

Amendment No. 957

Senate Amendment to Assembly Bill No. 523 First Reprint (BDR 54-773)

Proposed by: Senate Committee on Commerce and Labor**Amends:** Summary: No Title: No 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, 59.1, 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: 5/28/2009

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; 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 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 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 ~~or~~ *or* mortgage agent ~~for 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)

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 ~~1.5~~ *1.5* to 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. (Deleted by amendment.)

Sec. 4. (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 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).*

Sec. 7. (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 NRS 645B.400 to 645B.460, inclusive.*

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. (Deleted by amendment.)

Sec. 17. (Deleted by amendment.)

Sec. 18. (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. (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:

[(a)] (1) Is an employee **[or 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**

[(b)] (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 **[or 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~~ broker, qualified employee or mortgage banker who is required by section 8 or ~~59~~ 59.1 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) ~~Is~~ Except as otherwise provided in paragraph (b) of subsection 1, is licensed as a mortgage broker ~~or~~ or mortgage banker;

(b) ~~Is an~~ owner, general partner, officer or director of a mortgage broker ~~or~~ or mortgage banker;

(c) Performs only clerical or ministerial tasks for a mortgage broker ~~or~~ ; *or*

(d) Collects payments and performs related services, including, without limitation, the modification of an existing loan, 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. (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 must:

(a) Complete education on mortgage lending as required by this chapter ~~or~~ and 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 ~~is~~

~~(a) May~~ may hire a testing organization to create, administer and score a written examination. ~~or~~ 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 ~~or~~ and the scoring of a written examination ~~for any possible waivers of a written examination or~~ ; *and*

(b) Regulations for compliance with the requirements for registration with the Registry and any other applicable federal law.

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

645B.0138 1. A course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

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

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

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

Sec. 25. (Deleted by amendment.)

1 **Sec. 26.** (Deleted by amendment.)

2 **Sec. 27.** (Deleted by amendment.)

3 **Sec. 28.** (Deleted by amendment.)

4 **Sec. 29.** (Deleted by amendment.)

5 **Sec. 30.** (Deleted by amendment.)

6 **Sec. 31.** (Deleted by amendment.)

7 **Sec. 32.** (Deleted by amendment.)

8 **Sec. 33.** (Deleted by amendment.)

9 **Sec. 34.** (Deleted by amendment.)

10 **Sec. 35.** (Deleted by amendment.)

11 **Sec. 36.** (Deleted by amendment.)

12 **Sec. 37.** (Deleted by amendment.)

13 **Sec. 38.** (Deleted by amendment.)

14 **Sec. 39.** (Deleted by amendment.)

15 **Sec. 40.** (Deleted by amendment.)

16 **Sec. 41.** (Deleted by amendment.)

17 **Sec. 42.** (Deleted by amendment.)

18 **Sec. 43.** (Deleted by amendment.)

19 **Sec. 44.** (Deleted by amendment.)

20 **Sec. 45.** (Deleted by amendment.)

21 **Sec. 46.** (Deleted by amendment.)

22 **Sec. 47.** (Deleted by amendment.)

23 **Sec. 48.** (Deleted by amendment.)

24 **Sec. 49.** (Deleted by amendment.)

25 **Sec. 50.** (Deleted by amendment.)

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

27 645B.018 1. A person may apply to the Commissioner for an exemption
28 from the provisions of this chapter governing the making of a loan of money **H**,
29 *except that an exemption may not be issued for the making of a residential*
30 *mortgage loan.*

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

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

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

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

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

40 3. The Commissioner:

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

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

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

46 645B.020 1. A person who wishes to be licensed as a mortgage broker must
47 file a written application for a license with the Office of the Commissioner and pay
48 the fee required pursuant to NRS 645B.050. An application for a license as a
49 mortgage broker must:

50 (a) State the name, residence address and business address of the applicant and
51 the location of each principal office and branch office at which the mortgage broker
52 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 20 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:

- (a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter; and
- (b) The fee required to renew the certificate of exemption.

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

- (a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;
- (b) The fee required to renew the certificate of exemption; and
- (c) Except as otherwise provided in this section, a reinstatement fee of not more than \$100.

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

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

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

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

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

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

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

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

8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter *are 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.

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

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

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

(a) Be a natural person;

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

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

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

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

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

(b) Include a provision by which the applicant gives his written consent to an 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) ~~He/she~~ *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~~ *banker* to associate the applicant with the mortgage broker *or mortgage* ~~agent~~ *banker* 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 *guilty or* ~~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. (Deleted by amendment.)

Sec. 52. (Deleted by amendment.)

Sec. 53. (Deleted by amendment.)

Sec. 54. (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, the Commissioner may impose upon the mortgage broker 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, whether or not acting as such:

(a) Is insolvent;

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

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

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

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

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

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

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

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

(j) Has been convicted of, or entered a plea of *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.~~

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

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

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

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

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

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

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

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

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

(1) Had been convicted of, or entered a plea of *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 ~~[for residential mortgage loan originator]~~ for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker ~~[for residential mortgage loan originator]~~ is conducting business by examining the monthly reports of activity submitted by the mortgage broker ~~[for residential mortgage loan originator]~~ or by conducting an examination of the mortgage broker ~~[for 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. (Deleted by amendment.)

Sec. 57. (Deleted by amendment.)

Sec. 58. (Deleted by amendment.)

Sec. 59. Chapter 645E of NRS is hereby amended by adding thereto 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 mortgage agent pursuant to the provisions of 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:

- 1 (a) *The license or license number of the mortgage agent;*
2 (b) *A written statement of the circumstances surrounding the termination;*
3 and
4 (c) *A copy of the written statement that the mortgage banker delivers or mails*
5 *to the mortgage agent pursuant to subsection 1.*

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

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

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

16 2. *If a mortgage banker violates subsection 1 of NRS 645E.350 and the*
17 *mortgage banker fails, without reasonable cause, to remedy the violation within*
18 *20 business days after being ordered by the Commissioner to do so or within such*
19 *later time as prescribed by the Commissioner, or if the Commissioner orders a*
20 *mortgage banker to provide information, make a report or permit an examination*
21 *of his books or affairs pursuant to this chapter and the mortgage banker fails,*
22 *without reasonable cause, to comply with the order within 20 business days or*
23 *within such later time as prescribed by the Commissioner, the Commissioner*
24 *shall:*

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

27 (ii) *Suspend or revoke the license of the mortgage banker; and*

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

32 **Sec. 60.** (Deleted by amendment.)

33 **Sec. 61.** Chapter 645F of NRS is hereby amended by adding thereto the
34 provisions set forth as sections 62 to 77.5, inclusive, of this act.

35 **Sec. 62.** (Deleted by amendment.)

36 **Sec. 63.** (Deleted by amendment.)

37 **Sec. 64.** (Deleted by amendment.)

38 **Sec. 65.** (Deleted by amendment.)

39 **Sec. 66.** (Deleted by amendment.)

40 **Sec. 67.** (Deleted by amendment.)

41 **Sec. 68.** (Deleted by amendment.)

42 **Sec. 69.** (Deleted by amendment.)

43 **Sec. 70.** (Deleted by amendment.)

44 **Sec. 71.** (Deleted by amendment.)

45 **Sec. 72.** (Deleted by amendment.)

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

48 **Sec. 74.** (Deleted by amendment.)

49 **Sec. 75.** (Deleted by amendment.)

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

1 **Sec. 75.7.** *The Commissioner shall adopt regulations:*

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

5 2. *Requiring a percentage of the fees collected for the issuance or renewal*
6 *of a license pursuant to chapter 645B or 645E of NRS to be deposited in a*
7 *mortgage recovery fund, and setting forth the methods by which a person may*
8 *make a claim against and be paid from the fund.*

9 **Sec. 76.** 1. *The Commissioner shall adopt regulations to carry out the*
10 *provisions of the federal Secure and Fair Enforcement for Mortgage Licensing*
11 *Act of 2008.*

12 2. *The regulations must include, without limitation:*

13 (a) *A method by which to allow for reporting regularly violations of the*
14 *relevant provisions of chapter 645B or 645E of NRS, enforcement actions and*
15 *other relevant information to the Registry; and*

16 (b) *A process whereby a person may challenge information reported to the*
17 *Registry by the Commissioner.*

18 **Sec. 77.** 1. *Except as otherwise provided in section 1512 of Public Law*
19 *110-289, the requirements under any federal law or NRS 645B.060 and 645B.092*
20 *regarding the confidentiality of any information or material provided to the*
21 *Registry, and any privilege arising under federal laws of this State with respect to*
22 *such information or material, continue to apply to such information or material*
23 *after it has been disclosed to the Registry. Such information and material may be*
24 *shared with federal and state regulatory officials with mortgage industry*
25 *oversight without the loss of privilege or the loss of confidentiality protections*
26 *provided by federal law or the provisions of NRS 645B.060 and 645B.092.*

27 2. *Information or material that is subject to a privilege or confidentiality*
28 *under subsection 1 is not subject to:*

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

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

36 3. *This section does not apply to information or material relating to:*

37 (a) *The employment history of; and*

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

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

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

47 645F.010 As used in this chapter, unless the context otherwise requires, the
48 words and terms defined in NRS 645F.020 to 645F.060, inclusive, *and section 73*
49 *of this act* have the meanings ascribed to them in those sections.

50 **Sec. 79.** (Deleted by amendment.)

51 **Sec. 80.** (Deleted by amendment.)

52 **Sec. 81.** (Deleted by amendment.)

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

2 645F.290 1. The Commissioner shall collect an assessment pursuant to this
3 section from each:

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

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

6 (c) *Mortgage agent that is supervised pursuant to chapter 645B or 645E of*
7 *NRS; and*

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

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

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

18 (a) An equal basis; or

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

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

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

25 **Sec. 83.** (Deleted by amendment.)

26 **Sec. 84.** (Deleted by amendment.)

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

29 1. *Any person authorized to engage in activities as a residential mortgage*
30 *loan originator on behalf of a privately insured institution or organization*
31 *licensed under title 55 or 56 of NRS shall obtain and maintain a license as a*
32 *mortgage agent.*

33 2. *As used in subsection 1:*

34 (a) *“Mortgage agent” has the meaning ascribed to in NRS 645B.0125; and*

35 (b) *“Residential mortgage loan originator” has the meaning ascribed to it in*
36 *section 6 of this act.*

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

38 1. A person who holds a license as a mortgage broker under chapter 645B of
39 NRS or as a mortgage banker under chapter 645E of NRS on or before July 31,
40 2009, and who, because of his lawful activities, is required to be licensed as a
41 mortgage agent, may continue his activities without obtaining a license as a
42 mortgage agent until July 1, 2011, ~~or~~ or such other date as the Commissioner of
43 Mortgage Lending may prescribe by regulation if necessary to comply with
44 federal law.

45 2. A person who does not hold a license as a mortgage broker under chapter
46 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before
47 July 31, 2009, and who, because of his lawful activities, is required to be licensed
48 as a mortgage agent, may continue his activities without obtaining a license as a
49 mortgage agent until July 1, 2010.

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

51 **Sec. 86.** This act becomes effective upon passage and approval for the
52 purpose of adopting regulations and for licensure pursuant to section 85 of this act
53 and on October 1, 2009, for all other purposes.

TEXT OF REPEALED SECTION

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,
2. 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.