribed to it section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).

Sec. 6. “Residential mortgage loan originator” means a natural person who takes a residential mortgage loan application ~~and~~ or offers or negotiates terms of a residential mortgage loan for compensation or other pecuniary gain. The term does not include:

1. A person who performs clerical or ministerial tasks as an employee at the direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under this chapter, unless the person who performs such clerical or ministerial tasks is an independent contractor; or

2. A person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53D). ~~or~~

~~3. A registered loan originator.~~

Sec. 7. ~~“Unique identifier” means a number or other identifier assigned by protocols established by the Registry.~~ (Deleted by amendment.)

Sec. 8. A mortgage broker or qualified employee who wishes to engage in activities as a residential mortgage loan originator ~~or to supervise a mortgage agent who engages in activities as a residential mortgage loan originator must obtain and maintain a license as a mortgage agent pursuant to the provisions of~~ [sections 12 to 19,] NRS 645B.400 to 645B.460, inclusive, of this act.

Sec. 9. ~~The Commissioner may refuse to issue a license as a residential mortgage loan originator to an applicant if the Commissioner has reason to believe that the applicant or any general partner of the applicant has, after October 1, 2009, employed or proposed to employ a person as a residential~~

~~mortgage loan originator or authorized or proposed to authorize a person to be associated with a residential mortgage loan originator as a residential mortgage loan originator at a time when the applicant or the general partner knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:~~

~~1. Had been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering; or~~

~~2. Had a license or registration as a residential mortgage loan originator revoked in this State or any other jurisdiction.] (Deleted by amendment.)~~

Sec. 10. ~~[A person shall not act as or provide any of the services of a residential mortgage loan originator or otherwise engage in, carry on or hold himself out as engaging in or carrying on the activities of a residential mortgage loan originator unless the person is licensed pursuant to the provisions of this chapter.] (Deleted by amendment.)~~

Sec. 11. ~~[The unique identifier of a residential mortgage loan originator must be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including, without limitation, business cards or Internet websites, and any other documents as required by regulation or order of the Commissioner.] (Deleted by amendment.)~~

Sec. 12. ~~[1. To obtain a license as a residential mortgage loan originator, a person must:~~

~~— (a) File a written application for a license as a residential mortgage loan originator with the Office of the Commissioner on a form prescribed by the Commissioner;~~

~~— (b) Comply with the applicable requirements of this chapter;~~

~~— (c) Pay an application fee set by the Commissioner of not more than \$185;~~

~~— (d) Furnish to the Registry information concerning the applicant's identity, including, without limitation:~~

~~— (1) The applicant's fingerprints for submission to the Central Depository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~— (2) The applicant's personal history and experience, including, without limitation, authorization for the Registry to obtain an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. 1681a(p), and information relating to any administrative, civil or criminal findings by any governmental jurisdiction; and~~

~~— (e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner or by an order of the Commissioner. Such information or supporting materials may include, without limitation, other forms of identification of the applicant.~~

~~2. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a residential mortgage loan originator to an applicant if:~~

~~— (a) The application is verified by the Commissioner and complies with the applicable requirements of this chapter; and~~

~~— (b) The applicant:~~

~~— (1) Has never had a license or registration as a residential mortgage loan originator revoked in this State or any other jurisdiction;~~

~~— (2) Has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;~~

~~(3) Has demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter;~~

~~(4) Has completed in any state the preclicensing education requirements described in section 15 of this act;~~

~~(5) Has passed a written examination that meets the testing requirements described in section 16 of this act; and~~

~~(6) Has paid into a recovery fund or met the net worth and surety bond requirements as required pursuant to section 17 of this act.~~

~~3. Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270. (Deleted by amendment.)~~

~~Sec. 13. [1. In addition to any other requirements set forth in this chapter:~~

~~(a) An applicant for the issuance of a license as a residential mortgage loan originator pursuant to this chapter must include the social security number of the applicant in the application submitted to the Commissioner;~~

~~(b) An applicant for the issuance or renewal of a license as a residential mortgage loan originator pursuant to this chapter must submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant;~~

~~2. The Commissioner shall include the statement required pursuant to subsection 1 in:~~

~~(a) The application or any other forms that must be submitted for the issuance or renewal of a license as a residential mortgage loan originator; or~~

~~(b) A separate form prescribed by the Commissioner;~~

~~3. The license as a residential mortgage loan originator may not be issued or renewed by the Commissioner if the applicant:~~

~~(a) Fails to submit the statement required pursuant to subsection 1; or~~

~~(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order;~~

~~4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage. (Deleted by amendment.)~~

~~Sec. 14. [1. A license as a residential mortgage loan originator issued pursuant to section 12 of this act expires 1 year after the date the license is issued, unless it is renewed. Except as otherwise provided in NRS 645B.400, to renew a license as a residential mortgage loan originator, the holder of the license must submit to the Commissioner each year, on or before the date the registration expires:~~

~~(a) An application for renewal;~~

~~(b) Satisfactory proof that the holder of the license as a residential mortgage loan originator completed, in any state, at least 8 hours of instruction in continuing education that was reviewed and approved by the Registry within the~~

~~12 months immediately preceding the date of the application for renewal, including at least the following:~~

~~(1) Three hours of federal law and regulation;~~

~~(2) Two hours of ethics, including instruction on fraud, consumer protection and fair lending issues; and~~

~~(3) Two hours of training relating to lending standards for the nontraditional mortgage loan product workplace; and~~

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

~~2. To satisfy the requirements of subsection 1, a residential mortgage loan originator:~~

~~(a) Shall not take the same approved course in the same or successive years to satisfy the annual requirements for continuing education; and~~

~~(b) If approved by the Registry as an instructor of a course of continuing education, may receive credit for continuing education at the rate of 2 hours of credit for every 1 hour of instruction he teaches.~~

~~3. If the holder of a license as a residential mortgage loan originator fails to submit any item required pursuant to subsection 1 to the Commissioner each year on or before the date the license expires, the license is cancelled. The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner:~~

~~(a) An application for renewal;~~

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

~~(c) A reinstatement fee of \$75.~~

~~4. To be issued a duplicate copy of a license as a residential mortgage loan originator, a person must make a satisfactory showing of its loss and pay a fee of \$10.~~

~~5. In addition to the requirements of this section, if a person's license as a residential mortgage loan originator has expired or has been cancelled for 5 years or more, the person must meet the examination requirements described in section 16 of this act.~~

~~6. Money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.] (Deleted by amendment.)~~

~~Sec. 15. (To meet the preclicensing requirements pursuant to section 12 of this act, an applicant for a license as a residential mortgage loan originator must complete, on or before the date of the application for an original license as a residential mortgage loan originator, 20 hours of instruction in courses reviewed and approved by the Registry, including at least the following:~~

~~1. Three hours of federal law and regulations;~~

~~2. Three hours of ethics, including instruction on fraud, consumer protection and fair lending issues; and~~

~~3. Two hours of training relating to lending standards for the nontraditional mortgage loan product marketplace.] (Deleted by amendment.)~~

~~Sec. 16. (1. To meet the written test requirement in section 12 of this act, an applicant for a license as a residential mortgage loan originator must successfully pass a written examination developed by the Registry and administered by a provider approved by the Registry. Except as otherwise provided by NRS 622.090, to successfully pass the examination, the applicant must obtain a score of at least 75 percent.~~

~~2. An applicant may retake the written examination up to three consecutive times, except that each consecutive examination must occur not earlier than at least 30 days before the previous examination was taken.~~

~~3. An applicant who fails three consecutive examinations must not be allowed to retake the examination for at least 6 months after the date of the last examination.] (Deleted by amendment.)~~

Sec. 17. ~~[1. To meet the requirements set forth in section 12 of this act, a person must:~~

~~(a) Have paid into the Mortgage Education, Research and Recovery Fund created by section 66 of this act all amounts required by law and any amount required by the Commissioner;~~

~~(b) Satisfy minimum net worth as prescribed by NRS 645B.115; or~~

~~(c) Satisfy surety bond requirements pursuant to subsection 2.~~

~~2. The Commissioner shall adopt regulations establishing surety bond requirements, which must be in proportion to the monetary amount of loans originated by a residential mortgage loan originator.] (Deleted by amendment.)~~

Sec. 18. ~~[A mortgage broker who is a licensed residential mortgage loan originator or who employs or contracts with a licensed residential mortgage loan originator shall submit to the Registry annual reports of condition, which must be in such form and contain such information as the Registry may require.] (Deleted by amendment.)~~

Sec. 19. NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0105 to 645B.0135, inclusive, and sections 1.5 to 6, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 20. ~~[NRS 645B.0123 is hereby amended to read as follows:~~

~~645B.0123 "Licensee" means a person who is licensed as a mortgage broker pursuant to this chapter. The term does not include a person issued a license as a mortgage agent pursuant to NRS 645B.410 [.] or a person issued a license as a residential mortgage loan originator pursuant to section 12 of this act.] (Deleted by amendment.)~~

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

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

~~(a)~~ A natural person who:

~~(1)~~ (1) Is an employee ~~for independent contractor~~ of a mortgage broker or mortgage banker who is required to be licensed pursuant to this chapter ~~[.] or chapter 645E of NRS]; and~~

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

(b) A mortgage banker, qualified employee or mortgage banker who is required by section 8 or 59 of this act to be licensed as a mortgage agent.

2. The term includes a residential mortgage loan originator.

3. The term does not include a person who:

~~(a)~~ (a) Except as otherwise provided in paragraph (b) of subsection 1, is licensed as a mortgage broker ~~[.] or mortgage banker~~;

~~(b)~~ (b) Is licensed as a residential mortgage loan originator;

~~(c)~~ (c) Is an owner, general partner, officer or director of a mortgage broker ~~[.] or mortgage banker~~;

(d) Performs only clerical or ministerial tasks for a mortgage broker ~~[.] or~~

(e) Collects payments and performs related services in connection with a loan secured by a lien on real property and who does not undertake any other

activity that would otherwise require a license pursuant to this chapter or chapter 645E of NRS.

**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 commercial 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 commercial real property;~~

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

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

~~2. The term does not include [a]:~~

~~(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 [ ]; or~~

~~(b) A person who is licensed as a residential mortgage loan originator and whose activities are limited to those involving residential mortgage loans, unless the person is also licensed as a mortgage broker pursuant to this chapter.]~~  
(Deleted by amendment.)

**Sec. 23.** NRS 645B.0137 is hereby amended to read as follows:

645B.0137 1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker ~~[ ]~~ or mortgage agent ~~[or residential mortgage loan originator]~~ must:

(a) Complete education on mortgage lending as required by this chapter ~~[ ]~~ or any regulations adopted thereto; and

(b) Successfully pass a written examination as ~~[determined]~~ provided for by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the qualified employee of the applicant and meet the requirements of subsection 1.

3. The Division ~~[ ]~~

~~(a) May] may~~ hire a testing organization to create, administer and score a written examination. ~~[ ]~~ and

~~(b) May create waivers for a written examination.]~~

4. The Commissioner ~~[may]~~ shall adopt regulations to carry out the provisions of this section, including, without limitation ~~[regulations]~~ :

(a) Regulations relating to the content of a written examination ~~[ ]~~ and the scoring of a written examination ~~[or any possible waivers of a written examination] [ ]~~ ; and

(b) Regulations for [the granting of full or partial credit toward the requirements of this section for the completion of educational and testing requirements for residential mortgage loan originators as described in sections 15 and 16 of this act.] compliance with the requirements for registration with the Registry and any other applicable federal law.



1       **Sec. 24.** NRS 645B.0138 is hereby amended to read as follows:

2       645B.0138 1. ~~▲ [Except as otherwise provided in section 14 of this act, a]~~  
3 course of continuing education that is required pursuant to this chapter must meet  
4 the requirements set forth by the Commissioner by regulation.

5       2. The Commissioner shall adopt regulations:

6       (a) Relating to the requirements for courses of continuing education, including,  
7 without limitation, regulations relating to the providers and instructors of such  
8 courses, records kept for such courses, approval and revocation of approval of such  
9 courses, monitoring of such courses and disciplinary action taken regarding such  
10 courses.

11       (b) Allowing for the participation of representatives of the mortgage lending  
12 industry pertaining to the creation of regulations regarding such courses.

13       *(c) Ensuring compliance with the requirements for registration with the*  
14 *Registry and any other applicable federal law.*

15       **Sec. 25.** ~~[NRS 645B.0145 is hereby amended to read as follows:~~

16       ~~— 645B.0145 The provisions of this chapter do not:~~

17       ~~1. Limit any statutory or common-law right of a person to bring a civil action~~  
18 ~~against a mortgage broker, [or] mortgage agent or residential mortgage loan~~  
19 ~~originator for any act or omission involved in the transaction of business by or on~~  
20 ~~behalf of the mortgage broker, [or] mortgage agent [;] or residential mortgage~~  
21 ~~loan originator;~~

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

24       ~~3. Establish a basis for a person to bring a civil action against the State or its~~  
25 ~~officers or employees for any act or omission in carrying out the provisions of this~~  
26 ~~chapter, including, without limitation, any act or omission relating to the disclosure~~  
27 ~~of information or the failure to disclose information pursuant to the provisions of~~  
28 ~~this chapter.] (Deleted by amendment.)~~

29       **Sec. 26.** ~~[NRS 645B.016 is hereby amended to read as follows:~~

30       ~~— 645B.016 Except as otherwise provided in subsection 2 and NRS 645B.690:~~

31       ~~1. A person who claims an exemption from the provisions of this chapter~~  
32 ~~pursuant to subsection 1 of NRS 645B.015 must:~~

33       ~~(a) File a written application for a certificate of exemption with the Office of~~  
34 ~~the Commissioner;~~

35       ~~(b) Pay the fee required pursuant to NRS 645B.050;~~

36       ~~(c) Include with the written application satisfactory proof that the person meets~~  
37 ~~the requirements of subsection 1 of NRS 645B.015; and~~

38       ~~(d) Provide evidence to the Commissioner that the person is duly licensed to~~  
39 ~~conduct his business and such license is in good standing pursuant to the laws of~~  
40 ~~this State, any other state or the United States;~~

41       ~~2. The provisions of subsection 1 do not apply to the extent preempted by~~  
42 ~~federal law;~~

43       ~~3. The Commissioner may require a person who claims an exemption from~~  
44 ~~the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS~~  
45 ~~645B.015 to:~~

46       ~~(a) File a written application for a certificate of exemption with the Office of~~  
47 ~~the Commissioner;~~

48       ~~(b) Pay the fee required pursuant to NRS 645B.050; and~~

49       ~~(c) Include with the written application satisfactory proof that the person meets~~  
50 ~~the requirements of at least one of those exemptions;~~

51       ~~4. A certificate of exemption expires automatically if, at any time, the person~~  
52 ~~who claims the exemption no longer meets the requirements of at least one~~  
53 ~~exemption set forth in the provisions of NRS 645B.015;~~

~~5. If a certificate of exemption expires automatically pursuant to this section, the person shall not provide any of the services of a mortgage broker, [or] mortgage agent or residential mortgage loan originator or otherwise engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker, [or] mortgage agent or residential mortgage loan originator unless the person applies for and is issued:~~

~~(a) A license as a mortgage broker, [or] mortgage agent [,] or residential mortgage loan originator as applicable, pursuant to this chapter; or~~

~~(b) Another certificate of exemption.~~

~~6. 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 facts;~~

~~(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.] (Deleted by amendment.)~~

**Sec. 27.** ~~[NRS 645B.051 is hereby amended to read as follows:~~

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

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

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

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

~~3. The Commissioner may adopt regulations for the granting of full or partial credit toward the requirements of this section for the completion of educational and testing requirements for residential mortgage loan originators as described in sections 15 and 16 of this act.~~

~~4. As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138.] (Deleted by amendment.)~~

**Sec. 28.** ~~[NRS 645B.060 is hereby amended to read as follows:~~

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

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

~~1 (a) Adopt regulations;~~

~~2 (1) Setting forth the requirements for an investor to acquire ownership of~~  
~~3 or a beneficial interest in a loan secured by a lien on real property. The regulations~~  
~~4 must include, without limitation, the minimum financial conditions that the investor~~  
~~5 must comply with before becoming an investor;~~

~~6 (2) Establishing reasonable limitations and guidelines on loans made by a~~  
~~7 mortgage broker to a director, officer, mortgage agent or employee of the mortgage~~  
~~8 broker;~~

~~9 (b) Adopt any other regulations that are necessary to carry out the provisions of~~  
~~10 this chapter, except as to loan brokerage fees;~~

~~11 (c) Conduct such investigations as may be necessary to determine whether any~~  
~~12 person has violated any provision of this chapter, a regulation adopted pursuant to~~  
~~13 this chapter or an order of the Commissioner;~~

~~14 (d) Except as otherwise provided in subsection 4, conduct an annual~~  
~~15 examination of each mortgage broker doing business in this State. The annual~~  
~~16 examination must include, without limitation, a formal exit review with the~~  
~~17 mortgage broker. The Commissioner shall adopt regulations prescribing;~~

~~18 (1) Standards for determining the rating of each mortgage broker based~~  
~~19 upon the results of the annual examination; and~~

~~20 (2) Procedures for resolving any objections made by the mortgage broker~~  
~~21 to the results of the annual examination. The results of the annual examination may~~  
~~22 not be opened to public inspection pursuant to NRS 645B.090 until any objections~~  
~~23 made by the mortgage broker have been decided by the Commissioner;~~

~~24 (e) Conduct such other examinations, periodic or special audits, investigations~~  
~~25 and hearings as may be necessary for the efficient administration of the laws of this~~  
~~26 State regarding mortgage brokers, [and] mortgage agents [.] and residential~~  
~~27 mortgage loan originators. The Commissioner shall adopt regulations specifying~~  
~~28 the general guidelines that will be followed when a periodic or special audit of a~~  
~~29 mortgage broker is conducted pursuant to this chapter;~~

~~30 (f) Classify as confidential certain records and information obtained by the~~  
~~31 Division when those matters are obtained from a governmental agency upon the~~  
~~32 express condition that they remain confidential. This paragraph does not limit~~  
~~33 examination by;~~

~~34 (1) The Legislative Auditor; or~~

~~35 (2) The Department of Taxation if necessary to carry out the provisions of~~  
~~36 chapter 362A of NRS;~~

~~37 (g) Conduct such examinations and investigations as are necessary to ensure~~  
~~38 that mortgage brokers, [and] mortgage agents and residential mortgage loan~~  
~~39 originators meet the requirements of this chapter for obtaining a license, both at the~~  
~~40 time of the application for a license and thereafter on a continuing basis;~~

~~41 3. For each special audit, investigation or examination, a mortgage broker,~~  
~~42 [or] mortgage agent or residential mortgage loan originator shall pay a fee based~~  
~~43 on the rate established pursuant to NRS 645F.280;~~

~~44 4. The Commissioner may conduct biennial examinations of a mortgage~~  
~~45 broker instead of annual examinations, as described in paragraph (d) of subsection~~  
~~46 2, if the mortgage broker;~~

~~47 (a) Received a rating in the last annual examination that meets a threshold~~  
~~48 determined by the Commissioner;~~

~~49 (b) Has not had any adverse change in financial condition since the last annual~~  
~~50 examination, as shown by financial statements of the mortgage broker;~~

~~51 (c) Has not had any complaints received by the Division that resulted in any~~  
~~52 administrative action by the Division; and~~

~~1. (d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors. (Deleted by amendment.)~~

**Sec. 29.** ~~[NRS 645B.075 is hereby amended to read as follows:~~

~~645B.075 Each mortgage broker shall pay the assessment levied pursuant to NRS 645F.180. Each mortgage broker, [and] mortgage agent and residential mortgage loan originator shall cooperate fully with the audits and examinations performed pursuant thereto. (Deleted by amendment.)~~

**Sec. 30.** ~~[NRS 645B.080 is hereby amended to read as follows:~~

~~645B.080 1. Each mortgage broker or residential mortgage loan originator shall keep and maintain at all times at each location where the mortgage broker or residential mortgage loan originator conducts business in this state complete and suitable records of all mortgage transactions made by the mortgage broker or residential mortgage loan originator at that location. Each mortgage broker or residential mortgage loan originator shall also keep and maintain at all times at each such location all original books, papers and data, or copies thereof, clearly reflecting the financial condition of the business of the mortgage broker [.] or residential mortgage loan originator.~~

~~2. Each mortgage broker or residential mortgage loan originator shall submit to the Commissioner each month a report of the mortgage broker's or residential mortgage loan originator's activity for the previous month. The report must:~~

~~(a) Specify the volume of loans arranged by the mortgage broker or residential mortgage loan originator for the month or state that no loans were arranged in that month;~~

~~(b) Include any information required pursuant to NRS 645B.260 or pursuant to the regulations adopted by the Commissioner; and~~

~~(c) Be submitted to the Commissioner by the 15th day of the month following the month for which the report is made.~~

~~3. The Commissioner may adopt regulations prescribing accounting procedures for mortgage brokers and residential mortgage loan originator handling trust accounts and the requirements for keeping records relating to such accounts. (Deleted by amendment.)~~

**Sec. 31.** ~~[NRS 645B.085 is hereby amended to read as follows:~~

~~645B.085 1. Except as otherwise provided in this section, not later than 120 days after the last day of each fiscal year for a mortgage broker [.] or residential mortgage loan originator, the mortgage broker or residential mortgage loan originator 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 or residential mortgage loan originator 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 or residential mortgage loan originator requests such an extension before the date on which the financial statement is due.~~

~~3. If a mortgage broker or residential mortgage loan originator 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 or residential mortgage loan originator 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 [.] or residential mortgage loan originator.~~

~~4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.] (Deleted by amendment.)~~

**Sec. 32.** ~~[NRS 645B.090 is hereby amended to read as follows:~~

~~645B.090 1. Except as otherwise provided in this section or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to this chapter are open to public inspection.~~

~~2. Except as otherwise provided in subsection 3, the Commissioner may withhold from public inspection or refuse to disclose to a person, for such time as the Commissioner considers necessary, any information that, in his judgment, would:~~

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

~~(b) Have an undesirable effect on the welfare of the public or the welfare of any mortgage broker, [or] mortgage agent [.] or residential mortgage loan originator; or~~

~~(c) Give any mortgage broker or residential mortgage loan originator a competitive advantage over any other mortgage broker [.] or residential mortgage loan originator.~~

~~3. Except as otherwise provided in NRS 645B.092, the Commissioner shall disclose the following information concerning a mortgage broker or residential mortgage loan originator to any person who requests it:~~

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

~~(b) The nature of any disciplinary action that has been taken during the immediately preceding 5 years against the mortgage broker or residential mortgage loan originator pursuant to the provisions of this chapter.] (Deleted by amendment.)~~

**Sec. 33.** ~~[NRS 645B.115 is hereby amended to read as follows:~~

~~645B.115 1. If a mortgage broker or residential mortgage loan originator maintains any accounts described in NRS 645B.175, the mortgage broker and his mortgage agents or the residential mortgage loan originator shall not engage in any activity that is authorized pursuant to this chapter, unless the mortgage broker or residential mortgage loan originator maintains continuously a minimum net worth in the following amount based upon the average monthly balance of the accounts maintained by the mortgage broker or residential mortgage loan originator pursuant to NRS 645B.175:~~

<del>AVERAGE MONTHLY BALANCE</del>	<del>MINIMUM NET WORTH REQUIRED</del>
<del>\$100,000 or less</del>	<del>\$25,000</del>
<del>More than \$100,000 but not more than \$250,000</del>	<del>50,000</del>
<del>More than \$250,000 but not more than \$500,000</del>	<del>100,000</del>
<del>More than \$500,000 but not more than \$1,000,000</del>	<del>200,000</del>

~~More than \$1,000,000.....~~ ~~250,000~~

~~The Commissioner shall determine the appropriate initial minimum net worth that must be maintained by the mortgage broker or residential mortgage loan originator pursuant to this section based upon the expected average monthly balance of the accounts maintained by the mortgage broker or residential mortgage loan originator pursuant to NRS 645B.175. After determining the initial minimum net worth that must be maintained by the mortgage broker [.] or residential mortgage loan originator, the Commissioner shall, on an annual basis, determine the appropriate minimum net worth that must be maintained by the mortgage broker or residential mortgage loan originator pursuant to this section based upon the average monthly balance of the accounts maintained by the mortgage broker or residential mortgage loan originator pursuant to NRS 645B.175.~~

~~2. If requested by the Commissioner, a mortgage broker or residential mortgage loan originator who is subject to the provisions of this section and [his] any mortgage agents of a mortgage broker shall submit to the Commissioner or allow the Commissioner to examine any documentation or other evidence that is related to determining the net worth of the mortgage broker [.] or residential mortgage loan originator.~~

~~3. The Commissioner:~~

~~(a) Shall adopt regulations prescribing standards for determining the net worth of a mortgage broker [.] or residential mortgage loan originator; and~~

~~(b) May adopt any other regulations that are necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

~~Sec. 34. [NRS 645B.165 is hereby amended to read as follows:]~~

~~645B.165 1. Except as otherwise provided in subsection 3, the amount of any advance fee, salary, deposit or money paid to a mortgage broker and his mortgage agents, a residential mortgage loan originator or any other person to obtain a loan which will be secured by a lien on real property must be placed in escrow pending completion of the loan or a commitment for the loan.~~

~~2. The amount held in escrow pursuant to subsection 1 must be released:~~

~~(a) Upon completion of the loan or commitment for the loan, to the mortgage broker, residential mortgage loan originator or other person to whom the advance fee, salary, deposit or money was paid;~~

~~(b) If the loan or commitment for the loan fails, to the person who made the payment;~~

~~3. Advance payments to cover reasonably estimated costs paid to third persons are excluded from the provisions of subsections 1 and 2 if the person making them first signs a written agreement which specifies the estimated costs by item and the estimated aggregate cost, and which recites that the money advanced for costs will not be refunded. If an itemized service is not performed and the estimated cost thereof is not refunded, the recipient of the advance payment is subject to the penalties provided in NRS 645B.960.] (Deleted by amendment.)~~

~~Sec. 35. [NRS 645B.170 is hereby amended to read as follows:]~~

~~645B.170 1. All money paid to a mortgage broker and his mortgage agents or to a residential mortgage loan originator for payment of taxes or insurance premiums on real property which secures any loan arranged by the mortgage broker or residential mortgage loan originator must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the mortgage broker [.] or residential mortgage loan originator. Such money, when deposited, is to be designated as an "impound trust account" or under some other appropriate name indicating that the accounts are not the money of the mortgage broker [.] or residential mortgage loan originator.~~

~~2. The mortgage broker or residential mortgage loan originator has a fiduciary duty to each debtor with respect to the money in an impound trust account.~~

~~3. The mortgage broker or residential mortgage loan originator shall, upon reasonable notice, account to any debtor whose real property secures a loan arranged by the mortgage broker or residential mortgage loan originator for any money which that person has paid to the mortgage broker or residential mortgage loan originator for the payment of taxes or insurance premiums on the real property.~~

~~4. The mortgage broker or residential mortgage loan originator shall, upon reasonable notice, account to the Commissioner for all money in an impound trust account.~~

~~5. A mortgage broker or residential mortgage loan originator shall:~~

~~(a) Require contributions to an impound trust account in an amount reasonably necessary to pay the obligations as they become due;~~

~~(b) Within 30 days after the completion of the annual review of an impound trust account, notify the debtor;~~

~~(1) Of the amount by which the contributions exceed the amount reasonably necessary to pay the annual obligations due from the account; and~~

~~(2) That the debtor may specify the disposition of the excess money within 20 days after receipt of the notice. If the debtor fails to specify such a disposition within that time, the mortgage broker shall maintain the excess money in the account.~~

~~➤ This subsection does not prohibit a mortgage broker or residential mortgage loan originator from requiring additional amounts to be paid into an impound trust account to recover a deficiency that exists in the account.~~

~~6. A mortgage broker or residential mortgage loan originator shall not make payments from an impound trust account in a manner that causes a policy of insurance to be cancelled or causes property taxes or similar payments to become delinquent.] (Deleted by amendment.)~~

**Sec. 36. [NRS 645B.175 is hereby amended to read as follows:]**

~~645B.175 1. Except as otherwise provided in this section, all money received by a mortgage broker and his mortgage agents or a residential mortgage loan originator from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:~~

~~(a) Be deposited in:~~

~~(1) An insured depository financial institution; or~~

~~(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties;~~

~~(b) Be kept separate from money;~~

~~(1) Belonging to the mortgage broker or residential mortgage loan originator in an account appropriately named to indicate that the money does not belong to the mortgage broker [ ] or residential mortgage loan originator;~~

~~(2) Received pursuant to subsection 4.~~

~~2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:~~

~~(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or his designee less the amount due the mortgage broker or residential mortgage loan originator for the payment of any fee or service charge;~~



~~1 (b) If the loan or the transfer thereof is not consummated, to each investor who  
2 furnished the money held in trust; or~~

~~3 (c) Pursuant to any instructions regarding the escrow account;~~

~~4 3. The amount held in trust pursuant to subsection 1 must not be released to  
5 the debtor or his designee unless:~~

~~6 (a) The amount released is equal to the total amount of money which is being  
7 loaned to the debtor for that loan, less the amount due the mortgage broker or  
8 residential mortgage loan originator for the payment of any fee or service charge;  
9 and~~

~~10 (b) The mortgage broker or residential mortgage loan originator has provided  
11 a written instruction to a title agent or title insurer requiring that a lender's policy of  
12 title insurance or appropriate title endorsement, which names as an insured each  
13 investor who owns a beneficial interest in the loan, be issued for the real property  
14 securing the loan.~~

~~15 4. Except as otherwise provided in this section, all money paid to a mortgage  
16 broker and his mortgage agents or to a residential mortgage loan originator by a  
17 person in full or in partial payment of a loan secured by a lien on real property,  
18 must~~

~~19 (a) Be deposited in:~~

~~20 (1) An insured depository financial institution; or~~

~~21 (2) An escrow account which is controlled by a person who is subject to  
22 instructions regarding the account which are approved by the parties;~~

~~23 (b) Be kept separate from money;~~

~~24 (1) Belonging to the mortgage broker or residential mortgage loan  
25 originator in an account appropriately named to indicate that it does not belong to  
26 the mortgage broker [.] or residential mortgage loan originator;~~

~~27 (2) Received pursuant to subsection 1;~~

~~28 5. Except as otherwise provided in this section, the amount held in trust  
29 pursuant to subsection 4:~~

~~30 (a) Must be released, upon the deduction and payment of any fee or service  
31 charge due the mortgage broker [.] or residential mortgage loan originator, to each  
32 investor who owns a beneficial interest in the loan in exact proportion to the  
33 beneficial interest that he owns in the loan; and~~

~~34 (b) Must not be released, in any proportion, to an investor who owns a  
35 beneficial interest in the loan, unless the amount described in paragraph (a) is also  
36 released to every other investor who owns a beneficial interest in the loan;~~

~~37 6. An investor may waive, in writing, the right to receive one or more  
38 payments, or portions thereof, that are released to other investors in the manner set  
39 forth in subsection 5. A mortgage broker, [or] mortgage agent or residential  
40 mortgage loan originator shall not act as the attorney in fact or the agent of an  
41 investor with respect to the giving of a written waiver pursuant to this subsection.  
42 Any such written waiver applies only to the payment or payments, or portions  
43 thereof, that are included in the written waiver and does not affect the right of the  
44 investor to:~~

~~45 (a) Receive the waived payment or payments, or portions thereof, at a later  
46 date; or~~

~~47 (b) Receive all other payments in full and in accordance with the provisions of  
48 subsection 5;~~

~~49 7. Upon reasonable notice, any mortgage broker or residential mortgage loan  
50 originator described in this section shall:~~

~~51 (a) Account to any investor or debtor who has paid to the mortgage broker or  
52 his mortgage agents or to a residential mortgage loan originator money that is  
53 required to be deposited in a trust account pursuant to this section; and~~



~~(b) Account to the Commissioner for all money which the mortgage broker and his mortgage agents [have] or the residential mortgage loan originator has received from each investor or debtor and which the mortgage broker or residential mortgage loan originator is required to deposit in a trust account pursuant to this section.~~

~~8. Money received by a mortgage broker and his mortgage agents or a residential mortgage loan originator pursuant to this section from a person who is not associated with the mortgage broker or residential mortgage loan originator may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this 45-day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker or residential mortgage loan originator for at least 15 days.~~

~~9. If a mortgage broker, [or] a mortgage agent or a residential mortgage loan originator receives any money pursuant to this section, the mortgage broker, [or] mortgage agent [,] or residential mortgage loan originator, after the deduction and payment of any fee or service charge due the mortgage broker [,] or residential mortgage loan originator, shall not release the money to:~~

~~(a) Any person who does not have a contractual or legal right to receive the money; or~~

~~(b) Any person who has a contractual right to receive the money if the mortgage broker, [or] mortgage agent or residential mortgage loan originator knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.~~

~~10. If a mortgage broker or residential mortgage loan originator maintains any accounts described in subsection 1 or subsection 4, the mortgage broker or residential mortgage loan originator shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to the Commissioner each 6 calendar months a financial statement concerning those trust accounts.~~

~~11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.]~~

~~(Deleted by amendment.)~~

**Sec. 37.** ~~[NRS 645B.180 is hereby amended to read as follows:]~~

~~645B.180 1. Money in an impound trust account is not subject to execution or attachment on any claim against the mortgage broker or his mortgage agents [,] or the residential mortgage loan originator.~~

~~2. It is unlawful for a mortgage broker or his mortgage agents or a residential mortgage loan originator knowingly to keep or cause to be kept any money in a depository financial institution under the heading of "impound trust account" or any other name designating such money as belonging to the investors or debtors of the mortgage broker [,] or residential mortgage loan originator unless the money has been paid to the mortgage broker or his mortgage agents or the residential mortgage loan originator by an investor or debtor and is being held in trust by the mortgage broker or residential mortgage loan originator pursuant to NRS 645B.170 or 645B.175.] (Deleted by amendment.)~~

**Sec. 38.** ~~[NRS 645B.185 is hereby amended to read as follows:]~~

~~645B.185 1. A mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not accept money from a private investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property unless:~~

~~(a) The private investor and the mortgage broker, [or] mortgage agent or residential mortgage loan originator sign and date a disclosure form that complies with the provisions of this section; and~~

~~(b) The mortgage broker, [or] mortgage agent or residential mortgage loan originator gives the private investor the original disclosure form that has been signed and dated;~~

~~2. A private investor and a mortgage broker, [or] mortgage agent or residential mortgage loan originator must sign and date a separate disclosure form pursuant to subsection 1 for each loan in which the private investor invests his money. A mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not act as the attorney in fact or the agent of a private investor with respect to the signing or dating of any disclosure form.~~

~~3. In addition to the requirements of subsections 1 and 2, a mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not accept money from a private investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker, [or] mortgage agent or residential mortgage loan originator gives the private investor a written form by which the private investor may request that the mortgage broker or residential mortgage loan originator authorize the Commissioner to release the mortgage broker's or residential mortgage loan originator's financial statement to the private investor. Such a form must be given to the private investor for each loan. If the private investor, before giving money to the mortgage broker or residential mortgage loan originator for the loan, requests that the mortgage broker or residential mortgage loan originator authorize the release of a financial statement pursuant to this subsection, the mortgage broker and his mortgage agents or the residential mortgage loan originator shall not accept money from the private investor for that loan until the mortgage broker or residential mortgage loan originator receives notice from the Commissioner that the financial statement has been released to the private investor.~~

~~4. A private investor and a mortgage broker, [or] mortgage agent or residential mortgage loan originator may not agree to alter or waive the provisions of this section by contract or other agreement. Any such contract or agreement is void and must not be given effect to the extent that it violates the provisions of this section.~~

~~5. A mortgage broker or residential mortgage loan originator shall retain a copy of each disclosure form that is signed and dated pursuant to subsection 1 for the period that is prescribed in the regulations adopted by the Commissioner.~~

~~6. The standard provisions for each such disclosure form must include, without limitation, statements:~~

~~(a) Explaining the risks of investing through the mortgage broker [,] or residential mortgage loan originator, including, without limitation:~~

~~(1) The possibility that the debtor may default on the loan;~~

~~(2) The nature of the losses that may result through foreclosure;~~

~~(3) The fact that payments of principal and interest are not guaranteed and that the private investor may lose the entire amount of principal that he has invested;~~

~~(4) The fact that the mortgage broker or residential mortgage loan originator is not a depository financial institution and that the investment is not insured by any depository insurance and is not otherwise insured or guaranteed by the Federal or State Government; and~~

~~(5) Any other information required pursuant to the regulations adopted by the Commissioner; and~~

~~(b) Disclosing to the private investor the following information if the information is known or, in light of all the surrounding facts and circumstances, reasonably should be known to the mortgage broker [;] or residential mortgage loan originator;~~

~~(1) Whether the real property that will secure the loan is encumbered by any other liens and, if so, the priority of each such lien, the amount of debt secured by each such lien and the current status of that debt, including, without limitation, whether the debt is being paid or is in default;~~

~~(2) Whether the residential mortgage loan originator or the mortgage broker or any general partner, officer, director or mortgage agent of the mortgage broker has any direct or indirect interest in the debtor;~~

~~(3) Whether any disciplinary action has been taken by the Commissioner against the residential mortgage loan originator or the mortgage broker or any general partner, officer or director of the mortgage broker within the immediately preceding 12 months, and the nature of any such disciplinary action;~~

~~(4) Whether the residential mortgage loan originator or the mortgage broker or any general partner, officer or director of the mortgage broker has been convicted within the immediately preceding 12 months for violating any law, ordinance or regulation that involves fraud, misrepresentation or a deceitful, fraudulent or dishonest business practice; and~~

~~(5) Any other information required pursuant to the regulations adopted by the Commissioner;~~

~~7. Whether or not a mortgage broker or residential mortgage loan originator is required to disclose any information to private investors through a disclosure form that complies with the provisions of this section, the Commissioner may order the mortgage broker or residential mortgage loan originator to disclose to private investors and other investors or to the general public any information concerning the residential mortgage loan originator or the mortgage broker, any general partner, officer, director or mortgage agent of the mortgage broker or any loan in which the mortgage broker or residential mortgage loan originator is or has been involved, if the Commissioner, in his judgment, believes that the information:~~

~~(a) Would be of material interest to a reasonable investor who is deciding whether to invest money with the mortgage broker [;] or residential mortgage loan originator; or~~

~~(b) Is necessary to protect the welfare of the public;~~

~~8. In carrying out the provisions of subsection 7, the Commissioner may, without limitation, order a mortgage broker or residential mortgage loan originator to include statements of disclosure prescribed by the Commissioner;~~

~~(a) In the disclosure form that must be given to private investors pursuant to subsection 1;~~

~~(b) In additional disclosure forms that must be given to private investors and other investors before or after they have invested money through the mortgage broker [;] or residential mortgage loan originator; or~~

~~(c) In any advertisement that the mortgage broker or residential mortgage loan originator uses in carrying on his business;~~

~~9. The Commissioner;~~

~~(a) Shall adopt regulations prescribing the period for which a mortgage broker or residential mortgage loan originator must retain a copy of each disclosure form that is given to private investors; and~~

~~(b) May adopt any other regulations that are necessary to carry out the provisions of this section, including, without limitation, regulations specifying the size of print and any required formatting or typesetting that a mortgage broker or~~

~~residential mortgage loan originator~~ must use in any form that is given to private investors. **(Deleted by amendment.)**

**Sec. 39.** ~~[NRS 645B.186 is hereby amended to read as follows:]~~

~~645B.186 1. If a licensee or a relative of the licensee is licensed as, conducts business as or holds a controlling interest or position in:~~

~~(a) A construction control;~~

~~(b) An escrow agency or escrow agent; or~~

~~(c) A title agent, a title insurer or an escrow officer of a title agent or title insurer;~~

~~the licensee shall fully disclose his status as, connection to or relationship with the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer to each investor, and the licensee shall not require, as a condition to an investor acquiring ownership of or a beneficial interest in a loan secured by a lien on real property, that the investor transact business with or use the services of the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer or that the investor authorize the licensee to transact business with or use the services of the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer on behalf of the investor.~~

~~2. For the purposes of this section, a person shall be deemed to hold a controlling interest or position if the person:~~

~~(a) Owns or controls a majority of the voting stock or holds any other controlling interest, directly or indirectly, that gives him the power to direct management or determine policy; or~~

~~(b) Is a partner, officer, director or trustee.~~

~~3. As used in this section, "licensee" means:~~

~~(a) A person who is licensed as a mortgage broker or residential mortgage loan originator pursuant to this chapter; and~~

~~(b) Any general partner, officer or director of such a person. **(Deleted by amendment.)**~~

**Sec. 40.** ~~[NRS 645B.187 is hereby amended to read as follows:]~~

~~645B.187 1. If a mortgage broker, [or] mortgage agent or residential mortgage loan originator solicits or receives money from an investor, the mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not:~~

~~(a) In any advertisement; or~~

~~(b) Before, during or after solicitation or receipt of money from the investor, make, or cause or encourage to be made, any explicit or implicit statement, representation or promise, oral or written, which a reasonable person would construe as a guarantee that the investor will be repaid the principal amount of money he invests or will earn a specific rate of return or a specific rate of interest on the principal amount of money he invests.~~

~~2. If a mortgage broker or residential mortgage loan originator offers to pay or pays premium interest on money that the mortgage broker or residential mortgage loan originator receives from a person to acquire ownership of or a beneficial interest in a loan secured by a lien on real property or in full or partial payment of such a loan:~~

~~(a) The premium interest must be paid from the assets or income of the mortgage broker [or] residential mortgage loan originator; and~~

~~(b) The mortgage broker, [or a] mortgage agent or residential mortgage loan originator shall not:~~

~~(1) In any advertisement; or~~

~~(2) Before, during or after receipt of money from such a person;~~

~~make, or cause or encourage to be made, any explicit or implicit statement, representation or promise, oral or written, which a reasonable person would construe as a guarantee that the mortgage broker will pay the premium interest~~

~~3. A person who violates any provision of this section is guilty of a misdemeanor and shall be punished as provided in NRS 645B.050.~~

~~4. As used in this section, "premium interest" means that amount of interest a mortgage broker or residential mortgage loan originator pays to a person which exceeds the amount which is being obtained from the insured depository financial institution.] (Deleted by amendment.)~~

**Sec. 41.** ~~[NRS 645B.189 is hereby amended to read as follows:~~

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

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

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

~~3. Each mortgage broker or residential mortgage loan originator who has received his initial license within the past 12 months shall submit any proposed advertisement that the mortgage broker or residential mortgage loan originator intends to use in carrying on his business to the Commissioner for approval.~~

~~4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker or residential mortgage loan originator uses in carrying on his business must comply with the requirements of:~~

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

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

~~5. If a mortgage broker or residential mortgage loan originator violates any provision of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker or residential mortgage loan originator for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker [.] or residential mortgage loan originator.~~

~~6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.] (Deleted by amendment.)~~

**Sec. 42.** ~~[NRS 645B.196 is hereby amended to read as follows:~~

~~645B.196 1. An advertising spokesperson for a mortgage broker or residential mortgage loan originator is jointly and severally liable with the mortgage broker or residential mortgage loan originator for damages caused by the mortgage broker or residential mortgage loan originator by fraud, embezzlement, misappropriation of property, a violation of the provisions of this chapter or the regulations adopted pursuant thereto, or an action of the mortgage~~

1 ~~broker or residential mortgage loan originator~~ that is grounds for disciplinary  
2 action, if:

3 ~~(a) The advertising spokesperson knew or should have known of the fraud,~~  
4 ~~embezzlement, misappropriation of property, violation of the provisions of this~~  
5 ~~chapter or the regulations adopted pursuant thereto, or action of the mortgage~~  
6 ~~broker or residential mortgage loan originator that is grounds for disciplinary~~  
7 ~~action; or~~

8 ~~(b) In advertising for the mortgage broker [.] or residential mortgage loan~~  
9 ~~originator, the advertising spokesperson knew or should have known that:~~

10 ~~(1) The conduct of the advertising spokesperson was likely to deceive,~~  
11 ~~defraud or harm the public or any person who engaged in business with the~~  
12 ~~mortgage broker [.] or residential mortgage loan originator; or~~

13 ~~(2) The advertising spokesperson was disseminating material information~~  
14 ~~concerning the mortgage broker or residential mortgage loan originator or the~~  
15 ~~business, products or services of the mortgage broker or residential mortgage loan~~  
16 ~~originator which was false or misleading;~~

17 ~~2. As used in this section:~~

18 ~~(a) "Advertising for a mortgage broker [.] or residential mortgage loan~~  
19 ~~originator" means advertising or otherwise promoting a mortgage broker or~~  
20 ~~residential mortgage loan originator or the business, products or services of the~~  
21 ~~mortgage broker or residential mortgage loan originator using any medium of~~  
22 ~~communication;~~

23 ~~(b) "Advertising spokesperson for a mortgage broker [.] or residential~~  
24 ~~mortgage loan originator" or "advertising spokesperson" means a person who~~  
25 ~~consents to and receives compensation for using his name or likeness in advertising~~  
26 ~~for a mortgage broker [.] or residential mortgage loan originator. (Deleted by~~  
27 ~~amendment.)~~

28 **Sec. 43.** ~~[NRS 645B.240 is hereby amended to read as follows:]~~

29 ~~645B.240 1. If a person is required to make a payment to a mortgage broker~~  
30 ~~or residential mortgage loan originator pursuant to the terms of a loan secured by~~  
31 ~~a lien on real property, the mortgage broker or residential mortgage loan~~  
32 ~~originator may not charge the person a late fee, an additional amount of interest or~~  
33 ~~any other penalty in connection with that payment if the payment is delivered to the~~  
34 ~~mortgage broker or residential mortgage loan originator before 5 p.m. on:~~

35 ~~(a) The day that the payment is due pursuant to the terms of the loan, if an~~  
36 ~~office of the mortgage broker or residential mortgage loan originator is open to~~  
37 ~~customers until 5 p.m. on that day; or~~

38 ~~(b) The next day that an office of the mortgage broker or residential mortgage~~  
39 ~~loan originator is open to customers until 5 p.m., if the provisions of paragraph (a)~~  
40 ~~do not otherwise apply;~~

41 ~~2. A person and a mortgage broker, [or] mortgage agent or residential~~  
42 ~~mortgage loan originator may not agree to alter or waive the provisions of this~~  
43 ~~section by contract or other agreement, and any such contract or agreement is void~~  
44 ~~and must not be given effect to the extent that it violates the provisions of this~~  
45 ~~section.] (Deleted by amendment.)~~

46 **Sec. 44.** ~~[NRS 645B.250 is hereby amended to read as follows:]~~

47 ~~645B.250 Except pursuant to a contract for the collection or servicing of a~~  
48 ~~loan which is governed by the requirements established by the Government~~  
49 ~~National Mortgage Association, Federal Home Loan Mortgage Corporation or~~  
50 ~~Federal National Mortgage Association, a mortgage broker, [or] mortgage agent or~~  
51 ~~residential mortgage loan originator shall not advance payments to an investor on~~  
52 ~~behalf of a person who has obtained a loan secured by a lien on real property and~~  
53 ~~who has defaulted in his payments.] (Deleted by amendment.)~~

1       **Sec. 45.** ~~[NRS 645B.260 is hereby amended to read as follows:~~  
2       ~~645B.260 1. If a mortgage broker or residential mortgage loan originator~~  
3       ~~maintains any accounts described in subsection 4 of NRS 645B.175 in which the~~  
4       ~~mortgage broker or residential mortgage loan originator deposits payments from a~~  
5       ~~debtor on a loan secured by a lien on real property and, on the last day of any~~  
6       ~~month, the debtor has failed to make two or more consecutive payments in~~  
7       ~~accordance with the terms of the loan, the mortgage broker or residential mortgage~~  
8       ~~loan originator shall:~~

9       ~~(a) Include in the report that the mortgage broker or residential mortgage loan~~  
10       ~~originator submits to the Commissioner pursuant to subsection 2 of NRS 645B.080~~  
11       ~~the information relating to delinquencies in payments and defaults that is required~~  
12       ~~by the regulations adopted pursuant to subsection 2;~~

13       ~~(b) Not later than 15 days after the last day of each such month, mail to the last~~  
14       ~~known address of each investor who owns a beneficial interest in the loan a notice~~  
15       ~~containing the information relating to delinquencies in payments and defaults that is~~  
16       ~~required by the regulations adopted pursuant to subsection 2; and~~

17       ~~(c) Comply with the provisions of this section each month on a continuing~~  
18       ~~basis until:~~

19       ~~(1) The debtor or his designee remedies the delinquency in payments and~~  
20       ~~any default; or~~

21       ~~(2) The lien securing the loan is extinguished;~~

22       ~~2. The Commissioner:~~

23       ~~(a) Shall adopt regulations prescribing the information relating to~~  
24       ~~delinquencies in payments and defaults that a mortgage broker or residential~~  
25       ~~mortgage loan originator must include in his report to the commissioner and in the~~  
26       ~~notice mailed to investors pursuant to subsection 1. Such regulations may provide~~  
27       ~~for variations between the information that a mortgage broker or residential~~  
28       ~~mortgage loan originator must include in his report to the Commissioner and the~~  
29       ~~information that a mortgage broker or residential mortgage loan originator must~~  
30       ~~include in the notice mailed to investors;~~

31       ~~(b) May adopt any other regulations that are necessary to carry out the~~  
32       ~~provisions of this section.] (Deleted by amendment.)~~

33       **Sec. 46.** ~~[NRS 645B.300 is hereby amended to read as follows:~~

34       ~~645B.300 1. Except as otherwise provided in subsection 4, a mortgage~~  
35       ~~broker, [or] mortgage agent or residential mortgage loan originator shall not~~  
36       ~~accept money from an investor to acquire ownership of or a beneficial interest in a~~  
37       ~~loan secured by a lien on real property, unless the mortgage broker or residential~~  
38       ~~mortgage loan originator has obtained a written appraisal of the real property~~  
39       ~~securing the loan;~~

40       ~~2. The written appraisal of the real property:~~

41       ~~(a) Must be performed by an appraiser who is authorized to perform appraisals~~  
42       ~~in this State; and~~

43       ~~(b) Must not be performed by the mortgage broker, [or] a mortgage agent [,]~~  
44       ~~or a residential mortgage loan originator unless the mortgage broker, [or]~~  
45       ~~mortgage agent or residential mortgage loan originator is certified or licensed to~~  
46       ~~perform such an appraisal pursuant to chapter 645C of NRS;~~

47       ~~3. A copy of the written appraisal of the real property must be:~~

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

51       ~~(b) Made available during normal business hours for inspection by each such~~  
52       ~~investor and the Commissioner;~~



~~4. A mortgage broker or residential mortgage loan originator is not required to obtain a written appraisal of the real property pursuant to this section if the mortgage broker or residential mortgage loan originator obtains a written waiver of the appraisal from each investor who acquires ownership of or a beneficial interest in a loan secured by a lien on the real property. A mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not act as the attorney in fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection.~~

~~5. As used in this section, "appraisal" has the meaning ascribed to it in NRS 645C.030.~~ **(Deleted by amendment.)**

**Sec. 47.** ~~[NRS 645B.205 is hereby amended to read as follows:~~

~~645B.205 A mortgage broker or residential mortgage loan originator shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker or residential mortgage loan originator includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.]~~ **(Deleted by amendment.)**

**Sec. 48.** ~~[NRS 645B.210 is hereby amended to read as follows:~~

~~645B.210 A mortgage broker or residential mortgage loan originator shall not assign all or a part of his interest in a loan secured by a lien on real property, unless the mortgage broker [or] or residential mortgage loan originator:~~

- ~~1. Obtains a policy of title insurance for the real property;~~
- ~~2. Obtains the approval of the assignment from each investor who has acquired ownership of or a beneficial interest in the loan if, at the time of the assignment, the debtor on the loan has defaulted in making a payment required for the loan or any portion of the loan; and~~
- ~~3. Records the assignment in the office of the county recorder of the county in which the real property is located.]~~ **(Deleted by amendment.)**

**Sec. 49.** ~~[NRS 645B.220 is hereby amended to read as follows:~~

~~645B.220 If money from an investor is released to a debtor or his designee pursuant to subsection 2 of NRS 645B.175 upon completion of a loan secured by a lien on real property, the mortgage broker or residential mortgage loan originator that arranged the loan shall, not later than 3 business days after the date on which the mortgage broker or residential mortgage loan originator receives a copy of the recorded deed of trust, mail to the last known address of each investor who owns a beneficial interest in the loan a copy of the recorded deed of trust.]~~ **(Deleted by amendment.)**

**Sec. 50.** ~~[NRS 645B.230 is hereby amended to read as follows:~~

~~645B.230 1. A mortgage broker, [or] mortgage agent or residential mortgage loan originator shall not engage in any act or transaction on behalf of a private investor pursuant to a power of attorney unless:~~

~~(a) The power of attorney is executed for the sole purpose of providing services for not more than one specific loan in which the private investor owns a beneficial interest; and~~

~~(b) The provisions of the power of attorney:~~

~~(1) Have been approved by the Commissioner;~~

~~(2) Expressly prohibit the mortgage broker and his mortgage agents or the residential mortgage loan originator from engaging in any act or transaction that subordinates the priority of a recorded deed of trust unless, before such an act or transaction, the mortgage broker or residential mortgage loan originator obtains written approval for the subordination from the private investor;~~

~~(3) Expressly prohibit the mortgage broker and his mortgage agents or the residential mortgage loan originator from using or releasing any money in which~~



1 the private investor owns a beneficial interest with regard to the specific loan for a  
2 purpose that is not directly related to providing services for the loan unless, before  
3 any such money is used or released for another purpose, the mortgage broker ~~or~~  
4 ~~residential mortgage loan originator~~ obtains written approval from the private  
5 investor to use or release the money for the other purpose; and

6 ~~(4) Expressly provide that the power of attorney is effective only for the~~  
7 ~~term of the specific loan unless the mortgage broker or residential mortgage loan~~  
8 ~~originator obtains written approval from the private investor to extend the term of~~  
9 ~~the power of attorney to provide services for not more than one other loan and the~~  
10 ~~written approval;~~

11 ~~(I) Identifies the loan for which the power of attorney was executed;~~  
12 ~~and~~

13 ~~(II) Identifies the loan for which the written approval is being given;~~

14 ~~2. A mortgage broker, [or] mortgage agent or residential mortgage loan~~  
15 ~~originator shall not act as the attorney in fact or the agent of a private investor with~~  
16 ~~respect to the giving of written approval pursuant to paragraph (b) of subsection 1.~~  
17 ~~A private investor and a mortgage broker, [or] mortgage agent or residential~~  
18 ~~mortgage loan originator may not agree to alter or waive the provisions of this~~  
19 ~~section by contract or other agreement. Any such contract or agreement is void and~~  
20 ~~must not be given effect to the extent that it violates the provisions of this section.~~

21 ~~3. Except as otherwise provided in subsection 4, a power of attorney which~~  
22 ~~designates a mortgage broker, [or] mortgage agent or residential mortgage loan~~  
23 ~~originator as the attorney in fact or the agent of a private investor and which~~  
24 ~~violates the provisions of this section is void and must not be given effect with~~  
25 ~~regard to any act or transaction that occurs on or after October 1, 1999, whether or~~  
26 ~~not the power of attorney is or has been executed by the private investor before, on~~  
27 ~~or after October 1, 1999;~~

28 ~~4. The provisions of subsection 3 do not apply to a power of attorney that~~  
29 ~~designates a mortgage broker, [or] mortgage agent or residential mortgage loan~~  
30 ~~originator as the attorney in fact or the agent of a private investor if the power of~~  
31 ~~attorney:~~

32 ~~(a) Was executed before July 1, 2001; and~~

33 ~~(b) Complied with the provisions of this section that were in effect on October~~  
34 ~~1, 1999;~~

35 ~~5. The provisions of this section do not limit the right of a private investor to~~  
36 ~~include provisions in a power of attorney that are more restrictive than the~~  
37 ~~provisions set forth in subsection 1.] (Deleted by amendment.)~~

38 **Sec. 50.1. NRS 645B.018 is hereby amended to read as follows:**

39 645B.018 1. A person may apply to the Commissioner for an exemption  
40 from the provisions of this chapter governing the making of a loan of money ~~for~~  
41 except that an exemption may not be issued for the making of a residential  
42 mortgage loan.

43 2. The Commissioner may grant the exemption if he finds that:

44 (a) The making of the loan would not be detrimental to the financial condition  
45 of the lender, the debtor or the person who is providing the money for the loan;

46 (b) The lender, the debtor or the person who is providing the money for the  
47 loan has established a record of sound performance, efficient management,  
48 financial responsibility and integrity;

49 (c) The making of the loan is likely to increase the availability of capital for a  
50 sector of the state economy; and

51 (d) The making of the loan is not detrimental to the public interest.

52 3. The Commissioner:

(a) May revoke an exemption unless the loan for which the exemption was granted has been made; and

(b) Shall issue a written statement setting forth the reasons for his decision to grant, deny or revoke an exemption.

**Sec. 50.2. NRS 645B.020 is hereby amended to read as follows:**

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

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

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

(c) List the name, residence address and business address of each person who will:

(1) If the applicant is not a natural person, have an interest in the mortgage broker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

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

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

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

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

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

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

(a) The application is verified by the Commissioner and complies with the requirements of this chapter; and

(b) The applicant and each general partner, officer or director 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.]~~ **demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.**

(2) Has not been convicted of, or entered a plea of **guilty or** ~~[-nolo contendere to, a felony [relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude].]~~ **in a domestic, foreign or military court within the 7 years immediately preceding the date of the**

application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.

(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.]~~ never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or had a financial services license suspended or revoked within the immediately preceding 10 years.

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

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

**Sec. 50.3. NRS 645B.0243 is hereby amended to read as follows:**

645B.0243 The Commissioner may refuse to issue a license to an applicant if the Commissioner has reasonable cause to believe that the applicant or any general partner, officer or director of the applicant has, after October 1, 1999, employed or proposed to employ a person as a mortgage agent or authorized or proposed to authorize a person to be associated with a mortgage broker as a mortgage agent at a time when the applicant or the general partner, officer or director knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person ~~is~~

~~1. Had been convicted of, or entered a plea of nolo contendere to:~~

~~(a) A felony relating to the practice of mortgage agents; or~~

~~(b) Any crime involving fraud, misrepresentation or moral turpitude; or~~

~~2. Had a financial services license or registration suspended or revoked within the immediately preceding 10 years.]~~ has committed any act or omission that would be cause for refusing to issue a license to a mortgage agent.

**Sec. 50.4. NRS 645B.050 is hereby amended to read as follows:**

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

(a) An application for renewal;

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

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

(d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, 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 not more than \$200; and

(e) All information required to complete the reinstatement.

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 that the person  
2 meets the requirements for an exemption from the provisions of this chapter; and

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

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

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

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

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

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

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

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

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

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

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

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

30 7. To be issued a duplicate copy of any license or certificate of exemption, a  
31 person must make a satisfactory showing of its loss and pay a fee of not more than  
32 \$10.

33 8. Except as otherwise provided in this chapter, all fees received pursuant to  
34 this chapter are in addition to any fee required to be paid to the Registry and must  
35 be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

36 9. The Commissioner may, by regulation, adjust any fee or date set forth in  
37 this section if the Commissioner determines that such an adjustment is necessary  
38 for the Commissioner to carry out his duties pursuant to this chapter. The amount of  
39 any adjustment in a fee pursuant to this subsection must not exceed the amount  
40 determined to be necessary for the Commissioner to carry out his duties pursuant to  
41 this chapter.

42 **Sec. 50.5. NRS 645B.410 is hereby amended to read as follows:**

43 645B.410 1. To obtain a license as a mortgage agent, a person must:

44 (a) Be a natural person;

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

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

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

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

50 (a) State the name and residence address of the applicant;

51 (b) Include a provision by which the applicant gives his written consent to an  
52 investigation of his credit history, criminal history and background;

(c) Include a complete set of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(d) ~~Include~~ If he is not licensed as a mortgage broker or mortgage banker pursuant to chapter 645B or 645E of NRS, include a verified statement from the mortgage broker or mortgage banker with whom the applicant will be associated that expresses the intent of that mortgage broker or mortgage agent to associate the applicant with the mortgage broker or mortgage agent and to be responsible for the activities of the applicant as a mortgage agent; and

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

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

(a) The application is verified by the Commissioner and complies with the applicable requirements of this chapter; and

(b) The applicant:

(1) Has not been convicted of, or entered a plea of nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude,]~~ in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering;

(2) Has ~~[not]~~ never had a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction, or had a financial services license suspended or revoked within the immediately preceding 10 years;

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

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

(5) Has ~~[a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage agent in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.]~~ demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that he will operate honestly, fairly and efficiently for the purposes of this chapter.

4. Money received by the Commissioner pursuant to this section is in addition to any fee required to be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

**Sec. 50.6. NRS 645B.430 is hereby amended to read as follows:**

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

(a) An application for renewal;

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

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

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

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section; and
- (c) A reinstatement fee of \$75.

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

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

5. Money received by the Commissioner pursuant to this section is in addition to any fee that must be paid to the Registry and must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

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

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

**Sec. 50.7. NRS 645B.460 is hereby amended to read as follows:**

645B.460 1. A mortgage broker shall exercise reasonable supervision over the activities of his mortgage agents ~~and~~ and must also be licensed as a mortgage agent if required pursuant to section 8 of this act. Such reasonable supervision must include, as appropriate:

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

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

- (1) Transactions handled by his mortgage agents pursuant to this chapter;
- (2) Communications between his mortgage agents and a party to such a transaction;

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

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

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

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

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

**Sec. 51. [NRS 645B.490 is hereby amended to read as follows:**

~~645B.490 1. Any mortgage broker, [or] mortgage agent or residential mortgage loan originator licensed under the provisions of this chapter who is called into the military service of the United States shall, at his request, be relieved from compliance with the provisions of this chapter and placed on inactive status~~

1 for the period of such military service and for a period of 6 months after discharge  
2 therefrom;

3 ~~2. At any time within 6 months after termination of such service, if the~~  
4 ~~mortgage broker, [or] mortgage agent or residential mortgage loan originator~~  
5 ~~complies with the provisions of subsection 1, the mortgage broker, [or] mortgage~~  
6 ~~agent or residential mortgage loan originator may be reinstated, without having to~~  
7 ~~meet any qualification or requirement other than the payment of the reinstatement~~  
8 ~~fee, as provided in NRS 645B.050 or 645B.430 [,] or section 14 of this act, and the~~  
9 ~~mortgage broker, [or] mortgage agent or residential mortgage loan originator is~~  
10 ~~not required to make payment of the renewal fee for the current year.~~

11 ~~3. Any mortgage broker, [or] mortgage agent or residential mortgage loan~~  
12 ~~originator seeking to qualify for reinstatement, as provided in subsections 1 and 2,~~  
13 ~~must present a certified copy of his honorable discharge or certificate of satisfactory~~  
14 ~~service to the Commissioner.] (Deleted by amendment.)~~

15 **Sec. 52.** ~~NRS 645B.620 is hereby amended to read as follows:~~

16 ~~645B.620 1. Whether or not a complaint has been filed, the Commissioner~~  
17 ~~shall investigate a mortgage broker, mortgage agent, residential mortgage loan~~  
18 ~~originator or other person if, for any reason, it appears that:~~

19 ~~(a) The mortgage broker, [or] mortgage agent or residential mortgage loan~~  
20 ~~originator is conducting business in an unsafe and injurious manner or in violation~~  
21 ~~of any provision of this chapter, a regulation adopted pursuant to this chapter or an~~  
22 ~~order of the Commissioner;~~

23 ~~(b) The person is offering or providing any of the services of a mortgage~~  
24 ~~broker, [or] mortgage agent or residential mortgage loan originator or otherwise~~  
25 ~~engaging in, carrying on or holding himself out as engaging in or carrying on the~~  
26 ~~business of a mortgage broker, [or] mortgage agent or residential mortgage loan~~  
27 ~~originator without being appropriately licensed or exempt from licensing pursuant~~  
28 ~~to the provisions of this chapter; or~~

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

31 ~~2. If, upon investigation, the Commissioner has reasonable cause to believe~~  
32 ~~that the mortgage broker, mortgage agent, residential mortgage loan originator or~~  
33 ~~other person has engaged in any conduct or committed any violation described in~~  
34 ~~subsection 1;~~

35 ~~(a) The Commissioner shall notify the Attorney General of the conduct or~~  
36 ~~violation and, if applicable, the Commissioner shall immediately take possession of~~  
37 ~~the property of the mortgage broker pursuant to NRS 645B.630; and~~

38 ~~(b) The Attorney General shall, if appropriate:~~

39 ~~(1) Investigate and prosecute the mortgage broker, mortgage agent,~~  
40 ~~residential mortgage loan originator or other person pursuant to NRS 645B.800;~~  
41 ~~and~~

42 ~~(2) Bring a civil action to:~~

43 ~~(I) Enjoin the mortgage broker, mortgage agent, residential mortgage~~  
44 ~~loan originator or other person from engaging in the conduct, operating the~~  
45 ~~business or committing the violation; and~~

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

50 ~~3. If the Attorney General brings a civil action pursuant to subsection 2, the~~  
51 ~~district court of any county of this State is hereby vested with the jurisdiction in~~  
52 ~~equity to enjoin the conduct, the operation of the business or the commission of the~~  
53 ~~violation and may grant any injunctions that are necessary to prevent and restrain~~



~~the conduct, the operation of the business or the commission of the violation. During the pendency of the proceedings before the district court:~~

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

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

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

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

~~— (2) Testify and give evidence concerning the conduct complained of in the petition.~~ **(Deleted by amendment.)**

**Sec. 53.** ~~[NRS 645B.630 is hereby amended to read as follows:~~

~~645B.630 1. In addition to any other action that is required or permitted pursuant to this chapter, if the Commissioner has reasonable cause to believe that:~~

~~— (a) The assets or capital of a mortgage broker **or residential mortgage loan originator** are impaired; or~~

~~— (b) A mortgage broker **or residential mortgage loan originator** is conducting business in an unsafe and injurious manner that may result in danger to the public;~~  
~~→ the Commissioner shall immediately take possession of all the property, business and assets of the mortgage broker **or residential mortgage loan originator** that are located in this State and shall retain possession of them pending further proceedings provided for in this chapter.~~

~~2. If the licensee, the board of directors or any officer or person in charge of the offices of the mortgage broker refuses to permit the Commissioner to take possession of the property of the mortgage broker pursuant to subsection 1:~~

~~— (a) The Commissioner shall notify the Attorney General; and~~

~~— (b) The Attorney General shall immediately bring such proceedings as may be necessary to place the Commissioner in immediate possession of the property of the mortgage broker.~~

~~3. If the Commissioner takes possession of the property of the mortgage broker [ ] **or residential mortgage loan originator**, the Commissioner shall:~~

~~— (a) Make or have made an inventory of the assets and known liabilities of the mortgage broker [ ] **or residential mortgage loan originator**;~~

~~— (b) File one copy of the inventory in his office and one copy in the office of the clerk of the district court of the county in which the principal office of the mortgage broker **or residential mortgage loan originator** is located and shall mail one copy to each stockholder, partner, officer, director or associate of the mortgage broker at his last known address; and~~

~~— (c) If the mortgage broker **or residential mortgage loan originator** maintains any accounts described in NRS 645B.175, not later than 5 business days after the date on which the Commissioner takes possession of the property of the mortgage broker [ ] **or residential mortgage loan originator**, mail notice of his possession to the last known address of each person whose money is deposited in such an account or whose money was or should have been deposited in such an account during the preceding 12 months.~~

~~4. The clerk of the court with which the copy of the inventory is filed shall file it as any other case or proceeding pending in the court and shall give it a docket number.~~ **(Deleted by amendment.)**

**Sec. 54.** ~~[NRS 645B.640 is hereby amended to read as follows:~~

~~645B.640 1. If the Commissioner takes possession of the property of a mortgage broker **or residential mortgage loan originator** pursuant to NRS~~



~~645B.630, the residential mortgage loan originator or the licensee, officers, directors, partners, associates or stockholders of the mortgage broker may, within 60 days after the date on which the Commissioner takes possession of the property, make good any deficit in the assets or capital of the mortgage broker or residential mortgage loan originator or remedy any unsafe and injurious conditions or practices of the mortgage broker [.] or residential mortgage loan originator.~~

~~2. At the expiration of the 60-day period, if the deficiency in assets or capital has not been made good or the unsafe and injurious conditions or practices remedied, the Commissioner may apply to the court to be appointed receiver and proceed to liquidate the assets of the mortgage broker or residential mortgage loan originator which are located in this State in the same manner as now provided by law for liquidation of a private corporation in receivership.~~

~~3. No other person may be appointed receiver by any court without first giving the Commissioner ample notice of his application.~~

~~4. The inventory made by the Commissioner and all claims filed by creditors are open at all reasonable times for inspection, and any action taken by the receiver upon any of the claims is subject to the approval of the court before which the cause is pending.~~

~~5. The expenses of the receiver and compensation of counsel, as well as all expenditures required in the liquidation proceedings, must be fixed by the Commissioner subject to the approval of the court and, upon certification of the Commissioner, must be paid out of the money in his hands as the receiver.]~~  
**(Deleted by amendment.)**

**Sec. 55.** 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.]~~ **\$25,000**, 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 ~~for residential mortgage loan originator,~~ the Commissioner may impose upon the mortgage broker ~~for residential mortgage loan originator, as applicable,~~ an administrative fine of not more than ~~[\$10,000.]~~ **\$25,000**, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker ~~for residential mortgage loan originator,~~ 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 ~~for residential mortgage loan originator~~ 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 mortgage broker ~~for residential mortgage loan originator~~ possesses and which, if submitted by him, would have rendered the mortgage broker ~~for residential mortgage loan originator~~ 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 guilty or nolo contendere to, a felony ~~[relating to the practice of mortgage brokers or residential mortgage loan originators or any crime involving fraud, misrepresentation or moral turpitude;]~~ in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.

(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 ~~for residential mortgage loan originator;~~

(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 guilty or nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;]~~ in a domestic, foreign or military court within the 7 years immediately preceding the date of application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering; or

(2) Had a ~~[financial services]~~ license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction or 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; or

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

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,]~~ \$25,000 may suspend, revoke or place conditions upon his license, or may do both, 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;

(e) Has been convicted of, or entered a plea of guilty or nolo contendere to, a felony ~~[relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude,]~~ in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, or money laundering.

(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; or

(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.

**Sec. 56.** ~~[NRS 645B.680 is hereby amended to read as follows:]~~

~~645B.680 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a mortgage broker, [or] mortgage agent [.] or residential mortgage loan originator, the Commissioner shall deem the license~~

issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

~~2. The Commissioner shall reinstate a license as a mortgage broker, [or] mortgage agent or residential mortgage loan originator that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.] (Deleted by amendment.)~~

Sec. 57. [NRS 645B.690 is hereby amended to read as follows:

~~645B.690 1. If a person offers or provides any of the services of a mortgage broker, [or] mortgage agent or residential mortgage loan originator that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.] (Deleted by amendment.)~~

~~(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or~~

~~(b) The person's license was suspended or revoked pursuant to this chapter, the Commissioner shall impose upon the person an administrative fine of not more than \$10,000 for each violation and, if the person has a license, the Commissioner shall revoke it.~~

~~2. If a mortgage broker or residential mortgage loan originator violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker or residential mortgage loan originator fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker or residential mortgage loan originator to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage broker or residential mortgage loan originator fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:~~

~~(a) Impose upon the mortgage broker or residential mortgage loan originator an administrative fine of not more than \$10,000 for each violation;~~

~~(b) Suspend or revoke the license of the mortgage broker [;] or residential mortgage loan originator; and~~

~~(c) Conduct a hearing to determine whether the mortgage broker or residential mortgage loan originator is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker or residential mortgage loan originator pursuant to NRS 645B.630.] (Deleted by amendment.)~~

Sec. 58. [NRS 645B.900 is hereby amended to read as follows:

~~645B.900 It is unlawful for any person to offer or provide any of the services of a mortgage broker, [or] mortgage agent or residential mortgage loan originator or otherwise to engage in, carry on or hold himself out as engaging in or carrying on the business of a mortgage broker, [or] mortgage agent or residential mortgage loan originator without first obtaining the applicable license issued pursuant to this chapter, unless the person:~~

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

~~2. Complies with the requirements for that exemption.] (Deleted by amendment.)~~

Sec. 59. Chapter 645E of NRS is hereby amended by adding thereto ~~a new section to read as follows:~~ the provisions set forth as sections 59.1 to 59.7, inclusive, of this act.

Sec. 59.1. 1. Any person licensed as a mortgage banker under this chapter and who engages in activities as a residential mortgage loan originator or who supervises a mortgage agent who engages in activities as a residential mortgage loan originator, and any employee or independent contractor of a mortgage banker who engages in activities as a residential mortgage loan originator, must be licensed as a ~~residential mortgage loan originator~~ mortgage agent pursuant to the provisions of ~~chapter 645B of NRS.~~ NRS 645B.400 to 645B.460, inclusive.

2. As used in this section, "residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.

Sec. 59.3. 1. A mortgage banker shall exercise reasonable supervision over the activities of his mortgage agents and must also be licensed as a mortgage agent if required pursuant to section 8 of this act. Such reasonable supervision must include, as appropriate:

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

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

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

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

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

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

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of his mortgage agents.

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

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

Sec. 59.5. If a mortgage agent terminates his association or employment with a mortgage banker for any reason, the mortgage banker shall, not later than 3 business days following knowledge of the date of termination:

1. Deliver to the mortgage agent or send by certified mail to the last known residence address of the mortgage agent a written statement which advises him that his termination is being reported to the Division; and

2. Deliver or send by certified mail to the Division:

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

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

(c) A copy of the written statement that the mortgage banker delivers or mails to the mortgage agent pursuant to subsection 1.

Sec. 59.7. 1. If a person offers or provides any of the services of a mortgage banker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage banker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter, the Commissioner shall impose upon the person an administrative fine of not more than \$10,000 for each violation and, if the person has a license, the Commissioner shall revoke it.

2. If a mortgage banker violates subsection 1 of NRS 645E.350 and the mortgage banker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage banker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage banker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage banker an administrative fine of not more than \$10,000 for each violation;

(b) Suspend or revoke the license of the mortgage banker; and

(c) Conduct a hearing to determine whether the mortgage banker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage banker pursuant to NRS 645E.630.

Sec. 60. [NRS 645E.100 is hereby amended to read as follows:]

645E.100 1. "Mortgage banker" means any of the following:

(a) A person who, directly or indirectly:

(1) Holds himself out as being able to:

(I) Buy or sell notes secured by liens on real property; or

(II) Make loans secured by liens on real property using his own money;

and

(2) Does not engage in any other act or transaction described in the definition of "mortgage broker" [,""] as set forth in NRS 645B.0127 [,""] or "residential mortgage loan originator" as set forth in section 6 of this act, unless the person is also licensed as a mortgage broker or residential mortgage loan originator pursuant to chapter 645B of NRS.

(b) A person who, directly or indirectly:

(1) Negotiates, originates or makes or offers to negotiate, originate or make commercial mortgage loans as an agent for or on behalf of an institutional investor;

and

(2) Does not engage in any other act or transaction described 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. 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. (Deleted by amendment.)



1       Sec. 61. Chapter 645F of NRS is hereby amended by adding thereto the  
2 provisions set forth as sections 62 to ~~77~~ 77.5, inclusive, of this act.

3       Sec. 62. ~~[As used in sections 62 to 77, inclusive, of this act, unless the~~  
4 ~~context otherwise requires, "Fund" means the Mortgage Education, Research~~  
5 ~~and Recovery Fund created by section 63 of this act.] (Deleted by amendment.)~~

6       Sec. 63. ~~[1. The Mortgage Education, Research and Recovery Fund is~~  
7 ~~hereby created as a special revenue fund.~~

8       ~~2. A balance of not less than \$300,000 must be maintained in the Fund, to~~  
9 ~~be used for satisfying claims against persons licensed under chapters 645B and~~  
10 ~~645E of NRS as provided in sections 62 to 72, inclusive, of this act. Any balance~~  
11 ~~over \$300,000 remaining in the Fund at the end of any fiscal year must be set~~  
12 ~~aside and used by the Commissioner for education and research relating to~~  
13 ~~mortgages.~~

14       ~~3. The interest and income earned on the money in the Fund, after~~  
15 ~~deducting any applicable charges, must be credited to the Fund.] (Deleted by~~  
16 ~~amendment.)~~

17       Sec. 64. ~~[The Commissioner shall adopt regulations prescribing a~~  
18 ~~percentage of the fees collected for the issuance or renewal of a license pursuant~~  
19 ~~to chapters 645B and 645E of NRS to be used for mortgage education, research~~  
20 ~~and recovery. The amount must be deposited in the State Treasury for credit to~~  
21 ~~the Fund, and must be used solely for the purposes provided in sections 62 to 72,~~  
22 ~~inclusive, of this act.] (Deleted by amendment.)~~

23       Sec. 65. ~~[1. Except as otherwise provided in subsection 2, when any~~  
24 ~~person obtains a final judgment in any court of competent jurisdiction against~~  
25 ~~any licensee or licensees pursuant to chapter 645B or 645E of NRS, upon~~  
26 ~~grounds of fraud, misrepresentation or deceit with reference to any transaction~~  
27 ~~for which a license is required pursuant to chapter 645B or 645E of NRS, that~~  
28 ~~person, upon termination of all proceedings, including appeals in connection~~  
29 ~~with any judgment, may file a verified petition in the court in which the judgment~~  
30 ~~was entered for an order directing payment out of the Fund in the amount of the~~  
31 ~~unpaid actual damages included in the judgment, but not more than \$25,000 per~~  
32 ~~judgment. The liability of the Fund does not exceed \$100,000 for any person~~  
33 ~~licensed pursuant to chapter 645B or 645E of NRS, whether he is licensed as a~~  
34 ~~limited-liability company, partnership, association or corporation or as a natural~~  
35 ~~person, or both. The petition must state the grounds which entitle the person to~~  
36 ~~recover from the Fund.~~

37       ~~2. A person who is licensed pursuant to chapter 645B or 645E of NRS may~~  
38 ~~not recover from the Fund for damages which are related to a transaction in~~  
39 ~~which he acted in his capacity as a licensee.~~

40       ~~3. A copy of the~~

41       ~~(a) Petition;~~

42       ~~(b) Judgment;~~

43       ~~(c) Complaint upon which the judgment was entered; and~~

44       ~~(d) Writ of execution which was returned unsatisfied,~~

45       ~~must be served upon the Commissioner and the judgment debtor and affidavits~~  
46 ~~of service must be filed with the court.~~

47       ~~4. Upon the hearing on the petition, the petitioner must show that:~~

48       ~~(a) He is not the spouse of the debtor, or the personal representative of that~~  
49 ~~spouse;~~

50       ~~(b) He has complied with all the requirements of sections 62 to 72, inclusive,~~  
51 ~~of this act;~~

52       ~~(c) He has obtained a judgment of the kind described in subsection 1, stating~~  
53 ~~the amount thereof, the amount owing thereon at the date of the petition, and that~~

~~the action in which the judgment was obtained was based on fraud, misrepresentation or deceit of the licensee in a transaction for which a license is required pursuant to chapter 645B or 645E of NRS.~~

~~(d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of assets was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.~~

~~(e) He has made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment, and after reasonable efforts that no property or assets could be found or levied upon in satisfaction of the judgment.~~

~~(f) He has made reasonable efforts to recover damages from each and every judgment debtor.~~

~~(g) The petition has been filed not more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.]~~  
~~(Deleted by amendment.)~~

~~Sec. 66. [1. Whenever the court proceeds upon a petition as provided in section 65 of this act, the Commissioner may answer and defend any such action against the Fund on behalf of the Fund and may use any appropriate method of review on behalf of the Fund. The judgment debtor may answer and defend any such action on his own behalf.~~

~~2. Unless the judgment was entered by default, consent or stipulation or the case was uncontested, the judgment set forth in the petition is prima facie evidence but the findings of fact therein are not conclusive for the purposes of sections 62 to 72, inclusive, of this act.~~

~~3. The Commissioner may, subject to court approval, compromise a claim based upon the application of a petitioner. He shall not be bound by any prior compromise of the judgment debtor.]~~  
~~(Deleted by amendment.)~~

~~Sec. 67. [1. If the court finds after the hearing that the claim should be levied against the portion of the Fund allocated for the purpose of carrying out the provisions of sections 62 to 72, inclusive, of this act, the court shall enter an order directed to the Commissioner requiring payment from the Fund of whatever sum it finds to be payable upon the claim pursuant to the provisions of and in accordance with the limitations contained in sections 62 to 72, inclusive, of this act.~~

~~2. If a petitioner has recovered a portion of his claim from sources other than the Fund, the Commissioner shall deduct the amount recovered from the other sources from the amount payable upon the claim.]~~  
~~(Deleted by amendment.)~~

~~Sec. 68. [If the Commissioner pays from the Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, his license issued pursuant to chapter 645B or 645E of NRS must be automatically suspended upon the effective date of an order by the court authorizing payment from the Fund. The license may not be reinstated, and no other license may be granted to him pursuant to chapter 645B or 645E of NRS until he has repaid in full, plus interest at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of judgment, plus 2 percent, the amount paid from the Fund on his account. Interest is computed from the date payment from the Fund was made by the Commissioner, and the~~



rate must be adjusted accordingly on each January 1 and July 1 thereafter until the judgment is satisfied.] (Deleted by amendment.)

Sec. 69. ~~[1. Whenever claims are filed against the Fund which total more than the maximum liability for the acts of one licensee, the maximum liability of the Fund for each licensee must be distributed among the claimants in a ratio that their respective claims bear to the total of all claims, or in any other manner that the court may find equitable.~~

~~2. The distribution must be made without regard to the order of priority in which claims were filed or judgments entered.~~

~~3. Upon petition of the Commissioner, the court may require all claimants and prospective claimants to be joined in one action so that the respective rights of all claimants may be equitably determined.~~

~~4. If, at any time, the money deposited in the Fund and allotted for satisfying claims against licensees is insufficient to satisfy any authorized claim or portion thereof, the Commissioner shall, when sufficient money has been deposited in the Fund, satisfy the unpaid claims or portions thereof, in the order that the claims or portions thereof were originally filed, plus accumulated interest at the rate of 6 percent per annum. Any sums received by the Division pursuant to sections 68 and 70 of this act must be deposited in the State Treasury for credit to the account for education and research in the Fund.] (Deleted by amendment.)~~

Sec. 70. ~~[When the Commissioner has paid from the Fund any money to the judgment creditor, the Commissioner is subrogated to all other rights of the judgment creditor to the extent of the amount paid and any amount and interest so recovered by the Commissioner on the judgment must be deposited in the State Treasury for credit to the Fund.] (Deleted by amendment.)~~

Sec. 71. ~~[The failure of a person to comply with any of the provisions of sections 62 to 72, inclusive, of this act shall constitute a waiver of any rights hereunder.] (Deleted by amendment.)~~

Sec. 72. ~~[Nothing contained in sections 62 to 72, inclusive, of this act limits the authority of the Division to take disciplinary action against a licensee for a violation of any of the provisions of chapter 645B or 645E of NRS, or of the rules and regulations of the Division, nor shall the repayment in full of all obligations to the Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to the provisions of chapter 645B or 645E or the rules and regulations promulgated thereunder.] (Deleted by amendment.)~~

Sec. 73. "Nationwide Mortgage Licensing System and Registry" or "Registry" have the meanings ascribed to them in section 2 of this act.

Sec. 74. ~~["Residential mortgage loan originator" has the meaning ascribed to it in section 6 of this act.] (Deleted by amendment.)~~

Sec. 75. ~~[To carry out the requirements for the licensing of residential mortgage loan originators in chapter 645B of NRS, the Commissioner shall participate in the Nationwide Mortgage Licensing System and Registry.] (Deleted by amendment.)~~

Sec. 75.3. The Commissioner shall adopt such regulations as necessary to comply with the requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

Sec. 75.7. The Commissioner shall adopt regulations:

1. Establishing minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, as defined in section 6 of this act; or

2. Requiring a percentage of the fees collected for the issuance or renewal of a license pursuant to chapter 645B or 645E of NRS to be deposited in a

mortgage recovery fund, and setting forth the methods by which a person may make a claim against and be paid from the fund.

Sec. 76. 1. The Commissioner shall ~~1. Report regularly~~ adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of ~~sections 8 to 18, inclusive, of this act,~~ the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and

~~2. Establish by regulation a~~

(b) A process whereby ~~residential mortgage loan originators~~ a person may challenge information reported to the Registry by the Commissioner.

Sec. 77. 1. Except as otherwise provided in section 1512 of Public Law 110-289, the requirements under any federal law or NRS 645B.060 and 645B.092 regarding the confidentiality of any information or material provided to the Registry, and any privilege arising under federal laws of this State with respect to such information or material, continue to apply to such information or material after it has been disclosed to the Registry. Such information and material may be shared with federal and state regulatory officials with mortgage industry oversight without the loss of privilege or the loss of confidentiality protections provided by federal law or the provisions of NRS 645B.060 and 645B.092.

2. ~~For the purpose of carrying out the provisions of subsection 1, the Commissioner may by regulation or order enter into agreements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies.~~

~~3.~~ Information or material that is subject to a privilege or confidentiality under subsection 1 is not subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or agency of the Federal Government or the State of Nevada; and

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Registry with respect to such information or material, the person to whom such information or material waives, in whole or in part, that privilege.

~~4.~~ 3. This section does not apply to information or material relating to:

(a) The employment history of; and

(b) Publicly adjudicated disciplinary and enforcement actions against, ~~residential mortgage loan originators included in the Registry for access by the public.~~

Sec. 77.5. For the purpose of carrying out the provisions of section 77 of this act, the Commissioner may by regulation or order enter into agreements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies.

Sec. 78. NRS 645F.010 is hereby amended to read as follows:

645F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645F.020 to 645F.060, inclusive, and ~~sections 73 and 74~~ section 73 of this act have the meanings ascribed to them in those sections.

Sec. 79. ~~NRS 645F.160 is hereby amended to read as follows:~~

~~645F.160 The Commissioner shall not, either directly or indirectly, be interested in any escrow agency, mortgage broker [or], residential mortgage loan~~

~~originator or mortgage banker to which chapters 645A, 645B and 645E of NRS apply, nor engage in business as a personal loan broker.](Deleted by amendment.)~~

**Sec. 80.** ~~[NRS 645F.180 is hereby amended to read as follows:~~

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

~~2. The Commissioner may employ or contract with a certified public accountant to review and conduct independent audits and examinations of escrow agencies, mortgage brokers, residential mortgage loan originators and mortgage bankers. The Commissioner shall levy an assessment upon each licensed escrow agency, mortgage broker, residential mortgage loan originator and mortgage banker to cover all the costs related to the employment of or the contract with the certified public accountant and the performance of the audits and examinations.~~

~~3. Assessments collected by the Commissioner pursuant to subsection 2 must be deposited in the State Treasury for deposit to the Fund for Mortgage Lending created by NRS 645F.270 and accounted for separately. The Commissioner shall use the money for the purposes specified in subsection 2.](Deleted by amendment.)~~

**Sec. 81.** ~~[NRS 645F.280 is hereby amended to read as follows:~~

~~645F.280 1. The Commissioner shall establish by regulation rates to be paid by escrow agencies, mortgage agents, mortgage brokers, residential mortgage loan originators and mortgage bankers for supervision and examinations by the Commissioner or the Division.~~

~~2. In establishing a rate pursuant to subsection 1, the Commissioner shall consider:~~

~~(a) The complexity of the various examinations to which the rate applies;~~  
~~(b) The skill required to conduct the examinations;~~  
~~(c) The expenses associated with conducting the examination and preparing a report; and~~

~~(d) Any other factors the Commissioner deems relevant.](Deleted by amendment.)~~

**Sec. 82.** NRS 645F.290 is hereby amended to read as follows:

645F.290 1. The Commissioner shall collect an assessment pursuant to this section from each:

(a) Escrow agency that is supervised pursuant to chapter 645A of NRS;  
(b) Mortgage broker that is supervised pursuant to chapter 645B of NRS; ~~and~~  
(c) ~~Residential mortgage loan originator that is supervised pursuant to chapter 645B of NRS;~~ Mortgage agent that is supervised pursuant to chapter 645B or 645E of NRS; and

(d) Mortgage banker that is supervised pursuant to chapter 645E of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) An equal basis; or  
(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

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

**Sec. 83.** ~~[NRS 645F.380 is hereby amended to read as follows:~~

~~645F.380 The provisions of NRS 645F.200 to 645F.450, inclusive, do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:~~

~~1. An attorney at law rendering services in the performance of his duties as an attorney at law;~~

~~2. A person, firm, company or corporation licensed to engage in the business of debt adjustment pursuant to chapter 676 of NRS while engaging in that business;~~

~~3. A person licensed as a real estate broker, broker-salesman or salesman pursuant to chapter 645 of NRS while acting under the authority of that license;~~

~~4. A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank;~~

~~5. A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;~~

~~6. Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;~~

~~7. A person licensed as an escrow agent, title agent, mortgage agent, mortgage broker, residential mortgage loan originator or mortgage banker pursuant to chapter 645A, 692A, 645B or 645E of NRS, respectively, while acting under the authority of his license;~~

~~8. A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or~~

~~9. A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.] (Deleted by amendment.)~~

**Sec. 84.** ~~[NRS 645F.450 is hereby amended to read as follows:~~

~~645F.450 The rights, remedies and penalties provided pursuant to the provisions of NRS 645F.200 to 645F.450, inclusive, and sections 62 to 77, inclusive, of this act are cumulative and do not abrogate and are in addition to any other rights, remedies and penalties that may exist at law or in equity, including, without limitation, any criminal penalty that may be imposed pursuant to NRS 645F.430.] (Deleted by amendment.)~~

**Sec. 84.5.** Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any person authorized to engage in activities as a residential mortgage loan originator on behalf of a privately insured institution or organization

1 licensed under title 55 or 56 of NRS shall obtain and maintain a license as a  
2 mortgage agent.

3 2. As used in subsection 1:

4 (a) "Mortgage agent" has the meaning ascribed to in NRS 645B.0125; and

5 (b) "Residential mortgage loan originator" has the meaning ascribed to it in  
6 section 6 of this act.

7 **Sec. 85.** Notwithstanding the amendatory provisions of this act:

8 1. A person who holds a license as a mortgage broker under chapter 645B of  
9 NRS or as a mortgage banker under chapter 645E of NRS on or before July 31,  
10 2009, and who, because of his lawful activities, is required to be licensed as a  
11 ~~residential mortgage loan originator,~~ **mortgage agent,** may continue his activities  
12 without obtaining a license as a ~~residential mortgage loan originator,~~ **mortgage**  
13 **agent** until July 1, 2011, ~~and shall comply with the provisions of sections 2 to~~  
14 ~~18, inclusive, of this act not later than July 1, 2011.~~

15 2. A person who does not hold a license as a mortgage broker under chapter  
16 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before  
17 July 31, 2009, and who, because of his lawful activities, is required to be licensed  
18 as a ~~residential mortgage loan originator,~~ **mortgage agent,** may continue his  
19 activities without obtaining a license as a ~~residential mortgage loan originator,~~  
20 **mortgage agent** until July 1, 2010, ~~and shall comply with the provisions of~~  
21 ~~sections 2 to 18, inclusive, of this act not later than July 1, 2010.~~

22 **Sec. 85.5. NRS 645B.455 of NRS is hereby repealed.**

23 **Sec. 86.** ~~[.]~~ This ~~section and sections 1 to 61, inclusive, and 72 to 85,~~  
24 ~~inclusive, of this act~~ **becomes** effective upon passage and approval for  
25 the purpose of adopting regulations and for licensure pursuant to section 85 of this  
26 act ~~and~~ and on October 1, 2009, for all other purposes.

27 ~~2. Sections 62 to 72, inclusive, of this act become effective on October 1,~~  
28 ~~2009.~~

29 ~~3. Section 13 of this act expires by limitation on the date on which the~~  
30 ~~provisions of 42 U.S.C. § 666 requiring each state to establish procedures under~~  
31 ~~which the state has authority to withhold or suspend, or to restrict the use of~~  
32 ~~professional, occupational and recreational licenses of persons who:~~

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

36 ~~(b) Are in arrears in the payment for the support of one or more children,~~  
37 ~~are repealed by the Congress of the United States;~~

38 ~~4. Section 56 of this act expires by limitation on the date 2 years after the date~~  
39 ~~on which the provisions of 42 U.S.C. § 666 requiring each state to establish~~  
40 ~~procedures under which the state has authority to withhold or suspend, or to restrict~~  
41 ~~the use of professional, occupational and recreational licenses of persons who:~~

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

45 ~~(b) Are in arrears in the payment for the support of one or more children,~~  
46 ~~are repealed by the Congress of the United States.]~~

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**TEXT OF REPEALED SECTION**

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**645B.455 License issued on behalf of professional corporation or limited-liability company; limitations on license; automatic expiration of license.**

**1. Any natural person who meets the qualifications of a mortgage agent and:**

**(a) Except as otherwise provided in subsection 2, is the sole shareholder of a corporation organized pursuant to the provisions of chapter 89 of NRS; or**

**(b) Is the manager of a limited-liability company organized pursuant to the provisions of chapter 86 of NRS.**

**↪ may be licensed on behalf of the corporation or limited-liability company for the purpose of associating with a licensed mortgage broker in the capacity of a mortgage agent.**

**2. The spouse of the owner of the corporation who has a community interest in any shares of the corporation shall not be deemed a second shareholder of the corporation for the purposes of paragraph (a) of subsection 1, if the spouse does not vote any of those shares.**

**3. A license issued pursuant to this section entitles only the sole shareholder of the corporation or the manager of the limited-liability company to act as a mortgage agent, and only as an officer or agent of the corporation or limited-liability company and not on his own behalf. The licensee shall not do or deal in any act, acts or transactions included within the definition of a mortgage broker in NRS 645B.0127, except as that activity is permitted pursuant to this chapter to licensed mortgage agents.**

**4. The corporation or limited-liability company shall, within 30 days after a license is issued on its behalf pursuant to this section and within 30 days after any change in its ownership, file an affidavit with the Division stating:**

**(a) For a corporation, the number of issued and outstanding shares of the corporation and the names of all persons to whom the shares have been issued.**

**(b) For a limited-liability company, the names of members who have an interest in the company.**

**5. A license issued pursuant to this section automatically expires upon:**

**(a) The death of the licensed shareholder in the corporation or the manager of the limited-liability company; or**

**(b) The issuance of shares in the corporation to more than one person other than the spouse.**

**6. This section does not alter any of the rights, duties or liabilities which otherwise arise in the legal relationship between a mortgage broker or mortgage agent and a person who deals with him.**