
ASSEMBLY BILL NO. 77—COMMITTEE
ON COMMERCE AND LABOR

(ON BEHALF OF THE DIVISION OF MORTGAGE LENDING)

PREFILED DECEMBER 15, 2010

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to mortgage lending and related professionals. (BDR 54-481)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to mortgage lending; revising provisions relating to the licensing of escrow agents and escrow agencies; revising provisions relating to a surety bond or substitute security posted by an escrow agency; requiring the Commissioner of Mortgage Lending to establish certain fees; revising provisions relating to disciplinary action for an escrow agent or escrow agency; establishing provisions governing the arranging or servicing of loans in which an investor has an interest; requiring a mortgage broker who services a loan to make certain reports; requiring a mortgage broker to provide to investors in a construction loan a performance bond conditioned upon faithful performance of the construction contract; requiring certain information to be disclosed to investors in loans; requiring a subsidiary or holding company of certain entities to comply with statutes governing mortgage brokers and mortgage agents; exempting certain natural persons and nonprofit organizations from statutes governing mortgage brokers and mortgage agents; revising provisions relating to a surety bond posted by a mortgage broker; requiring a mortgage broker to review an impound trust account annually; revising provisions relating to the renewal of a license as a mortgage banker;



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enacting requirements for mortgage brokers and for mortgage bankers to make the statutory schemes governing the two professions more similar; allowing disclosure of certain confidential information relating to an investigation; enacting provisions for the enforcement of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; requiring the licensing of a person who performs the services of a construction control; requiring the licensing of a provider of certain additional services as a provider of covered services; revising provisions relating to compensation for a provider of covered services; increasing certain administrative fines; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law governs the conduct of escrow agents and escrow agencies and requires the Commissioner of Mortgage Lending to supervise and control the conduct of escrow agents and escrow agencies within this State. (Chapter 645A of NRS) **Sections 4 and 5** of this bill revise provisions relating to the licensing of escrow agents and escrow agencies. **Sections 6 and 7** of this bill revise provisions relating to the surety bond posted by an escrow agency. **Sections 8 and 9** of this bill revise provisions relating to the fees and costs relating to escrow agents and escrow agencies that the Commissioner is authorized to collect. **Sections 2 and 10-12** of this bill revise provisions relating to discipline for activities relating to escrow agents and escrow agencies.

Existing law governs the conduct of mortgage agents and mortgage brokers and requires the Commissioner of Mortgage Lending to supervise and control the conduct of mortgage agents and mortgage brokers within this State. (Chapter 645B of NRS) **Section 19** of this bill requires a mortgage broker to provide to investors in a construction loan a performance bond conditioned upon faithful performance of the construction contract. **Sections 20, 32 and 39** of this bill require a mortgage broker to disclose certain information to investors in loans. **Sections 21-31, 33-38 and 40** of this bill establish provisions governing the arranging or servicing of loans by a mortgage broker in which an investor has an interest. **Section 44** of this bill revises the exemptions from the statutes governing mortgage agents and mortgage brokers. **Sections 47-49** of this bill revise provisions relating to a surety bond posted by a mortgage broker. **Section 53** of this bill authorizes the Commissioner to disclose certain confidential information relating to an investigation. **Section 56** of this bill requires a mortgage broker to review an impound trust account annually.

Existing law governs the conduct of mortgage bankers and requires the Commissioner of Mortgage Lending to supervise and control the conduct of mortgage bankers within this State. (Chapter 645E of NRS) **Section 72** of this bill revises the exemptions from the statutes governing mortgage bankers. **Section 81** of this bill authorizes the Commissioner to disclose certain confidential information relating to an investigation.

Existing law requires the Commissioner to adopt regulations concerning the licensing of persons who provide certain covered services. (NRS 645F.390) **Section 89** of this bill requires the Commissioner to adopt regulations relating to the licensing of persons who perform the services of a construction control. **Section 96** of this bill includes additional services within the definition of "covered



services.” **Section 101** of this bill revises provisions governing the compensation a provider of covered services may receive.

Sections 7 and 49 of this bill allow the Commissioner to make a claim on certain surety bonds without bringing an action in court in certain circumstances.

Sections 42, 45, 46, 50-55, 59, 60, 62-64, 67, 69, 73, 76, 79-82 and 99 of this bill enact or revise provisions to implement the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

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

Section 1. Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *If a person offers or provides any of the services of an escrow agent or escrow agency or otherwise engages in, carries on or holds himself or herself out as engaging in or carrying on the business of an escrow agent or escrow agency and, at the time:*

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

2. 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 \$25,000 for each violation and, if the person has a license, the Commissioner may suspend or revoke it.

Sec. 3. *1. If an escrow agency is not a natural person, the escrow agency must designate a natural person as a qualified employee to act on behalf of the escrow agency.*

2. The Division shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:

(a) A definition for the term “qualified employee”;

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 4. NRS 645A.020 is hereby amended to read as follows:

645A.020 1. A person who wishes to be licensed as an escrow agent or agency must file a written application in the Office of the Commissioner.

2. The application must:

(a) Be verified.

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

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



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

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

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

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

(h) Require a financial statement of the applicant.

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

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

(k) *Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the escrow agency as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

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

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

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

5. An escrow agent or agency shall immediately notify the Division of any material change in the information contained in the application.

6. A person may not be licensed as an escrow agent or agency or be a principal, *partner*, officer, director or trustee of an escrow agency if the person is the holder of an active license issued pursuant to chapter 645 of NRS.

Sec. 5. NRS 645A.040 is hereby amended to read as follows:

645A.040 1. Every license issued pursuant to the provisions of this chapter expires on July 1 of each year if it is not renewed. A



1 license may be renewed by filing an application for renewal, paying
2 the annual fee for the succeeding year and submitting all
3 information required to complete the renewal.

4 2. The fees for the issuance or renewal of a license for an
5 escrow agency are:

6 (a) For filing an application for an initial license, \$500 for the
7 principal office and \$100 for each branch office.

8 (b) If the license is approved for issuance, \$200 for the principal
9 office and \$100 for each branch office. The fee must be paid before
10 issuance of the license.

11 (c) For filing an application for renewal, \$200 for the principal
12 office and \$100 for each branch office.

13 3. The fees for the issuance or renewal of a license for an
14 escrow agent are:

15 (a) For filing an application for an initial license or for the
16 renewal of a license, \$100.

17 (b) If a license is approved for issuance or renewal, \$25. The fee
18 must be paid before the issuance or renewal of the license.

19 4. If a licensee fails to pay the fee or submit all required
20 information for the annual renewal of his or her license before its
21 expiration, the license may be renewed only upon the payment of a
22 fee one and one-half times the amount otherwise required for
23 renewal. A license may be renewed pursuant to this subsection only
24 if all the fees are paid and all required information is submitted
25 within ~~1 year~~ 2 months after the date on which the license expired.

26 5. In addition to the other fees set forth in this section, each
27 applicant or licensee shall pay:

28 (a) For filing an application for a duplicate copy of any license,
29 upon satisfactory showing of its loss, \$10.

30 (b) For filing any change of information contained in the
31 application, \$10.

32 (c) For each change of association with an escrow agency, \$25.

33 6. Except as otherwise provided in this chapter, all fees
34 received pursuant to this chapter must be deposited in the Fund for
35 Mortgage Lending created by NRS 645F.270.

36 **Sec. 6.** NRS 645A.041 is hereby amended to read as follows:

37 645A.041 1. Except as otherwise provided in NRS
38 645A.042, as a condition to doing business in this State, each
39 escrow agency shall deposit with the Commissioner and keep in full
40 force and effect a corporate surety bond payable to the State of
41 Nevada, in the amount set forth in subsection 4, which is executed
42 by a corporate surety satisfactory to the Commissioner and which
43 names as principals the escrow agency and all escrow agents
44 employed by or associated with the escrow agency.



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

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

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

The condition of that obligation is such that: Whereas, the principal has been issued a license as an escrow agency or escrow agent by the Commissioner of Mortgage Lending of the Department of Business and Industry of the State of Nevada and is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, his or her agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 645A of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 645A of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645A of NRS, then this obligation is void; otherwise it remains in full force.

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

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



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1 (Seal)
2 Principal
3 (Seal)
4 Surety
5 By
6 Attorney-in-fact
7
8 Nevada Licensed
9 ~~resident agent~~ Insurance Agent

10
11 4. Each escrow agency shall deposit a corporate surety bond
12 that complies with the provisions of this section or a substitute form
13 of security that complies with the provisions of NRS 645A.042 in
14 the following amount based upon the average monthly balance of
15 the trust account or escrow account maintained by the escrow
16 agency pursuant to NRS 645A.160:

17

AVERAGE MONTHLY BALANCE	AMOUNT OF BOND OR SECURITY REQUIRED
\$50,000 or less	\$20,000
More than \$50,000 but not more than \$250,000	50,000
More than \$250,000 but not more than \$500,000	100,000
More than \$500,000 but not more than \$750,000	150,000
More than \$750,000 but not more than \$1,000,000	200,000
More than \$1,000,000	250,000

26

27 The Commissioner shall determine the appropriate amount of the
28 surety bond or substitute form of security that must be deposited
29 initially by the escrow agency based upon the expected average
30 monthly balance of the trust account or escrow account maintained
31 by the escrow agency pursuant to NRS 645A.160. After the initial
32 deposit, the Commissioner shall, on ~~a semiannual~~ *an annual* basis,
33 determine the appropriate amount of the surety bond or substitute
34 form of security that must be deposited by the escrow agency based
35 upon the average monthly balance of the trust account or escrow
36 account maintained by the escrow agency pursuant to NRS
37 645A.160 ~~for~~ *for the 6 months immediately preceding the date on*
38 *which the license expires.*

39 **Sec. 7.** NRS 645A.047 is hereby amended to read as follows:
40 645A.047 1. ~~Any~~ *Except as otherwise provided in*
41 *subsection 6, any* person claiming against a bond may bring an
42 action in a court of competent jurisdiction on the bond for damages
43 to the extent covered by the bond. A person who brings an action on
44 a bond shall notify the Commissioner in writing upon filing the
45 action. An action may not be commenced after the expiration of 3



1 years following the commission of the act on which the action is
2 based.

3 2. Upon receiving a request from a person for whose benefit a
4 bond is required, the Commissioner shall notify the person:

5 (a) That a bond is in effect and the amount of the bond; and

6 (b) If there is an action against the bond, the title, court and case
7 number of the action and the amount sought by the plaintiff.

8 3. If a surety wishes to make payment without awaiting action
9 by a court, the amount of the bond must be reduced to the extent of
10 any payment made by the surety in good faith under the bond. Any
11 payment must be based on written claims received by the surety
12 before any action is taken by a court.

13 4. The surety may bring an action for interpleader against all
14 claimants upon the bond. If it does so, it shall publish notice of the
15 action at least once each week for 2 weeks in every issue of a
16 newspaper of general circulation in the county where the escrow
17 agent or agency has its principal place of business. The surety may
18 deduct its costs of the action, including attorney's fees and
19 publication, from its liability under the bond.

20 5. Claims against a bond have equal priority, and if the bond is
21 insufficient to pay all claims in full, they must be paid on a pro rata
22 basis. Partial payment of claims is not full payment, and any
23 claimant may bring an action against the escrow agent or agency for
24 the unpaid balance.

25 *6. The Commissioner may make a claim on a bond for money*
26 *owed to the Commissioner upon entry of a final order in an*
27 *administrative action and without the necessity of bringing an*
28 *action in a court of competent jurisdiction.*

29 **Sec. 8.** NRS 645A.065 is hereby amended to read as follows:

30 645A.065 1. The Commissioner shall establish by regulation
31 the fees to be paid by ~~[escrow agencies]~~ *all persons subject to the*
32 *provisions of this chapter* for the supervision, *investigation* and
33 examination of such ~~[agencies]~~ *persons* by the Commissioner or the
34 Division.

35 2. In establishing the fees, the Commissioner shall consider:

36 (a) The complexity of the various *investigations and*
37 examinations to which the fees apply;

38 (b) The skill required to conduct such *investigations and*
39 examinations;

40 (c) The expenses associated with conducting such *investigations*
41 *and* examinations and preparing reports; and

42 (d) Any other factors the Commissioner deems relevant.

43 3. The Commissioner shall adopt regulations prescribing the
44 standards for determining whether an escrow agency has maintained



adequate supervision of an escrow agent pursuant to the provisions of this chapter.

Sec. 9. NRS 645A.085 is hereby amended to read as follows:

645A.085 1. An escrow agency shall immediately notify the Commissioner of any change in the ownership of 5 percent or more of its outstanding voting stock.

2. An application must be submitted to the Commissioner, pursuant to NRS 645A.020, by a person who acquires:

(a) At least 25 percent of the outstanding voting stock of an escrow agency; or

(b) Any outstanding voting stock of an escrow agency if the change will result in a change in the control of the escrow agency.

3. Except as otherwise provided in subsection 5, the Commissioner shall conduct an investigation to determine whether the applicant has the experience, character, financial condition, business reputation and general fitness to command the confidence of the public and to warrant the belief that the business conducted will protect and safeguard the public. If the Commissioner denies the application, the Commissioner may forbid the applicant from participating in the business of the escrow agency.

4. The escrow agency with which the applicant is affiliated shall pay ~~the portion of~~ the cost of the investigation as the Commissioner requires. All money received by the Commissioner pursuant to this section must be deposited in the Fund for Mortgage Lending created by NRS 645F.270.

5. An escrow agency may submit a written request to the Commissioner to waive an investigation pursuant to subsection 3. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his or her employment with a financial institution.

Sec. 10. NRS 645A.090 is hereby amended to read as follows:

645A.090 1. The Commissioner may refuse to license any escrow agent or agency or may suspend, ~~or~~ revoke *or place conditions upon* any license or impose a fine *on any person* of not more than ~~the \$10,000~~ *\$25,000* for each violation by entering an order to that effect, with the Commissioner's findings in respect thereto, if upon a hearing, it is determined that the applicant, ~~or~~ licensee ~~or~~ *or person:*

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

(b) Has violated any provision of this chapter, ~~or~~ any regulation adopted pursuant thereto or *an order of the Commissioner or* has aided and abetted another to do so;



(c) In the case of an escrow agency, is in such a financial condition that he or she cannot continue in business with safety to his or her customers;

(d) Has committed fraud in connection with any transaction governed by this chapter;

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

(f) Has intentionally or knowingly made or caused to be made to the Commissioner any false representation of a material fact or has suppressed or withheld from the Commissioner any information which the applicant, ~~for~~ licensee *or person* possesses;

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

(h) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in violation of the provisions of the escrow instructions;

(i) Has refused to permit an examination by the Commissioner of his or her 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;

(j) Has been convicted of, *entered or agreed to enter a plea of guilty or nolo contendere to*, a felony relating to the practice of escrow agents or agencies or any *felony or* misdemeanor of which an essential element is *an act of* fraud ~~for~~, *dishonesty or a breach of trust, or money laundering*;

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

(l) Has commingled the money of others with his or her own or converted the money of others to his or her own use;

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

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

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



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

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

(p) In the case of an escrow agency, if the applicant or licensee is a partnership, corporation or unincorporated association, has a member of the partnership or an officer or director of the corporation or unincorporated association who has been convicted of, entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court relating to the practice of escrow agents or agencies, or any felony or misdemeanor of which an essential element is an act of fraud, dishonesty or a breach of trust, or money laundering.

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

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

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

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

Sec. 11. NRS 645A.100 is hereby amended to read as follows:

645A.100 1. Notice of the entry of any order of suspension, ~~or~~ revocation or *placement of conditions upon a license or* imposing a fine or refusing a license to any escrow agent or agency must be given in writing, served personally or sent by certified mail or by telegram to the last known address of the agent or agency affected.

2. The agent or agency, upon application, is entitled to a hearing. If an application is not made within 20 days after the entry of the order, the Commissioner shall enter a final order.



1 **Sec. 12.** NRS 645A.235 is hereby amended to read as follows:
2 645A.235 1. ~~[The holder of]~~ *A person who engages in an*
3 *activity for which* a license as an escrow agent or escrow agency
4 ~~[may be]~~ *is required pursuant to this chapter, without regard to*
5 *whether such a person is licensed pursuant to this chapter, may be*
6 *required* by the Commissioner to pay restitution to any person who
7 has suffered an economic loss as a result of a violation of the
8 provisions of this chapter or any regulation adopted pursuant
9 thereto.

10 2. Notwithstanding the provision of paragraph (m) of
11 subsection 1 of NRS 622A.120, payment of restitution pursuant to
12 subsection 1 shall be done in a manner consistent with the
13 provisions of chapter 622A of NRS.

14 **Sec. 13.** Chapter 645B of NRS is hereby amended by adding
15 thereto the provisions set forth as sections 14 to 40, inclusive, of this
16 act.

17 **Sec. 14.** *“Authorized representative” means a person*
18 *designated by a borrower or investor to act on behalf of the*
19 *borrower or investor in a written authorization signed by the*
20 *person and the borrower or investor.*

21 **Sec. 15.** *“Borrower” means a person to whom a loan is*
22 *issued.*

23 **Sec. 16.** *“Dwelling” has the meaning ascribed to it in section*
24 *103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).*

25 **Sec. 17.** *“Loan” includes a commercial mortgage loan and a*
26 *residential mortgage loan. As used in this section, “commercial*
27 *mortgage loan” has the meaning ascribed to it in NRS 645E.030.*

28 **Sec. 18.** *“Majority of the investors” means the investors*
29 *holding 51 percent or more of the beneficial interests in a loan.*

30 **Sec. 19.** 1. *If a mortgage broker makes or arranges a*
31 *construction loan in which a private investor has an ownership or*
32 *beneficial interest, the mortgage broker must provide, unless*
33 *waived in writing by the private investor before the mortgage*
34 *broker accepts any money from the private investor, a*
35 *performance bond for the full loan amount, conditioned upon the*
36 *faithful performance of the construction contract in accordance*
37 *with the plans, specifications and conditions of that contract.*

38 2. *As used in this section, “construction loan” means a loan*
39 *which is used, or intended to be used, to finance the acquisition of*
40 *land, the construction of a dwelling or the construction, alteration*
41 *or repair of another building or structure.*

42 **Sec. 20.** *A mortgage broker who uses a valuation of real*
43 *property in the marketing or solicitation of a loan shall disclose in*
44 *each piece of marketing and in each solicitation:*



1 1. The valuation of the real property on an “as is” basis,
2 whether or not the valuation also contains an “as built” or “as
3 completed” basis for valuation; and

4 2. The loan-to-value ratio calculated on the basis of each
5 valuation used in the marketing or solicitation.

6 **Sec. 21.** A mortgage broker shall not accept money from an
7 investor to acquire ownership of or a beneficial interest in a loan
8 which has more than one investor at the time of origination unless
9 the mortgage broker provides to each investor a form which allows
10 the investor to choose one of the following options:

11 1. That, upon receipt of a written request submitted by
12 another investor who owns or has a beneficial interest in the loan,
13 the mortgage broker may provide to that other investor the name,
14 address, telephone number and electronic mail address of the
15 investor;

16 2. That, upon receipt of a written request submitted by
17 another investor who owns or has a beneficial interest in the loan,
18 the mortgage broker may provide to that other investor the name,
19 address, telephone number and electronic mail address of the
20 investor only if the loan is in default; or

21 3. That the address, telephone number and electronic mail
22 address of the investor must remain confidential and that the
23 mortgage broker may not provide that information to any other
24 investor unless the investor provides the mortgage broker with
25 subsequent written permission to provide such information to
26 other investors.

27 **Sec. 22.** 1. A mortgage broker who makes or arranges a
28 loan shall not include in any loan document a provision which
29 requires a private investor to participate in mandatory or binding
30 arbitration of disputes relating to the loan.

31 2. The provisions of this section may not be varied by
32 agreement, and the rights conferred by this section may not be
33 waived. Any provision included in a loan document agreement
34 that conflicts with this section is void.

35 **Sec. 23.** A mortgage broker shall not disburse any money
36 received by the mortgage broker from an investor to acquire
37 ownership of or a beneficial interest in a loan unless the
38 instrument which creates a lien on real property as security for the
39 loan, including, without limitation, any instrument assigning a
40 beneficial interest in the loan:

41 1. Names as mortgagees under a mortgage or beneficiaries
42 under a deed of trust, as applicable, the investors who own or have
43 a beneficial interest in the loan;



2. Does not name as a mortgagee under a mortgage or beneficiary under a deed of trust, as applicable, the mortgage broker unless:

(a) The mortgage broker is an investor in the loan; or

(b) An assignment to the investors is recorded concurrently with the mortgage or deed of trust; and

3. Is recorded before or concurrently with the disbursement of the money.

Sec. 24. 1. Before servicing a loan in which a private investor has acquired a beneficial interest, a mortgage broker must enter into a written servicing agreement with each investor which describes specifically the services which the mortgage broker will provide and the compensation the mortgage broker will receive for those services. The compensation of the mortgage broker must include an amount reasonably necessary to pay the cost of servicing the loan.

2. A mortgage broker shall include in each servicing agreement provisions which:

(a) Require the mortgage broker to:

(1) Deposit in a trust account all money paid to the mortgage broker in full or partial payment of a loan, unless a provision of law authorizes the mortgage broker to deposit such money in a different manner;

(2) Release to the investors, pursuant to paragraph (a) of subsection 5 of NRS 645B.175, within 15 days after receipt of all money paid to the mortgage broker in full or partial payment of a loan;

(3) Record a request for special notice and notice of default for any encumbrance on the real property which has priority over the lien securing the loan or any other real property securing the loan;

(4) Provide to each investor prompt written notice of:

(I) Any default on the loan; and

(II) Any *lis pendens*, mechanic's lien or other lien recorded against the real property securing the loan after the origination of the loan if the mortgage broker has become aware that such an instrument has been recorded;

(5) If taxes or an insurance premium on the real property which secures the loan become delinquent, provide to each investor an itemized report stating:

(I) Each specific tax or insurance premium which is delinquent;

(II) The total amount of the delinquency;

(III) The dates on which penalties will be assessed for late payments and the amount of each penalty; and



1 (IV) *An estimated amount of the taxes and insurance*
2 *premiums on the real property which are due at the end of each*
3 *quarter for the 12 months immediately following the report; and*

4 (6) *Upon receiving a written request from an investor for a*
5 *tally of any vote of the investors, provide to the investor a*
6 *statement of the number of investors voting in favor of an action*
7 *and the number of investors voting against the action and the*
8 *percentage of beneficial interest represented by each such vote.*

9 (b) *Prohibit the mortgage broker from:*

10 (1) *Commingling with the assets of the mortgage broker*
11 *any money paid to the mortgage broker in full or partial payment*
12 *of a loan, unless a provision of law authorizes such commingling;*
13 *or*

14 (2) *Using money paid to the mortgage broker in full or*
15 *partial payment of a loan for any transaction other than the*
16 *servicing transaction for which the money was paid, unless a*
17 *provision of law authorizes such use.*

18 (c) *Allow the majority of investors or the mortgage broker to*
19 *transfer the servicing agreement to another entity authorized to*
20 *service loans or terminate the servicing agreement for any reason,*
21 *upon providing written notice at least 30 days before the effective*
22 *date of the transfer or termination.*

23 **Sec. 25.** *Except as otherwise permitted by law, a mortgage*
24 *broker shall not release a borrower or guarantor from personal*
25 *liability for a loan unless a majority of the investors approve such*
26 *a release.*

27 **Sec. 26.** *The fiduciary obligation imposed by NRS 645B.0147*
28 *on a mortgage broker who services a loan includes, without*
29 *limitation, the duty to:*

30 1. *Act in the best interest of the client of the mortgage broker,*
31 *including, without limitation, safeguarding any money received*
32 *from a borrower and following all reasonable and lawful*
33 *instructions from a borrower.*

34 2. *Disclose to each investor who owns or has a beneficial*
35 *interest in the loan:*

36 (a) *Whether the mortgage broker, or any owner, general*
37 *partner, officer, director or employee of the mortgage broker, has*
38 *a financial, business or professional relationship to or interest in*
39 *the borrower and the nature of that relationship or interest; and*

40 (b) *Any material fact that the mortgage broker knows or, with*
41 *exercise of reasonable care, should know may affect the rights or*
42 *interest of the investor or the ability of the investor to obtain the*
43 *intended benefit of the servicing transaction.*

44 3. *Provide to an investor, not later than 10 days after*
45 *receiving a written request from the investor, an accounting of all*



1 *money and other consideration received by the mortgage broker*
2 *from the borrower and all costs charged to the investor.*

3 4. *Refuse to accept or collect any fee for services rendered by*
4 *the mortgage broker unless the investor from whom the fee is*
5 *accepted or collected has agreed to the fee in writing in the loan*
6 *servicing agreement.*

7 5. *Respond promptly to inquiries from an investor or*
8 *borrower regarding his or her loan.*

9 **Sec. 27.** *A mortgage broker who services a loan shall*
10 *maintain established business hours and disclose the established*
11 *business hours to each borrower and investor.*

12 **Sec. 28.** *A mortgage broker who services a loan shall:*

13 1. *Adopt, maintain and comply with reasonable policies and*
14 *procedures for the:*

15 (a) *Supervision and training of his or her employees in the*
16 *servicing of loans; and*

17 (b) *Prompt and appropriate response to complaints from*
18 *borrowers and investors.*

19 2. *Adopt and maintain internal controls to ensure that the*
20 *mortgage broker is complying with the policies and procedures*
21 *described in subsection 1.*

22 3. *Designate one or more contact persons to whom a*
23 *borrower or investor may direct complaints and inquiries*
24 *concerning a loan. The mortgage broker shall train each contact*
25 *person to answer inquiries concerning loans and to resolve or*
26 *assist in resolving complaints concerning loans.*

27 4. *Provide to each borrower and investor a telephone number*
28 *or electronic mail address to which the borrower or investor may*
29 *direct inquiries during established business hours.*

30 5. *Respond within a reasonable time under the circumstances*
31 *to the request of the borrower to correct any errors relating to the*
32 *loan.*

33 6. *Maintain all documentation related to a complaint or*
34 *dispute with respect to the servicing of the loan for 2 years after*
35 *the date the complaint or dispute is resolved.*

36 **Sec. 29.** *A mortgage broker who services a loan shall not*
37 *refuse to communicate with the authorized representative of a*
38 *borrower or investor. The mortgage broker may take reasonable*
39 *steps to verify that a person is an authorized representative of a*
40 *borrower or investor.*

41 **Sec. 30.** 1. *Upon written request, a mortgage broker who*
42 *services a loan shall provide annually to the borrower one written*
43 *payment history of the loan at no cost.*

44 2. *Not later than 21 days after receiving from a borrower or*
45 *the authorized representative of a borrower a written request for*



1 *an accounting of the debt owed by the borrower or a payment*
2 *history of the debt, a mortgage broker shall send to the borrower*
3 *or authorized representative the requested information.*

4 3. *If a request described in subsection 2 includes a written*
5 *request for a payment history of the loan, the mortgage broker*
6 *shall provide a payment history which:*

7 (a) *Covers the period stated in the written request or, if no*
8 *period is stated in the written request, the 12 months immediately*
9 *preceding the date of the written request; and*

10 (b) *Includes the date and amount of all payments made by, or*
11 *credited to the account of, the borrower and the current unpaid*
12 *balance of the loan.*

13 **Sec. 31.** 1. *Except as otherwise provided in this section or*
14 *as otherwise provided by law, not later than 5 business days after*
15 *receiving from a borrower, an investor or the authorized*
16 *representative of a borrower or investor a written request for a*
17 *statement of the total amount of money that is required to pay off*
18 *the loan, the mortgage broker shall provide such a statement to the*
19 *borrower, investor or authorized representative at no cost.*

20 2. *A mortgage broker who receives a written request*
21 *described in subsection 1 may charge a reasonable fee for*
22 *providing the requested statement if the borrower or investor who*
23 *submitted the request, or on whose behalf the authorized*
24 *representative submitted the request, has submitted three or more*
25 *such written requests during the calendar year.*

26 **Sec. 32.** *A mortgage broker who services a loan shall provide*
27 *annually to the borrower and each investor an account statement*
28 *which contains:*

29 1. *A clear and conspicuous statement that identifies all*
30 *payments made by the borrower during the period covered by the*
31 *statement and any payments made from a trust account;*

32 2. *An address to which a borrower or investor may send*
33 *complaints and inquiries concerning the loan;*

34 3. *The telephone number or electronic mail address of the*
35 *contact person or persons designated by the mortgage broker to*
36 *receive complaints and inquiries pursuant to section 28 of this act;*
37 *and*

38 4. *A statement that the borrower or investor may file a*
39 *complaint concerning the mortgage broker with the Division. The*
40 *statement must provide the Internet website and physical address*
41 *of the Division.*

42 **Sec. 33.** 1. *A mortgage broker who services a loan shall not*
43 *obtain insurance on the real property securing the loan if the*
44 *mortgage broker knows or has reason to know that the borrower*
45 *has in place an effective policy of insurance on the real property.*



1 2. A mortgage broker who services a loan shall provide
2 written notice of any action to obtain insurance on the real
3 property securing a loan to the borrower within 10 days after
4 taking such an action.

5 3. If a mortgage broker who services a loan secured by
6 improved real property obtains insurance on the real property
7 securing the loan, the mortgage broker shall not obtain such
8 insurance in an amount which exceeds the replacement cost of the
9 improvements to the real property.

10 4. A mortgage broker who receives money from a borrower or
11 investor for taxes or insurance premiums on the real property
12 which secures a loan shall:

13 (a) If the mortgage broker has received sufficient money to pay
14 the full amount due for the taxes or insurance premiums, pay the
15 taxes or insurance premiums on or before the due date.

16 (b) If the mortgage broker has not received sufficient money to
17 pay the full amount due for the taxes or insurance premiums,
18 immediately notify the borrower and each investor of the amount
19 necessary to cure the shortage and the consequences of the failure
20 to do so.

21 5. If a mortgage broker who is required to pay taxes or
22 insurance premiums on or before the due date pursuant to
23 paragraph (b) of subsection 4 fails to do so, the mortgage broker
24 shall notify the borrower and each investor in writing of:

25 (a) The reason for the failure to pay;

26 (b) The amount owed;

27 (c) The nature, timing and amount of any penalty for failure to
28 pay; and

29 (d) The actions planned by the mortgage broker to pay the
30 taxes or insurance premiums and any penalty amount.

31 6. If a mortgage broker has obtained a policy of insurance on
32 the real property securing a loan and receives reasonable proof
33 from the borrower that the borrower has obtained an appropriate
34 policy of insurance on the real property, the mortgage broker shall
35 refund to the borrower any unearned premiums paid by, or
36 charged to, the borrower or charged for the insurance obtained by
37 the mortgage broker.

38 **Sec. 34.** 1. If an investor owes money to the mortgage
39 broker who is servicing a loan or to other investors, the mortgage
40 broker shall not withhold money due the investor in order to offset
41 the money owed to the mortgage broker or to another investor,
42 unless:

43 (a) The mortgage broker obtains the written consent of the
44 investor who owes the money; or



1 (b) A court order requires the mortgage broker to withhold the
2 money.

3 2. A mortgage broker may include in a loan servicing
4 agreement a provision which provides written consent to withhold
5 money due an investor in order to offset money owed by the
6 investor to the mortgage broker or other investors.

7 **Sec. 35. 1.** A mortgage broker who services a loan on
8 behalf of an investor shall:

9 (a) Adopt and maintain written policies and procedures for the
10 processing of money received from a borrower in full or partial
11 payment of the loan, including, without limitation, policies and
12 procedures governing the processing of overpayments and
13 underpayments; and

14 (b) Conduct periodic audits of the processing of money
15 received from a borrower in full or partial payment of the loan to
16 ensure that the mortgage broker has credited such money in
17 accordance with the policies and procedures adopted pursuant to
18 this chapter and any regulations adopted pursuant thereto.

19 2. A mortgage broker who receives money from a borrower
20 on behalf of an investor in full or partial payment of the loan shall
21 credit the amount of money received to the account of the investor
22 on the business day on which the money is received, except that if
23 the money is not accompanied by sufficient information to credit
24 the money to the account of the investor, the mortgage broker
25 shall credit the payment to the account of the investor as soon as
26 commercially reasonable but not later than 5 days after receiving
27 the money.

28 3. Not later than 15 days after a payment on a loan serviced
29 on behalf of an investor becomes due and remains unpaid, a
30 mortgage broker shall mail a payment reminder notice to the
31 borrower at the borrower's last known address.

32 4. Before a mortgage broker charges a borrower a late fee or
33 any other penalty in connection with money received in full or
34 partial payment of a loan serviced on behalf of an investor, the
35 mortgage broker shall credit to the account of the borrower the
36 amount of any money received from the borrower in full or partial
37 payment of the loan.

38 5. If a mortgage broker fails to credit money received from a
39 borrower in full or partial payment of a loan serviced on behalf of
40 an investor to the account of the investor in accordance with
41 subsection 2, not later than 10 days after receiving the money, the
42 mortgage broker shall send to the investor at the investor's last
43 known address a notice stating the reason that the mortgage
44 broker has not credited the money to the account of the investor



1 *and any actions which the borrower must take to bring current the*
2 *borrower's account.*

3 *6. A mortgage broker who services a loan on behalf of an*
4 *investor shall not:*

5 *(a) Charge a borrower a late fee or any other penalty in*
6 *connection with money received in full or partial payment of the*
7 *loan if:*

8 *(1) The amount of money received is a full payment for the*
9 *applicable period which is paid:*

10 *(I) If the mortgage broker is open on the due date of the*
11 *payment, on or before the due date of the payment; or*

12 *(II) If the mortgage broker is not open on the due date*
13 *of the payment, on or before the next day after the due date that*
14 *an office of the mortgage broker is open to customers until 5 p.m.;*
15 *and*

16 *(2) The only delinquency in the account is attributable to*
17 *late fees or any other penalties imposed in connection with an*
18 *earlier payment.*

19 *(b) Deduct from a regular loan payment received by the*
20 *mortgage broker or from an escrow account maintained pursuant*
21 *to subsection 4 of NRS 645B.175 any late fee or other penalty*
22 *imposed in connection with a payment in full or partial*
23 *satisfaction of the loan.*

24 *(c) Use an amount greater than the amount which is past due*
25 *as the basis for a late fee or any other penalty imposed in*
26 *connection with a payment in full or partial satisfaction of the*
27 *loan.*

28 *(d) For each scheduled payment in full or partial satisfaction*
29 *of the loan, charge more than one late fee or any other penalty*
30 *imposed in connection with a payment in full or partial*
31 *satisfaction of the loan.*

32 *(e) Add to the unpaid principal balance of the loan a late fee*
33 *or any other penalty imposed in connection with a payment in full*
34 *or partial satisfaction of the loan.*

35 **Sec. 36.** *A mortgage broker shall not service more than one*
36 *loan secured by the same parcel of real property unless:*

37 *1. The investors in each loan are identical; or*

38 *2. The investors in each loan consent in writing to the*
39 *mortgage broker servicing such loan and provide the mortgage*
40 *broker with a written waiver of any conflict of interest.*

41 **Sec. 37.** *A mortgage broker shall not act as a construction*
42 *control with respect to money belonging to a borrower or investor.*
43 *If a borrower or investor wishes to utilize a construction control*
44 *for money belonging to the borrower or investor, a mortgage*
45 *broker must place the money with a person who is independent of*



1 *the mortgage broker and is licensed or authorized to accept such*
2 *money. The money must be subject to the control of a construction*
3 *control which is in compliance with, or exempt from, the*
4 *provisions of NRS 627.180 or 627.183.*

5 **Sec. 38.** *A mortgage broker who is servicing a loan on behalf*
6 *of investors shall not make any statement designed or intended to*
7 *unduly influence the outcome of any vote of the investors, unless*
8 *the mortgage broker is an investor who owns or has a beneficial*
9 *interest in the loan.*

10 **Sec. 39.** *If a mortgage broker is servicing a residential*
11 *mortgage loan on behalf of an investor and the borrower defaults*
12 *on the residential mortgage loan, the mortgage broker must*
13 *provide notice to the borrower, within 30 days after the default and*
14 *not less than 30 days before recording a notice of default, of:*

15 1. *The options to mitigate the loss and default services which*
16 *are provided by the mortgage broker;*

17 2. *The contact information of local housing counseling*
18 *agencies approved by the United States Department of Housing*
19 *and Urban Development and located within the geographic area*
20 *of the borrower's residence; and*

21 3. *Any foreclosure mediation programs available to the*
22 *borrower or required by law.*

23 **Sec. 40.** *In addition to the reports required by NRS 645B.080*
24 *and 645B.260, the Commissioner may require a mortgage broker*
25 *who services a loan to submit to the Commissioner annually or as*
26 *otherwise requested by the Commissioner a report on*
27 *delinquencies, loss mitigation efforts and foreclosures with respect*
28 *to loans serviced by the mortgage broker. The report must be on a*
29 *form prescribed by the Commissioner.*

30 **Sec. 41.** NRS 645B.010 is hereby amended to read as follows:
31 645B.010 As used in this chapter, unless the context otherwise
32 requires, the words and terms defined in NRS 645B.0104 to
33 645B.0135, inclusive, *and sections 14 to 18, inclusive, of this act*
34 *have the meanings ascribed to them in those sections.*

35 **Sec. 42.** NRS 645B.0125 is hereby amended to read as
36 follows:

37 645B.0125 1. "Mortgage agent" means:

38 (a) A natural person who:

39 (1) Is an employee of *or associated with* a mortgage broker
40 or mortgage banker who is required to be licensed pursuant to this
41 chapter or chapter 645E of NRS; and

42 (2) Is authorized by the mortgage broker or mortgage banker
43 to engage in, on behalf of the mortgage broker or mortgage banker,
44 any activity that would require the person, if the person were not an
45 employee of *or associated with* the mortgage broker or mortgage



1 banker, to be licensed as a mortgage broker or mortgage banker
2 pursuant to this chapter or chapter 645E of NRS; or

3 (b) A mortgage broker, qualified employee or mortgage banker
4 who is required by NRS 645B.405 or 645E.290 to be licensed as a
5 mortgage agent.

6 2. The term includes , *but is not limited to*, a residential
7 mortgage loan originator.

8 3. The term does not include a person who:

9 (a) Except as otherwise provided in paragraph (b) of subsection
10 1, is licensed as a mortgage broker or mortgage banker;

11 (b) Is an owner, general partner, officer or director of a
12 mortgage broker or mortgage banker ~~[-]~~ *who does not engage in*
13 *any activity that would otherwise require a license as a mortgage*
14 *broker or mortgage banker;*

15 (c) Performs only clerical or ministerial tasks for a mortgage
16 broker ~~[-]~~ *or mortgage banker; or*

17 (d) Collects payments and performs related services, including,
18 without limitation, the modification of an existing loan, in
19 connection with a loan secured by a lien on real property and who
20 does not undertake any other activity that would otherwise require a
21 license pursuant to this chapter or chapter 645E *or 645F* of NRS.

22 **Sec. 43.** NRS 645B.0132 is hereby amended to read as
23 follows:

24 645B.0132 "Residential mortgage loan" means any loan
25 primarily for personal, family or household use that is secured by a
26 mortgage, deed of trust or other equivalent consensual security
27 interest on a dwelling or residential real estate upon which is
28 constructed or intended to be constructed a dwelling. ~~[For purposes~~
29 ~~of this section, "dwelling" has the meaning ascribed to it section~~
30 ~~103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).]~~

31 **Sec. 44.** NRS 645B.015 is hereby amended to read as follows:

32 645B.015 Except as otherwise provided in NRS 645B.016 ~~[-]~~
33 *and other applicable law*, the provisions of this chapter do not apply
34 to:

35 1. Any person doing business under the laws of this State, any
36 other state or the United States relating to banks, savings banks,
37 trust companies, savings and loan associations, industrial loan
38 companies, credit unions, thrift companies or insurance companies .
39 ~~[-, including, without limitation, a subsidiary or a holding company~~
40 ~~of such a bank, company, association or union.]~~

41 2. A real estate investment trust, as defined in 26 U.S.C. § 856,
42 unless the business conducted in this State is not subject to
43 supervision by the regulatory authority of the other jurisdiction, in
44 which case licensing pursuant to this chapter is required.



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

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

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

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

7. ~~[Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his or her own account, unless such a person makes a loan secured by a lien on real property using his or her own money and assigns all or a part of his or her interest in the loan to another person, other than his or her spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.] A natural person who only offers or negotiates terms of a residential mortgage loan:~~

(a) With or on behalf of an immediate family member of the person; or

(b) Secured by a dwelling that served as the person's residence.

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

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

10. A nonprofit agency or organization:

(a) Which provides self-help housing for a borrower who has provided part of the labor to construct the dwelling securing the borrower's loan;

(b) Which does not charge or collect origination fees in connection with the origination of residential mortgage loans;

(c) Which only makes residential mortgage loans at an interest rate of 0 percent per annum;

(d) Whose volunteers, if any, do not receive compensation for their services in the construction of a dwelling; and

(e) Which does not profit from the sale of a dwelling to a borrower.

11. A housing counseling agency approved by the United States Department of Housing and Urban Development.

Sec. 45. NRS 645B.016 is hereby amended to read as follows:

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

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



(a) File a written application for a certificate of exemption with the Office of the Commissioner ~~§~~ *through the Registry*;

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

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

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his or her business, including, if applicable, the right to transact mortgage loans, and such license is in good standing pursuant to the laws of this State, any other state or the United States.

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

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to ~~§ 9~~ *11*, inclusive, of NRS 645B.015 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner ~~§~~ *through the Registry*;

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

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

4. A certificate of exemption expires automatically if, at any time, the person who claims the exemption no longer meets the requirements of at least one 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 otherwise engage in, carry on or hold himself or herself out as engaging in or carrying on the business of a mortgage broker or mortgage agent unless the person applies for and is issued:

(a) A license as a mortgage broker or mortgage agent, 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 the person commits, if the person:

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

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by the person, 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.

7. A person who is exempt from the requirements of this chapter may file a written application for a certificate of exemption with the Office of the Commissioner for the purposes of complying with the requirements of the Registry or enabling a mortgage agent to comply with the requirements of the Registry. The Commissioner may require the applicant or person to submit the information or pay the fee directly to the Division or to the Division through the Registry. An application filed pursuant to this subsection does not affect the applicability of this chapter to the applicant.

Sec. 46. 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. *The Commissioner may require the applicant or person to submit the information or pay the fee directly to the Division or to the Division through the Registry.* 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 ~~or~~, *including, without limitation, any office or other place of business located outside this State from which the mortgage broker will conduct business in 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 or her 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 *mortgage* broker.

(f) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to



1 maintain continuously the net worth required pursuant to
2 NRS 645B.115.

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

4 (h) *Unless fingerprints were submitted to the Registry for the*
5 *person, include a complete set of fingerprints for each natural*
6 *person who is a principal, partner, officer, director or trustee of*
7 *the applicant which the Division may forward to the Central*
8 *Repository for Nevada Records of Criminal History for submission*
9 *to the Federal Bureau of Investigation for its report.*

10 (i) Include any other information required pursuant to the
11 regulations adopted by the Commissioner or an order of the
12 Commissioner.

13 2. If a mortgage broker will conduct business at one or more
14 branch offices within this State, the mortgage broker must apply for
15 a license for each such branch office.

16 3. Except as otherwise provided ~~fin this chapter,~~ *by law,* the
17 Commissioner shall issue a license to an applicant as a mortgage
18 broker if:

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

21 (b) The applicant and each general partner, officer or director of
22 the applicant, if the applicant is a partnership, corporation or
23 unincorporated association:

24 (1) Has demonstrated financial responsibility, character and
25 general fitness so as to command the confidence of the community
26 and warrant a determination that the applicant will operate honestly,
27 fairly and efficiently for the purposes of this chapter.

28 (2) Has not been convicted of, or entered *or agreed to enter* a
29 plea of guilty or nolo contendere to, a felony in a domestic, foreign
30 or military court within the 7 years immediately preceding the date
31 of the application, or at any time if such felony involved an act of
32 fraud, dishonesty or a breach of trust, or money laundering.

33 (3) Has not made a false statement of material fact on the
34 application.

35 (4) Has never had a license or registration as a mortgage
36 agent, mortgage banker, mortgage broker or residential mortgage
37 loan originator revoked in this State or any other jurisdiction or had
38 a financial services license ~~[suspended or]~~ revoked within the
39 immediately preceding 10 years.

40 (5) Has not violated any provision of this chapter or chapter
41 645E of NRS, a regulation adopted pursuant thereto or an order of
42 the Commissioner.

43 4. *A person may apply for a license for an office or other*
44 *place of business located outside this State from which the*
45 *applicant will conduct business in this State if the applicant*



1 *submits with the application for a license a statement signed by the*
2 *applicant which states that the applicant agrees to:*

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

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

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

13 **Sec. 47.** NRS 645B.042 is hereby amended to read as follows:

14 645B.042 1. ~~{Except as otherwise provided in NRS~~
15 ~~645B.044, as}~~ As a condition to doing business in this State, each
16 mortgage broker shall deposit with the Commissioner and keep in
17 full force and effect a corporate surety bond payable to the State of
18 Nevada, in the amount set forth in subsection 4, which is executed
19 by a corporate surety satisfactory to the Commissioner and which
20 names as principals the mortgage broker and all mortgage agents
21 employed by or associated with the mortgage broker.

22 2. At the time of filing an application for a license as a
23 mortgage agent and at the time of filing an application for the
24 renewal of a license as a mortgage agent, the applicant shall file
25 with the Commissioner proof that the applicant is named as a
26 principal on the corporate surety bond deposited with the
27 Commissioner by the mortgage broker with whom the applicant is
28 associated or employed.

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

30
31 Know All Persons by These Presents, that, as
32 principal, and, as surety, are held and firmly bound
33 unto the State of Nevada for the use and benefit of any person who
34 suffers damages because of a violation of any of the provisions of
35 chapter 645B of NRS, in the sum of, lawful money of
36 the United States, to be paid to the State of Nevada for such use and
37 benefit, for which payment well and truly to be made, and that we
38 bind ourselves, our heirs, executors, administrators, successors and
39 assigns, jointly and severally, firmly by these presents.

40 The condition of that obligation is such that: Whereas, the
41 principal has been issued a license as a mortgage broker or mortgage
42 agent by the Commissioner of Mortgage Lending and is required to
43 furnish a bond, which is conditioned as set forth in this bond:

44 Now, therefore, if the principal, his or her agents and employees,
45 strictly, honestly and faithfully comply with the provisions of



chapter 645B of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 645B of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645B of NRS, then this obligation is void; otherwise it remains in full force.

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

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

..... (Seal)

Principal

..... (Seal)

Surety

By

Attorney-in-fact

.....

Nevada Licensed

~~[resident agent]~~ *Insurance Agent*

4. Each mortgage broker shall deposit a corporate surety bond that complies with the provisions of this section ~~for a substitute form of security that complies with the provisions of NRS 645B.044~~ in the following amounts:

(a) For ~~[the principal office,]~~ *an annual loan production of \$20,000,000 or less*, \$50,000.

(b) For ~~[each branch office,]~~ *\$25,000.*

~~➤ The total amount required for the corporate surety bond may not exceed \$75,000, without regard to the number of branch offices, if any.]~~ *an annual loan production of more than \$20,000,000, \$75,000.*

5. *Except as otherwise required by federal law or regulation, for the purposes of subsection 4, the Commissioner shall determine the appropriate annual loan production amount and the amount of the surety bond annually.*



* A B 7 7 *

1 **Sec. 48.** NRS 645B.046 is hereby amended to read as follows:

2 645B.046 1. The surety may cancel a bond upon giving 60
3 days' notice to the Commissioner by certified mail. Upon receipt by
4 the Commissioner of such a notice, the Commissioner immediately
5 shall notify the licensee who is the principal on the bond of the
6 effective date of cancellation of the bond, and that his or her license
7 will be revoked unless the licensee furnishes an equivalent bond ~~for~~
8 ~~a substitute form of security authorized by NRS 645B.044]~~ before
9 the effective date of the cancellation. The notice must be sent to the
10 licensee by certified mail to his or her last address of record filed in
11 the office of the Division.

12 2. If the licensee does not comply with the requirements set out
13 in the notice from the Commissioner, the license must be revoked
14 on the date the bond is cancelled.

15 **Sec. 49.** NRS 645B.048 is hereby amended to read as follows:

16 645B.048 1. ~~{Any}~~ *Except as otherwise provided in*
17 *subsection 6, any* person claiming against a bond may bring an
18 action in a court of competent jurisdiction on the bond for damages
19 to the extent covered by the bond. A person who brings an action on
20 a bond shall notify the Commissioner in writing upon filing the
21 action. An action may not be commenced after the expiration of 3
22 years following the commission of the act on which the action is
23 based.

24 2. Upon receiving a request from a person for whose benefit a
25 bond is required, the Commissioner shall notify the person:

26 (a) That a bond is in effect and of the amount of the bond; and

27 (b) If there is an action against the bond, the title, court and case
28 number of the action and the amount sought by the plaintiff.

29 3. If a surety wishes to make payment without awaiting action
30 by a court, the amount of the bond must be reduced to the extent of
31 any payment made by the surety in good faith under the bond. Any
32 payment must be based on written claims received by the surety
33 before any action is taken by a court.

34 4. The surety may bring an action for interpleader against all
35 claimants upon the bond. If it does so, it shall publish notice of the
36 action at least once each week for 2 weeks in every issue of a
37 newspaper of general circulation in the county where the mortgage
38 broker has its principal place of business. The surety may deduct its
39 costs of the action, including attorney's fees and publication, from
40 its liability under the bond.

41 5. Claims against a bond have equal priority, and if the bond is
42 insufficient to pay all claims in full, they must be paid on a pro rata
43 basis. Partial payment of claims is not full payment, and any
44 claimant may bring an action against the mortgage broker for the
45 unpaid balance.



1 **6. The Commissioner may make a claim on a bond for money**
2 **owed to the Commissioner upon entry of a final order in an**
3 **administrative action and without the necessity of bringing an**
4 **action in a court of competent jurisdiction.**

5 **Sec. 50.** NRS 645B.050 is hereby amended to read as follows:

6 645B.050 1. A license as a mortgage broker issued pursuant
7 to this chapter expires each year on ~~June 30,~~ **December 31**, unless
8 it is renewed. To renew such a license, the licensee must submit to
9 the Commissioner **through the Registry on or after November 1**
10 **and** on or before ~~May 31,~~ **December 31** of each year ~~;~~ **, or on a**
11 **date otherwise specified by the Commissioner by regulation:**

12 (a) An application for renewal;

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

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

16 (d) All information required **by the Registry or otherwise**
17 **required by the Commissioner** to complete the renewal.

18 2. If the licensee fails to submit any item required pursuant to
19 subsection 1 to the Commissioner **on or after November 1 and** on
20 or before ~~May 31,~~ **December 31** of any year, **unless a different**
21 **date is specified by the Commissioner by regulation**, the license is
22 cancelled as of ~~June 30,~~ **December 31** of that year. The
23 Commissioner may reinstate a cancelled license if the licensee
24 submits to the Commissioner ~~;~~ **through the Registry on or before**
25 **February 28 of the following year:**

26 (a) An application for renewal;

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

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

30 (d) Except as otherwise provided in this section, a reinstatement
31 fee of not more than \$200; and

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

33 3. Except as otherwise provided in NRS 645B.016, a certificate
34 of exemption issued pursuant to this chapter expires each year on
35 December 31, unless it is renewed. To renew a certificate of
36 exemption, a person must submit to the Commissioner **through the**
37 **Registry on or after November 1 and** on or before ~~November 30,~~
38 **December 31** of each year ~~;~~ **or on a date otherwise specified by**
39 **the Commissioner by regulation:**

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

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

44 4. If the person fails to submit any item required pursuant to
45 subsection 3 to the Commissioner **through the Registry on or after**



1 *November 1 and* on or before ~~November 30~~ *December 31* of any
2 year, *unless a different date is specified by the Commissioner*
3 *by regulation*, the certificate of exemption is cancelled as of
4 December 31 of that year. Except as otherwise provided in NRS
5 645B.016, the Commissioner may reinstate a cancelled certificate of
6 exemption if the person submits to the Commissioner ~~it~~ *through*
7 *the Registry on or before February 28 of the following year:*

8 (a) An application for renewal that includes satisfactory proof
9 that the person meets the requirements for an exemption from the
10 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
13 fee of not more than \$100.

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

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

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

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

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

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

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

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

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

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



Sec. 51. NRS 645B.080 is hereby amended to read as follows:

645B.080 1. Each mortgage broker shall keep and maintain at all times at each location where the mortgage broker conducts business in this state complete and suitable records of all mortgage transactions made by the mortgage broker at that location. Each mortgage broker 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.

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

(a) Specify the volume of loans arranged by the mortgage broker 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 handling trust accounts and the requirements for keeping records relating to such accounts.

4. Each mortgage broker shall submit to the Registry and the Commissioner a report of condition or any other report required by the Registry in the form and at the time required by the Registry.

Sec. 52. NRS 645B.085 is hereby amended to read as follows:

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

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

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

2. ~~The~~ *Unless otherwise prohibited by the Registry, the* Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage broker requests such an extension before the date on which the financial statement is due.

3. If a mortgage broker maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage broker maintains any accounts described in subsection *1 or* 4 of



1 NRS 645B.175, those accounts must be audited. ~~[The public~~
2 ~~accountant who prepares the report of an audit shall submit a copy~~
3 ~~of the report to the Commissioner at the same time that the public~~
4 ~~accountant submits the report to the mortgage broker.]~~

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

7 **Sec. 53.** NRS 645B.092 is hereby amended to read as follows:

8 645B.092 1. Except as otherwise provided in this section and
9 NRS 239.0115, a complaint filed with the Commissioner, all
10 documents and other information filed with the complaint and all
11 documents and other information compiled as a result of an
12 investigation conducted to determine whether to initiate disciplinary
13 action are confidential.

14 2. The complaint or other document filed by the Commissioner
15 to initiate disciplinary action and all documents and information
16 considered by the Commissioner when determining whether to
17 impose discipline are public records.

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

20 *4. The Commissioner may disclose any document or*
21 *information made confidential under subsection 1 to the party*
22 *against whom the complaint is made, a licensing board or agency,*
23 *the Registry or any other governmental agency, including, without*
24 *limitation, a law enforcement agency.*

25 **Sec. 54.** NRS 645B.095 is hereby amended to read as follows:

26 645B.095 1. As used in this section, "change of control"
27 means:

28 (a) A transfer of voting stock which results in giving a person,
29 directly or indirectly, the power to direct the management and policy
30 of a mortgage broker; or

31 (b) A transfer of at least 25 percent of the outstanding voting
32 stock of a mortgage broker.

33 2. The Commissioner must be notified *in writing* of a transfer
34 of ~~[5]~~ 10 percent or more of the outstanding voting stock of a
35 mortgage broker *at least 15 days before such a transfer* and must
36 approve a transfer of voting stock of a mortgage broker which
37 constitutes a change of control.

38 3. The person who acquires stock resulting in a change of
39 control of the mortgage broker shall apply to the Commissioner for
40 approval of the transfer. The application must contain information
41 which shows that the requirements of this chapter *and the Registry,*
42 *if applicable,* for obtaining a license will be satisfied after the
43 change of control. Except as otherwise provided in subsection 4, the
44 Commissioner shall conduct an investigation to determine whether
45 those requirements will be satisfied. If, after the investigation, the



1 Commissioner denies the application, the Commissioner may forbid
2 the applicant from participating in the business of the mortgage
3 broker.

4 4. A mortgage broker may submit a written request to the
5 Commissioner to waive an investigation pursuant to subsection 3.
6 The Commissioner may grant a waiver if the applicant has
7 undergone a similar investigation by a state or federal agency in
8 connection with the licensing of or his or her employment with a
9 financial institution.

10 **Sec. 55.** NRS 645B.165 is hereby amended to read as follows:

11 645B.165 1. Except as otherwise *permitted by law and as*
12 *otherwise* provided in subsection 3, the amount of any advance fee,
13 salary, deposit or money paid to a mortgage broker and his or her
14 mortgage agents or any other person to obtain a loan which will be
15 secured by a lien on real property must be placed in escrow pending
16 completion of the loan or a commitment for the loan.

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

19 (a) Upon completion of the loan or commitment for the loan, to
20 the mortgage broker or other person to whom the advance fee,
21 salary, deposit or money was paid.

22 (b) If the loan or commitment for the loan fails, to the person
23 who made the payment.

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

32 **Sec. 56.** NRS 645B.170 is hereby amended to read as follows:

33 645B.170 1. All money paid to a mortgage broker and his or
34 her mortgage agents for payment of taxes or insurance premiums on
35 real property which secures any loan arranged by the mortgage
36 broker must be deposited in an insured depository financial
37 institution and kept separate, distinct and apart from money
38 belonging to the mortgage broker. Such money, when deposited, is
39 to be designated as an "impound trust account" or under some other
40 appropriate name indicating that the accounts are not the money of
41 the mortgage broker.

42 2. The mortgage broker has a fiduciary duty to each debtor
43 with respect to the money in an impound trust account.

44 3. The mortgage broker shall, upon reasonable notice, account
45 to any debtor whose real property secures a loan arranged by the



1 mortgage broker for any money which that person has paid to the
2 mortgage broker for the payment of taxes or insurance premiums on
3 the real property.

4 4. The mortgage broker shall, upon reasonable notice, account
5 to the Commissioner for all money in an impound trust account.

6 5. A mortgage broker shall:

7 (a) Require contributions to an impound trust account in an
8 amount reasonably necessary to pay the obligations as they become
9 due.

10 (b) *Undertake an annual review of an impound trust account.*

11 (c) Within 30 days after the completion of the annual review of
12 an impound trust account, notify the debtor:

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

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

20 ➤ This subsection does not prohibit a mortgage broker from
21 requiring additional amounts to be paid into an impound trust
22 account to recover a deficiency that exists in the account.

23 6. A mortgage broker shall not make payments from an
24 impound trust account in a manner that causes a policy of insurance
25 to be cancelled or causes property taxes or similar payments to
26 become delinquent.

27 **Sec. 57.** NRS 645B.186 is hereby amended to read as follows:

28 645B.186 1. If a licensee or a relative of the licensee is
29 licensed as, conducts business as or holds a controlling interest or
30 position in:

31 (a) A construction control;

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

33 (c) A title agent, a title insurer or an escrow officer of a title
34 agent or title insurer,

35 ➤ the licensee shall fully disclose his or her status as, connection to
36 or relationship with the construction control, escrow agency, escrow
37 agent, title agent, title insurer or escrow officer to each investor, and
38 the licensee shall not require, as a condition to an investor acquiring
39 ownership of or a beneficial interest in a loan secured by a lien on
40 real property, that the investor transact business with or use the
41 services of the construction control, escrow agency, escrow agent,
42 title agent, title insurer or escrow officer or that the investor
43 authorize the licensee to transact business with or use the services of
44 the construction control, escrow agency, escrow agent, title agent,
45 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 the person 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 mortgage agent* pursuant to this chapter; and

(b) Any general partner, officer or director of such a person.

Sec. 58. NRS 645B.305 is hereby amended to read as follows:

645B.305 A mortgage broker shall ensure that each loan secured by a lien on real property for which he or she engages in activity as a mortgage broker ~~[-~~

~~1. Includes~~ *includes* a disclosure:

~~[(a)]~~ *1.* Describing, in a specific dollar amount, all fees earned by the mortgage broker;

~~[(b)]~~ *2.* Explaining which party is responsible for the payment of the fees described in ~~[(paragraph (a))]~~ *subsection 1*; and

~~[(c)]~~ *3.* Explaining the probable impact the fees described in ~~[(paragraph (a))]~~ *subsection 1* may have on the terms of the loan, including, without limitation, the interest rates.

~~[(2. If a private investor has acquired a beneficial interest in the loan, 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.)]~~

Sec. 59. NRS 645B.307 is hereby amended to read as follows:

645B.307 A mortgage broker shall ensure that each loan secured by a lien on real property for which he or she engages in activity as a mortgage broker includes the license number of the mortgage broker ~~[-]~~ *and any identifying number issued by the Registry.*

Sec. 60. NRS 645B.400 is hereby amended to read as follows:

645B.400 A person shall not act as or provide any of the services of a mortgage agent or otherwise engage in, carry on or hold himself or herself out as engaging in or carrying on the activities of a mortgage agent unless the person ~~[(has)]~~ :

1. Has a license as a mortgage agent issued pursuant to NRS 645B.410.

2. Is an employee of or associated with a mortgage broker or mortgage banker.

3. Is registered with and provides any identifying number issued by the Registry.



- 1 **Sec. 61.** NRS 645B.410 is hereby amended to read as follows:
2 645B.410 1. To obtain a license as a mortgage agent, a
3 person must:
- 4 (a) Be a natural person;
 - 5 (b) File a written application for a license as a mortgage agent
6 with the Office of the Commissioner ~~[]~~ *through the Registry*;
 - 7 (c) Comply with the applicable requirements of this chapter; and
 - 8 (d) Pay an application fee set by the Commissioner of not more
9 than \$185.
- 10 2. An application for a license as a mortgage agent must:
- 11 (a) State the name and residence address of the applicant;
 - 12 (b) Include a provision by which the applicant gives written
13 consent to *the Registry for* an investigation of his or her credit
14 history, criminal history and background;
 - 15 (c) Include a complete set of fingerprints which the ~~[Division]~~
16 *Registry* may forward to the Central Repository for Nevada Records
17 of Criminal History for submission to the Federal Bureau of
18 Investigation for its report;
 - 19 (d) ~~[If not licensed as a mortgage broker or mortgage banker~~
20 ~~pursuant to this chapter or chapter 645E of NRS, include]~~ *Include,*
21 *through a submission of a sponsorship request through the*
22 *Registry*, a verified statement from the mortgage broker , ~~[or]~~
23 mortgage banker *or exempt entity* with whom the applicant will be
24 associated *or employed* that expresses the intent of that mortgage
25 broker , ~~[or]~~ mortgage banker *or exempt entity* to *employ or*
26 associate the applicant with the mortgage broker , ~~[or]~~ mortgage
27 banker *or exempt entity* and to be responsible for the activities of
28 the applicant as a mortgage agent; and
 - 29 (e) Include any other information or supporting materials
30 required pursuant to the regulations adopted by the Commissioner ,
31 ~~[or]~~ by an order of the Commissioner ~~[]~~ *or by the Registry*. Such
32 information or supporting materials may include, without limitation,
33 other forms of identification of the person.
- 34 3. Except as otherwise provided ~~[in this chapter.]~~ *by law*, the
35 Commissioner shall issue a license as a mortgage agent to an
36 applicant if:
- 37 (a) The application is verified by the Commissioner and
38 complies with the applicable requirements of this chapter ~~[]~~ , *other*
39 *applicable law and the Registry*; and
 - 40 (b) The applicant:
 - 41 (1) Has not been convicted of, or entered *or agreed to enter* a
42 plea of guilty or nolo contendere to, a felony in a domestic, foreign
43 or military court within the 7 years immediately preceding the date
44 of the application, or at any time if such felony involved an act of



1 fraud, dishonesty or a breach of trust, ~~for~~ money laundering ~~or~~ *or*
2 *moral turpitude*;

3 (2) Has never had a license or registration as a mortgage
4 agent, mortgage banker, mortgage broker or residential mortgage
5 loan originator revoked in this State or any other jurisdiction, or had
6 a financial services license ~~[suspended-or]~~ revoked within the
7 immediately preceding 10 years;

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

10 (4) Has not violated any provision of this chapter or chapter
11 645E of NRS, a regulation adopted pursuant thereto or an order of
12 the Commissioner; and

13 (5) Has demonstrated financial responsibility, character and
14 general fitness so as to command the confidence of the community
15 and warrant a determination that the applicant will operate honestly,
16 fairly and efficiently for the purposes of this chapter.

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

21 **Sec. 62.** NRS 645B.430 is hereby amended to read as follows:

22 645B.430 1. A license as a mortgage agent issued pursuant to
23 NRS 645B.410 expires ~~[1 year after the date the license is issued,]~~
24 *each year on December 31*, unless it is renewed. To renew a license
25 as a mortgage agent, the holder of the license must *continue to meet*
26 *the requirements of subsection 3 of NRS 645B.410 and must*
27 *submit to the Commissioner through the Registry [each year,] on or*
28 *after November 1 and on or before [the date the license expires:]*
29 *December 31 of each year, or on a date otherwise specified by the*
30 *Commissioner by regulation:*

31 (a) An application for renewal;

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

37 (c) A renewal fee ~~[set by the Commissioner of not more than]~~ *of*
38 *\$170.*

39 2. If the holder of the license as a mortgage agent fails to
40 submit any item required pursuant to subsection 1 to the
41 Commissioner ~~[each year]~~ *through the Registry on or after*
42 *November 1 and on or before [the date the license expires,]*
43 *December 31 of any year, unless a different date is specified by the*
44 *Commissioner by regulation,* the license is cancelled ~~or~~ *as of*
45 *December 31 of that year.* The Commissioner may reinstate a



1 cancelled license if the holder of the license submits to the
2 Commissioner ~~[]~~ *through the Registry on or before February 28*
3 *of the following year:*

4 (a) An application for renewal;

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

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

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

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

13 ~~[5.]~~ 4. Money received by the Commissioner pursuant to this
14 section is in addition to any fee that must be paid to the Registry and
15 must be deposited in the Fund for Mortgage Lending created by
16 NRS 645F.270.

17 ~~[6. The Commissioner may provide by regulation that any~~
18 ~~hours of a certified course of continuing education attended during a~~
19 ~~12 month period, but not needed to satisfy a requirement set forth in~~
20 ~~this section for the 12 month period in which the hours were taken,~~
21 ~~may be used to satisfy a requirement set forth in this section for a~~
22 ~~later 12 month period.~~

23 ~~—7.]~~ 5. As used in this section, “certified course of continuing
24 education” has the meaning ascribed to it in NRS 645B.051.

25 **Sec. 63.** NRS 645B.450 is hereby amended to read as follows:

26 645B.450 1. A person licensed as a mortgage agent pursuant
27 to the provisions of NRS 645B.410 may not be associated with or
28 employed by more than one mortgage broker *or mortgage banker* as
29 the same time ~~[]~~ , *unless otherwise authorized in writing by the*
30 *Commissioner.*

31 2. A mortgage broker *or mortgage banker* shall not associate
32 with or employ a person as a mortgage agent or authorize a person
33 to be associated with the mortgage broker *or mortgage banker* as a
34 mortgage agent if the mortgage agent is not licensed with the
35 Division pursuant to NRS 645B.410.

36 3. If a mortgage agent terminates his or her association or
37 employment with a mortgage broker , *mortgage banker or exempt*
38 *entity* for any reason, the mortgage broker , *mortgage banker or*
39 *exempt entity* shall, not later than the third business day following
40 the date of termination ~~[]~~

41 ~~—(a) Deliver to the mortgage agent or send by certified mail to the~~
42 ~~last known residence address of the mortgage agent a written~~
43 ~~statement which advises the mortgage agent that the termination is~~
44 ~~being reported to the Division; and~~

45 ~~—(b) Deliver or send by certified mail to the Division:~~



~~(1) The license or license number of the mortgage agent;~~
~~(2) A written statement of the circumstances surrounding the termination; and~~
~~(3) A copy of the written statement that the mortgage broker delivers or mails to the mortgage agent pursuant to paragraph (a).]~~
remove the mortgage agent's sponsorship with the mortgage broker, mortgage banker or exempt entity from the Registry.

Sec. 64. NRS 645B.490 is hereby amended to read as follows:

645B.490 *Except as otherwise required by the Registry:*

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

2. At any time within ~~{6}~~ 2 months after termination of such service, if the mortgage broker or mortgage agent complies with the provisions of subsection 1, the mortgage broker or mortgage agent may be reinstated, without having to meet any qualification or requirement other than the payment of the reinstatement fee, as provided in NRS 645B.050 or 645B.430, and the mortgage broker or mortgage agent is not required to make payment of the renewal fee for the current year.

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

Sec. 65. NRS 645B.600 is hereby amended to read as follows:

645B.600 1. A person may file with the Commissioner a complaint alleging that another person has violated a provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

2. A complaint filed pursuant to this section must:

(a) Be in writing;

(b) Be signed by the person filing the complaint or the ~~{authorized representative}~~ *designee* of the person filing the complaint;

(c) Contain an address and a telephone number for the person filing the complaint or the ~~{authorized representative}~~ *designee* of the person filing the complaint;

(d) Describe the nature of the alleged violation in as much detail as possible;

(e) Include as exhibits copies of all documentation supporting the complaint; and



(f) Include any other information or supporting materials required by the regulations adopted by the Commissioner or by an order of the Commissioner.

Sec. 66. 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 the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$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 the applicant, 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 or her application for a license or during the course of the investigation of his or her 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 \$25,000, may suspend, revoke or place conditions upon the mortgage broker's 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 the mortgage broker is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his or her 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 the mortgage broker cannot continue in business with safety to his or her 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 the mortgage broker, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;



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

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

8 (j) Has been convicted of, or entered *or agreed to enter* a plea of
9 guilty or nolo contendere to, a felony in a domestic, foreign or
10 military court within the 7 years immediately preceding the date of
11 the application, or at any time if such felony involved an act of
12 fraud, dishonesty or a breach of trust, or money laundering.

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

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

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

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

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

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

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

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

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

39 (1) Had been convicted of, or entered *or agreed to enter* a
40 plea of guilty or nolo contendere to, a felony in a domestic, foreign
41 or military court within the 7 years immediately preceding the date
42 of application, or at any time if such felony involved an act of fraud,
43 dishonesty or a breach of trust, or money laundering; or

44 (2) Had a license or registration as a mortgage agent,
45 mortgage banker, mortgage broker or residential mortgage loan



1 originator revoked in this State or any other jurisdiction or had a
2 financial services license or registration ~~[suspended or]~~ revoked
3 within the immediately preceding 10 years;

4 (t) Has violated NRS 645C.557;

5 (u) Has failed to pay a tax as required pursuant to the provisions
6 of chapter 363A of NRS; or

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

13 3. For each violation committed by a mortgage agent, the
14 Commissioner may impose upon the mortgage agent an
15 administrative fine of not more than \$25,000, may suspend, revoke
16 or place conditions upon the mortgage agent's license, or may do
17 both, if the mortgage agent, whether or not acting as such:

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

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

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

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

33 (e) Has been convicted of, or entered *or agreed to enter* a plea
34 of guilty or nolo contendere to, a felony in a domestic, foreign or
35 military court within the 7 years immediately preceding the date of
36 the application, or at any time if such felony involved an act of
37 fraud, dishonesty or a breach of trust, or money laundering.

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

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

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



(i) Has violated NRS 645C.557;

(j) Has repeatedly violated the policies and procedures of the mortgage broker with whom the mortgage agent is associated or by whom he or she is employed; or

(k) 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. 67. 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 otherwise engages in, carries on or holds himself or herself out as engaging in or carrying on the business of a mortgage broker 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; ~~for~~

(b) *The person was required to be registered with the Registry and the person was not so registered; or*

(c) 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 \$50,000 for each violation and, if the person has a license, the Commissioner may suspend or revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker 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 to provide information, make a report or permit an examination of his or her books or affairs pursuant to this chapter and the mortgage broker 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 an administrative fine of not more than ~~[\$10,000]~~ **\$25,000** for each violation;

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

(c) Conduct a hearing to determine whether the mortgage broker 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 pursuant to NRS 645B.630.

3. If a mortgage broker:

(a) Makes or offers for sale in this State any investments in promissory notes secured by liens on real property; and



(b) Receives the lowest possible rating on two consecutive annual or biennial examinations pursuant to NRS 645B.060, ➔ the Commissioner shall suspend or revoke the license of the mortgage broker.

Sec. 68. NRS 645B.955 is hereby amended to read as follows:

645B.955 1. ~~[The holder of]~~ *A person who engages in an activity for which* a license as a mortgage broker or mortgage agent ~~[may be]~~ *is* required *pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required* by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph (m) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 69. Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:

“Nationwide Mortgage Licensing System and Registry” or “Registry” has the meaning ascribed to it in NRS 645B.0128.

Sec. 70. NRS 645E.010 is hereby amended to read as follows:

645E.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645E.020 to 645E.100, inclusive, *and section 69 of this act* have the meanings ascribed to them in those sections.

Sec. 71. NRS 645E.040 is hereby amended to read as follows:

645E.040 “Commercial property” means any real property which is located in this state and which is ~~[not] neither~~ used ~~[for a residential dwelling or dwellings intended for occupancy by four or fewer families.]~~ *as a dwelling nor upon which a dwelling is constructed or intended to be constructed. For the purposes of this section, “dwelling” has the meaning ascribed to it in section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).*

Sec. 72. NRS 645E.150 is hereby amended to read as follows:

645E.150 Except as otherwise provided in NRS 645E.160 ~~[.]~~ *or other applicable law*, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, industrial loan companies, credit unions, thrift companies or insurance companies . ~~[, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.]~~



2. A real estate investment trust, as defined in 26 U.S.C. § 856, unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required.

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

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

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

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

~~7. [Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on real property, on his or her own account, unless such a person makes a loan secured by a lien on real property using his or her own money and assigns all or a part of his or her interest in the loan to another person, other than his or her spouse or child, within 5 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.]~~ *A natural person who only offers or negotiates terms of a residential mortgage loan:*

(a) With or on behalf of an immediate family member of the person; or

(b) Secured by a dwelling that served as the person's residence.

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

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

10. A nonprofit agency or organization:

(a) Which provides self-help housing for a borrower who has provided part of the labor to construct the dwelling securing the borrower's loan;

(b) Which does not charge or collect origination fees in connection with the origination of residential mortgage loans;

(c) Which only makes residential mortgage loans at an interest rate of 0 percent per annum;

(d) Whose volunteers, if any, do not receive compensation for their services in the construction of a dwelling; and

(e) Which does not profit from the sale of a dwelling to a borrower.

11. A housing counseling agency approved by the United States Department of Housing and Urban Development.



Sec. 73. NRS 645E.160 is hereby amended to read as follows:

645E.160 1. Except as otherwise provided in subsection 2, a person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645E.150 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner ~~§~~ *through the Registry*;

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

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

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his or her business, including, if applicable, the right to transact mortgage loans, and such license is in good standing pursuant to the laws of this State, any other state or the United States.

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

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to ~~9~~ *11*, inclusive, of NRS 645E.150 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner ~~§~~ *through the Registry*;

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

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

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

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

(a) A license as a mortgage banker 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 or she commits, if the person:

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

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by



1 him or her, would have rendered the person ineligible to hold a
2 certificate of exemption; or

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

7 *7. A person who is exempt from the requirements of this*
8 *chapter may file a written application for a certificate of*
9 *exemption with the Office of the Commissioner for the purposes of*
10 *complying with the requirements of the Registry or enabling a*
11 *mortgage agent to comply with the requirements of the Registry.*
12 *The Commissioner may require the applicant or person to submit*
13 *the information or pay the fee directly to the Division or to the*
14 *Division through the Registry. An application filed pursuant to*
15 *this subsection does not affect the applicability of this chapter to*
16 *the applicant.*

17 **Sec. 74.** NRS 645E.170 is hereby amended to read as follows:

18 645E.170 1. A person may apply to the Commissioner for an
19 exemption from the provisions of this chapter governing the making
20 of a loan of money ~~§~~ *only for a loan secured by commercial*
21 *property.*

22 2. The Commissioner may grant the exemption if the
23 Commissioner finds that:

24 (a) The making of the loan would not be detrimental to the
25 financial condition of the lender or the debtor;

26 (b) The lender or the debtor has established a record of sound
27 performance, efficient management, financial responsibility and
28 integrity;

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

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

33 3. The Commissioner:

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

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

38 **Sec. 75.** NRS 645E.200 is hereby amended to read as follows:

39 645E.200 1. A person who wishes to be licensed as a
40 mortgage banker must file a written application for a license with
41 the Office of the Commissioner and pay the fee required pursuant to
42 NRS 645E.280. An application for a license as a mortgage banker
43 must:

44 (a) Be verified.



(b) 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 banker will conduct business in this State, including, without limitation, any office or other place of business located outside this State from which the mortgage banker will conduct business in this State.

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

(d) If the applicant is not a natural person, list the name, residence address and business address of each person who will have an interest in the mortgage banker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

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

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

(g) Include a financial statement of the applicant.

(h) *Include a complete set of fingerprints for each natural person who is a principal, partner, officer, director or trustee of the applicant 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.*

(i) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage banker will conduct business in this State at one or more branch offices, the mortgage banker must apply for a license for each such branch office.

3. Except as otherwise provided ~~[in this chapter,]~~ *by law*, the Commissioner shall issue a license to an applicant as a mortgage banker if:

(a) The application *is verified by the Commissioner and* complies with the requirements of this chapter ~~[§],~~ *other applicable law and the Registry;* 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 banker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.~~

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



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

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

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

(6) demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter. For the purposes of this subparagraph, the factors considered in determining whether a person has demonstrated financial responsibility include, without limitation:

(I) Whether the person's personal credit history indicates any adverse material items, including, without limitation, liens, judgments, disciplinary action, bankruptcies, foreclosures or failures to comply with court-approved payment plans;

(II) The circumstances surrounding any adverse material items in the person's personal credit history; and

(III) Any instance of fraud, misrepresentation, dishonest business practices, the mishandling of trust funds or other types of comparable behavior.

(2) Has not been convicted of, or entered or agreed to enter a plea of 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 not made a false statement of material fact on the application.

(4) Has 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 revoked within the immediately preceding 10 years.

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

4. If an applicant is a partnership, corporation or unincorporated association, the Commissioner may refuse to issue a license to the applicant if any member of the partnership or any



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1 officer or director of the corporation or unincorporated association
2 has committed any act or omission that would be cause for refusing
3 to issue a license to a natural person.

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

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

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

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

21 **Sec. 76.** NRS 645E.280 is hereby amended to read as follows:

22 645E.280 1. A license issued to a mortgage banker pursuant
23 to this chapter expires each year on December 31, unless it is
24 renewed. To renew a license, the licensee must submit to the
25 Commissioner *through the Registry on or after November 1 and* on
26 or before December 31 of each year ~~[and]~~, *or on a date otherwise*
27 *specified by the Commissioner by regulation:*

28 (a) An application for renewal that complies with the
29 requirements of this chapter; ~~[and]~~

30 (b) The fee required to renew the license pursuant to this section
31 ~~[and]~~; *and*

32 (c) *All information required by the Registry or otherwise*
33 *required by the Commissioner to complete the renewal.*

34 2. If the licensee fails to submit any item required pursuant to
35 subsection 1 to the Commissioner *through the Registry on or after*
36 *November 1 and* on or before December 31 of any year, *unless a*
37 *different date is specified by the Commissioner by regulation,* the
38 license is cancelled ~~[and]~~ *as of December 31 of that year.* The
39 Commissioner may reinstate a cancelled license if the licensee
40 submits to the Commissioner ~~[and]~~ *through the Registry on or before*
41 *February 28 of the following year:*

42 (a) An application for renewal that complies with the
43 requirements of this chapter;

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



(c) ~~FA~~ *Except as otherwise provided in this section, a reinstatement fee of not more than \$200 ~~FA~~; and*

(d) *All information required to complete the reinstatement.*

3. Except as otherwise provided in NRS 645E.160, 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 *through the Registry on or after November 1 and* on or before December 31 of each year ~~FA~~ *, or on a date otherwise specified by the Commissioner by regulation:*

(a) An application for renewal that complies with the requirements 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 *through the Registry on or after November 1 and* on or before December 31 of any year, *unless a different date is specified by the Commissioner by regulation*, the certificate of exemption is cancelled. Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner ~~FA~~ *through the Registry on or before February 28 of the following year:*

(a) An application for renewal that complies with the requirements of this chapter;

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

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

5. ~~FA~~ *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 banker pursuant to this chapter:

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

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

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

6. ~~FA~~ *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 set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his or her 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 or her duties pursuant to this chapter.

Sec. 77. NRS 645E.290 is hereby amended to read as follows:

645E.290 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 NRS 645B.01325.}~~ :

(a) *“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 loan.*

(b) *“Loan originator” means a natural person who takes a loan application or offers or negotiates terms of a 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. 78. NRS 645E.291 is hereby amended to read as follows:

645E.291 1. A mortgage banker shall exercise reasonable supervision over the activities of his or her mortgage agents and must also be licensed as a mortgage agent if required pursuant to



1 NRS 645E.290. Such reasonable supervision must include, as
2 appropriate:

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

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

7 (1) Transactions handled by the mortgage agents pursuant to
8 this chapter;

9 (2) Communications between the mortgage agents and a
10 party to such a transaction;

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

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

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

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

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

30 **Sec. 79.** NRS 645E.350 is hereby amended to read as follows:

31 645E.350 1. Each mortgage banker shall keep and maintain
32 at all times at each location where the mortgage banker conducts
33 business in this State complete and suitable records of all mortgage
34 transactions made by the mortgage banker at that location. Each
35 mortgage banker shall also keep and maintain at all times at each
36 such location all original books, papers and data, or copies thereof,
37 clearly reflecting the financial condition of the business of the
38 mortgage banker.

39 2. Each mortgage banker shall submit to the Commissioner
40 each month a report of the mortgage banker's activity for the
41 previous month. The report must:

42 (a) Specify the volume of loans made by the mortgage banker
43 for the month or state that no loans were made in that month;

44 (b) Include any information required pursuant to the regulations
45 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 bankers handling trust accounts and the requirements for keeping records relating to such accounts.

4. A licensee who operates outside this State an office or other place of business which is licensed pursuant to this chapter shall:

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

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

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

5. Each mortgage banker shall submit to the Registry and the Commissioner a report of condition or any other report required by the Registry in the form and at the time required by the Registry.

Sec. 80. NRS 645E.360 is hereby amended to read as follows:

645E.360 1. Except as otherwise provided in this section, not later than ~~120~~ **90** days after the last day of each fiscal year for a mortgage banker, the mortgage banker shall submit to the Commissioner ***through the Registry*** 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 banker by an independent ***certified*** public accountant who holds a ~~permit~~ ***license*** to ~~engage in the~~ practice ~~of public accounting~~ in this State ***or in any other state*** that has not been revoked or suspended.

2. ~~The~~ ***Unless otherwise prohibited by the Registry, the*** Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage banker requests such an extension before the date on which the financial statement is due.

3. If a mortgage banker maintains any accounts described in NRS 645E.430, the financial statement submitted pursuant to this section 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 or she submits the report to the mortgage banker.~~

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



Sec. 81. NRS 645E.375 is hereby amended to read as follows:

645E.375 1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

2. The complaint or other document filed by the Commissioner to initiate disciplinary action and all documents and information considered by the Commissioner when determining whether to impose discipline are public records.

3. The Commissioner may disclose any document or information made confidential under subsection 1 to the party against whom the complaint is made, a licensing board or agency, the Registry or any other governmental agency, including, without limitation, a law enforcement agency.

Sec. 82. NRS 645E.390 is hereby amended to read as follows:

645E.390 1. The Commissioner must be notified of a transfer of ~~5~~ 10 percent or more of the outstanding voting stock of a mortgage banker and must approve a transfer of voting stock of a mortgage banker which constitutes a change of control.

2. The person who acquires stock resulting in a change of control of the mortgage banker shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements of this chapter *and of the Registry, if applicable*, for obtaining a license will be satisfied after the change of control. Except as otherwise provided in subsection 3, the Commissioner shall conduct an investigation to determine whether those requirements will be satisfied. If, after the investigation, the Commissioner denies the application, the Commissioner may forbid the applicant from participating in the business of the mortgage banker.

3. A mortgage banker may submit a written request to the Commissioner to waive an investigation pursuant to subsection 2. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his or her employment with a financial institution.

4. As used in this section, "change of control" means:

(a) A transfer of voting stock which results in giving a person, directly or indirectly, the power to direct the management and policy of a mortgage banker; or

(b) A transfer of at least 25 percent of the outstanding voting stock of a mortgage banker.



1 **Sec. 83.** NRS 645E.420 is hereby amended to read as follows:

2 645E.420 1. Except as otherwise *permitted by law and as*
3 *otherwise* provided in subsection 3, the amount of any advance fee,
4 salary, deposit or money paid to any mortgage banker or other
5 person to obtain a loan secured by a lien on real property must be
6 placed in escrow pending completion of the loan or a commitment
7 for the loan.

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

10 (a) Upon completion of the loan or commitment for the loan, to
11 the mortgage banker or other person to whom the advance fee,
12 salary, deposit or money was paid.

13 (b) If the loan or commitment for the loan fails, to the person
14 who made the payment.

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

23 **Sec. 84.** NRS 645E.670 is hereby amended to read as follows:

24 645E.670 1. For each violation committed by an applicant,
25 whether or not the applicant is issued a license, the Commissioner
26 may impose upon the applicant an administrative fine of not more
27 than ~~[\$10,000]~~ **\$25,000** if the applicant:

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

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

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

38 2. For each violation committed by a licensee, the
39 Commissioner may impose upon the licensee an administrative fine
40 of not more than ~~[\$10,000,]~~ **\$25,000**, may suspend, revoke or place
41 conditions upon the license, or may do both, if the licensee, whether
42 or not acting as such:

43 (a) Is insolvent;



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

(c) Does not conduct his or her 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 the licensee cannot continue in business with safety to his or her customers;

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

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

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

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

(i) Has refused to permit an examination by the Commissioner of his or her 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 *or agreed to enter* a plea of nolo contendere to, a felony ~~[relating to the practice of mortgage bankers 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 licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

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

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

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



(o) Has violated NRS 645C.557;

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

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

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

Sec. 85. NRS 645E.690 is hereby amended to read as follows:

645E.690 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 or herself 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 \$50,000 for each violation and, if the person has a license, the Commissioner ~~[shall]~~ *may suspend or* 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 or her 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]~~ *\$25,000* 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. 86. NRS 645E.955 is hereby amended to read as follows:

645E.955 1. ~~[The holder of]~~ *A person who engages in an activity for which* a license as a mortgage banker ~~[may be]~~ *is* required *pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required* by



1 the Commissioner to pay restitution to any person who has suffered
2 an economic loss as a result of a violation of the provisions of this
3 chapter or any regulation adopted pursuant thereto.

4 2. Notwithstanding the provision of paragraph (m) of
5 subsection 1 of NRS 622A.120, payment of restitution pursuant to
6 subsection 1 shall be done in a manner consistent with the
7 provisions of chapter 622A of NRS.

8 **Sec. 87.** Chapter 645F of NRS is hereby amended by adding
9 thereto the provisions set forth as sections 88, 89 and 90 of this act.

10 **Sec. 88.** *“Residence” means a structure that contains not*
11 *more than four individual units designed or intended for*
12 *occupancy regardless of whether such a structure is attached to*
13 *real property. The term includes an individual condominium unit,*
14 *cooperative unit, mobile home or trailer used for occupancy.*

15 **Sec. 89. 1.** *The Commissioner shall adopt regulations for*
16 *the licensing of a person who performs the services of a*
17 *construction control.*

18 2. *The regulations must prescribe, without limitation:*

19 (a) *The method and form of application for a license;*

20 (b) *The method and form of the issuance, denial or renewal of*
21 *a license;*

22 (c) *The grounds and procedures for the revocation, suspension*
23 *or nonrenewal of a license; and*

24 (d) *The imposition of reasonable fees for application,*
25 *licensure, regulation and supervision of construction controls.*

26 3. *As used in this section, “construction control” has the*
27 *meaning ascribed to it in NRS 627.050.*

28 **Sec. 90. 1.** *Any person authorized to engage in activities as*
29 *a residential mortgage loan originator on behalf of an installment*
30 *loan lender licensed under chapter 675 of NRS shall obtain and*
31 *maintain a license as a mortgage agent.*

32 2. *As used in this section:*

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

35 (b) *“Residential mortgage loan originator” has the meaning*
36 *ascribed to it in NRS 645B.01325.*

37 **Sec. 91.** NRS 645F.280 is hereby amended to read as follows:

38 645F.280 1. The Commissioner shall establish by regulation
39 rates to be paid by ~~escrow agencies, mortgage agents, mortgage~~
40 ~~brokers, mortgage bankers, persons who perform any covered~~
41 ~~service for compensation, foreclosure consultants and loan~~
42 ~~modification consultants] all persons licensed by the Commissioner~~
43 *or the Division* for supervision and examinations by the
44 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.

Sec. 92. 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 ~~the~~:

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

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

~~—(c) Mortgage agent that is supervised pursuant to chapter 645B or 645E of NRS;~~

~~—(d) Mortgage banker that is supervised pursuant to chapter 645E of NRS; and~~

~~—(e) Person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant that is supervised pursuant to this chapter.]~~ *person licensed by the Commissioner or the Division.*

2. The Commissioner shall determine the total amount of all assessments to be collected from the ~~[entities]~~ *persons* 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]~~ *a person* 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]~~ *person* 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]~~ *a person* 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. 93. NRS 645F.291 is hereby amended to read as follows:

645F.291 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:



(a) Compel the attendance of any person by subpoena.

(b) *Compel the production of any books, records or papers by subpoena.*

(c) Administer oaths.

~~(e)~~ (d) Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of this chapter and in connection therewith require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

3. In addition to the authority to recover attorney's fees and costs pursuant to any other statute, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to this chapter.

Sec. 94. NRS 645F.294 is hereby amended to read as follows:

645F.294 1. Except as otherwise provided in section 1512 of Public Law 110-289, *12 U.S.C. § 5111*, 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 *law or the* 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. 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.

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. 95. NRS 645F.300 is hereby amended to read as follows:

645F.300 As used in NRS 645F.300 to 645F.450, inclusive, *and section 88 of this act*, unless the context otherwise requires, the words and terms defined in NRS 645F.310 to 645F.370, inclusive, *and section 88 of this act* have the meanings ascribed to them in those sections.

Sec. 96. NRS 645F.310 is hereby amended to read as follows:

645F.310 "Covered service" includes, without limitation:

1. Financial counseling ~~to~~ *to a homeowner*, including, without limitation, debt counseling and budget counseling.

2. Receiving money for the purpose of distributing it to creditors in payment or partial payment of any obligation secured by a mortgage or other lien on a residence in foreclosure.

3. Contacting a creditor on behalf of a homeowner.

4. Arranging or attempting to arrange for an extension of the period within which a homeowner may cure a default and reinstate an obligation pursuant to a note, mortgage or deed of trust.

5. Arranging or attempting to arrange for any delay or postponement of the time of a foreclosure sale ~~to~~ *of a residence in foreclosure*.

6. Advising *a homeowner regarding* the filing of any document or assisting in any manner in the preparation of any document for filing with a bankruptcy court.

7. Giving any advice, explanation or instruction to a homeowner which in any manner relates to the cure of a default in or the reinstatement of an obligation secured by a mortgage or other lien on ~~the~~ *a* residence, ~~in foreclosure,~~ the full satisfaction of the obligation, or the postponement or avoidance of a foreclosure sale.

8. Arranging or conducting, or attempting to arrange or conduct, for a homeowner any forensic loan audit or other audit of loan documents.

9. Arranging or attempting to arrange for a homeowner the purchase by a third party of the homeowner's mortgage loan.

10. Arranging or attempting to arrange for a homeowner a reduction of the principal of the homeowner's mortgage loan when such a mortgage loan is held by and serviced by a third party.

11. Providing the services of a loan modification consultant.

12. Providing the services of a foreclosure consultant.



1 **Sec. 97.** NRS 645F.370 is hereby amended to read as follows:
2 645F.370 “Residence in foreclosure” means ~~residential real~~
3 ~~property consisting of not more than four family dwelling units, one~~
4 ~~of~~ *a residence* which the homeowner occupies as his or her
5 principal place of residence, and against which there is an
6 outstanding notice of the pendency of an action for foreclosure
7 recorded pursuant to NRS 14.010 or notice of default and election to
8 sell recorded pursuant to NRS 107.080.

9 **Sec. 98.** NRS 645F.380 is hereby amended to read as follows:
10 645F.380 The provisions of NRS 645F.300 to 645F.450,
11 inclusive, *and section 88 of this act* do not apply to, and the terms
12 “foreclosure consultant” and “foreclosure purchaser” do not include:

13 1. An attorney at law rendering services in the performance of
14 his or her duties as an attorney at law ~~is~~ *and his or her employees,*
15 unless the attorney at law ~~is~~ *or his or her employees are* rendering
16 those services in the course and scope of his or her employment by
17 or other affiliation with a ~~mortgage broker or mortgage agent;~~
18 *person who is licensed or required to be licensed pursuant to*
19 *NRS 645F.390;*

20 2. A provider of debt-management services registered pursuant
21 to chapter 676A of NRS while providing debt-management services
22 pursuant to chapter 676A of NRS;

23 3. A person or the authorized agent of a person acting under the
24 provisions of a program sponsored by the Federal Government, this
25 State or a local government, including, without limitation, the
26 Department of Housing and Urban Development, the Federal Home
27 Loan Mortgage Corporation, the Federal National Mortgage
28 Association or the Federal Home Loan Bank ~~is~~ *System;*

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

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

42 6. A person, other than a person who is licensed pursuant to
43 NRS 645F.390, who is licensed pursuant to chapter 692A or any
44 chapter of title 54 of NRS while acting under the authority of the
45 license;



7. 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

8. 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.

Sec. 99. NRS 645F.390 is hereby amended to read as follows:

645F.390 1. The Commissioner shall adopt ~~[separate]~~ regulations for the licensing of ~~[-]~~:

~~—(a) A] a person who performs any covered service . [for compensation;~~

~~—(b) A foreclosure consultant; and~~

~~—(c) A loan modification consultant.]~~

2. The regulations must prescribe, without limitation:

(a) The method and form of application for a license;

(b) The method and form of the issuance, denial or renewal of a license;

(c) The grounds and procedures for the revocation, suspension or nonrenewal of a license; ~~[and]~~

(d) The imposition of reasonable fees for application and licensure ~~[-]~~; and

(e) Any provisions necessary to comply with the provisions of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Public Law 110-289, 12 U.S.C. §§ 5101 et seq., including registration with the Registry, and the Mortgage Assistance Relief Services Rule, 16 C.F.R. Part 322, as promulgated by the Federal trade Commission.

3. An application for a license pursuant to this section must include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the person who performs any covered service as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

Sec. 100. NRS 645F.392 is hereby amended to read as follows:

645F.392 1. A person who performs any covered service for compensation ~~[-, a foreclosure consultant and a loan modification consultant]~~ shall execute a written contract with a homeowner before providing any covered service.



2. The Commissioner shall adopt regulations describing the information that must be contained in a written contract for covered services.

Sec. 101. NRS 645F.394 is hereby amended to read as follows:

645F.394 ~~[1. All money paid to a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant by a person in full or partial payment of covered services to be performed:~~

~~—(a) Must be deposited in a separate checking account located in a federally insured depository financial institution or credit union in this State which must be designated a trust account;~~

~~—(b) Must be kept separate from money belonging to the person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant; and~~

~~—(c) Must not be withdrawn by the person who performs any covered service for compensation, foreclosure consultant or loan modification consultant until the completion of every covered service as agreed upon in the contract for covered services.~~

~~2. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall keep records of all money deposited in a trust account pursuant to subsection 1. The records must clearly indicate the date and from whom he or she received money, the date deposited, the dates of withdrawals, and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The person who performs any covered service for compensation, the foreclosure consultant or the loan modification consultant shall balance each separate trust account at least monthly and provide to the Commissioner, on a form provided by the Commissioner, an annual accounting which shows an annual reconciliation of each separate trust account. All such records and money are subject to inspection and audit by the Commissioner and authorized representatives of the Commissioner.~~

~~3. Each person who performs any covered service for compensation, each foreclosure consultant and each loan modification consultant shall notify the Commissioner of the names of the banks and credit unions in which he or she maintains trust accounts and specify the names of the accounts on forms provided by the Commissioner.~~

~~4. As used in this section, “completion of every covered service” means:~~



1 ~~—(a) Successful results with respect to what the performance of~~
2 ~~each covered service was intended to yield for the homeowner, as~~
3 ~~described in the contract for covered services; or~~

4 ~~—(b) If the performance of one or more covered service has an~~
5 ~~unsuccessful result with respect to what the performance of that~~
6 ~~covered service was intended to yield for the homeowner, a showing~~
7 ~~that every reasonable effort was made, under the particular~~
8 ~~circumstances, to obtain successful results,~~

9 ~~→ as verified in a written statement provided to the homeowner.] A~~
10 *person licensed or required to be licensed pursuant to NRS*
11 *645F.390 may not request or receive payment of any fee or other*
12 *compensation from a homeowner until such a person has fully*
13 *complied with the provisions of the Mortgage Assistance Relief*
14 *Services Rule, 16 C.F.R. Part 322, and any other applicable*
15 *federal law or regulation.*

16 **Sec. 102.** NRS 645F.400 is hereby amended to read as
17 follows:

18 645F.400 1. A person who performs any covered service ~~[, a~~
19 ~~foreclosure consultant and a loan modification consultant]~~ shall not:

20 (a) Claim, demand, charge, collect or receive any compensation
21 except in accordance with NRS 645F.394.

22 (b) Claim, demand, charge, collect or receive any fee, interest or
23 other compensation for any reason which is not fully disclosed to
24 the homeowner.

25 (c) Take *or acquire, directly or indirectly,* any wage
26 assignment, lien on real or personal property, assignment of a
27 homeowner's equity ~~[or other]~~ , *any* interest in a residence ~~[in~~
28 ~~foreclosure]~~ or other security for the payment of compensation. Any
29 such *assignment or* security is void and unenforceable.

30 (d) Receive any consideration from any third party in connection
31 with a covered service provided to a homeowner unless the
32 consideration is first fully disclosed to the homeowner.

33 (e) ~~[Acquire, directly or indirectly, any interest in the residence~~
34 ~~in foreclosure of a homeowner with whom the foreclosure~~
35 ~~consultant has contracted to perform a covered service.~~

36 ~~—(f)]~~ Accept a power of attorney from a homeowner for any
37 purpose, other than to inspect documents as provided by law.

38 2. In addition to any other penalty, a violation of any provision
39 of this section shall be deemed to constitute mortgage lending fraud
40 for the purposes of NRS 205.372.

41 **Sec. 103.** NRS 645F.410 is hereby amended to read as
42 follows:

43 645F.410 1. In addition to any other remedy or penalty, the
44 Commissioner may, after giving notice and opportunity to be heard,
45 impose an administrative penalty of not more than ~~[\$10,000 on a~~



~~foreclosure consultant~~ \$25,000 on any person required to be licensed pursuant to NRS 645F.390 who violates any provision of ~~NRS 645F.400~~ this chapter or any regulation adopted pursuant thereto.

2. Except as otherwise provided in this section, all money collected from administrative penalties imposed pursuant to this section must be deposited in the State General Fund.

3. The money collected from an administrative penalty may be deposited with the State Treasurer for credit to the Fund for Mortgage Lending created by NRS 645F.270 if:

(a) The person pays the administrative penalty without exercising the right to a hearing to contest the penalty; or

(b) The administrative penalty is imposed in a hearing conducted by a hearing officer or panel appointed by the Commissioner.

4. The Commissioner may appoint one or more hearing officers or panels and may delegate to those hearing officers or panels the power of the Commissioner to conduct hearings, determine violations and impose the penalties authorized by this section.

5. If money collected from an administrative penalty is deposited in the State General Fund, the Commissioner may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay attorney's fees or the costs of an investigation, or both.

Sec. 104. NRS 645F.420 is hereby amended to read as follows:

645F.420 1. A homeowner who is injured as a result of a ~~foreclosure consultant's~~ person's violation of a provision of NRS 645F.400 may bring an action against the ~~foreclosure consultant~~ person to recover damages caused by the violation, together with reasonable attorney's fees and costs.

2. If the homeowner prevails in the action, the court may award such punitive damages as may be determined by a jury, or by a court sitting without a jury, but in no case may the punitive damages be less than one and one-half times the amount awarded to the homeowner as actual damages.

Sec. 105. NRS 658.210 is hereby amended to read as follows:

658.210 1. ~~Any~~ Except as otherwise provided in section 90 of this act, any person authorized to engage in activities as a residential mortgage loan originator on behalf of a privately insured institution or organization licensed under title 55 or 56 of NRS shall obtain and maintain a license as a mortgage agent.

2. As used in subsection 1:



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

(b) “Residential mortgage loan originator” has the meaning ascribed to it in NRS 645B.01325.

Sec. 106. NRS 645B.044 is hereby repealed.

Sec. 107. 1. This section and section 101 of this act become effective upon passage and approval.

2. Sections 87, 88, 91 to 100, inclusive, 102, 103 and 104 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2011, for all other purposes.

3. Sections 1 to 86, inclusive, 89, 90, 105 and 106 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2011, for all other purposes.

TEXT OF REPEALED SECTION

645B.044 Mortgage broker may deposit substitute form of security in lieu of security bond; amount deposited must equal amount of bond; interest or dividends accrue to depositor.

1. As a substitute for the surety bond required by NRS 645B.042, a mortgage broker may, in accordance with the provisions of this section, deposit with any bank or trust company authorized to do business in this State, in a form approved by the Commissioner:

(a) An obligation of a bank, savings and loan association, thrift company or credit union licensed to do business in this State;

(b) Bills, bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States; or

(c) Any obligation of this State or any city, county, town, township, school district or other instrumentality of this State, or guaranteed by this State.

2. The obligations of a bank, savings and loan association, thrift company or credit union must be held to secure the same obligation as would the surety bond. With the approval of the Commissioner, the depositor may substitute other suitable



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obligations for those deposited which must be assigned to the State of Nevada and are negotiable only upon approval by the Commissioner.

3. Any interest or dividends earned on the deposit accrue to the account of the depositor.

4. The deposit must be in an amount at least equal to the required surety bond and must state that the amount may not be withdrawn except by direct and sole order of the Commissioner. The value of any item deposited pursuant to this section must be based upon principal amount or market value, whichever is lower.

