

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; 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; 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.



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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) **Section 3.5** of this bill includes the performance of the services of a construction control within the definition of escrow. **Sections 4 and 5** of this bill revise provisions relating to the licensing of escrow agents and escrow agencies. **Section 6** of this bill revises 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) **Sections 21, 22, 24, 25, 34 and 37** 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 and 48** 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 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. Existing law exempts an attorney at law from the requirements concerning the licensing of persons who provide covered services for compensation, but **section 98** of this bill specifically provides that an attorney at law is subject to the provisions of **section 88.5** of this bill, which prohibit a person who performs any covered service for compensation, a foreclosure consultant or a loan modification consultant from requesting or receiving any compensation before a homeowner executes a written agreement that incorporates an offer of mortgage assistance.

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. NRS 645.8725 is hereby amended to read as follows:

645.8725 "Escrow" has the meaning ascribed to it in subsection ~~4~~ **4** of NRS 645A.010.



1 **Sec. 1.3.** NRS 645.8731 is hereby amended to read as follows:
2 645.8731 “Escrow agent” has the meaning ascribed to it in
3 subsection ~~B~~ 4 of NRS 645A.010.

4 **Sec. 1.7.** Chapter 645A of NRS is hereby amended by adding
5 thereto the provisions set forth as sections 2 and 3 of this act.

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

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

12 2. *The person’s license was suspended or revoked pursuant to
13 this chapter,*

14 *↪ the Commissioner shall impose upon the person an
15 administrative fine of not more than \$25,000 for each violation
16 and, if the person has a license, the Commissioner may suspend or
17 revoke it.*

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

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

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

24 (b) *Any duties of a qualified employee; and*

25 (c) *Any requirements regarding a qualified employee.*

26 **Sec. 3.5.** NRS 645A.010 is hereby amended to read as
27 follows:

28 645A.010 As used in this chapter, unless the context otherwise
29 requires:

30 1. “Commissioner” means the Commissioner of Mortgage
31 Lending.

32 2. *“Construction control” has the meaning ascribed to it in
33 NRS 627.050.*

34 3. “Division” means the Division of Mortgage Lending of the
35 Department of Business and Industry.

36 ~~B~~ 4. “Escrow” means any transaction wherein one person,
37 for the purpose of effecting the sale, transfer, encumbering or
38 leasing of real or personal property to another person, delivers any
39 written instrument, money, evidence of title to real or personal
40 property, or other thing of value to a third person until the
41 happening of a specified event or the performance of a prescribed
42 condition, when it is then to be delivered by such third person to a
43 grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor
44 or any agent or employee of any of the latter. The term includes the
45 collection of payments and the performance of related services by a



1 third person in connection with a loan secured by a lien on real
2 property ~~1-~~

3 ~~—4.1~~ *and the performance of the services of a construction*
4 *control.*

5 5. “Escrow agency” means:

6 (a) Any person who employs one or more escrow agents; or

7 (b) An escrow agent who administers escrows on his or her own
8 behalf.

9 ~~15.1~~ 6. “Escrow agent” means any person engaged in the
10 business of administering escrows for compensation.

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

12 645A.020 1. A person who wishes to be licensed as an
13 escrow agent or agency must file a written application in the Office
14 of the Commissioner.

15 2. The application must:

16 (a) Be verified.

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

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

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

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

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

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

30 (h) Require a financial statement of the applicant.

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

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

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

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

44 3. If the Commissioner determines, after investigation, that the
45 experience, character, financial condition, business reputation and



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1 general fitness of the applicant are such as to command the
2 confidence of the public and to warrant the belief that the business
3 conducted will protect and safeguard the public, the Commissioner
4 shall issue a license to the applicant as an escrow agent or agency.

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

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

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

18 *7. If the Commissioner finds that additional information is*
19 *required to consider the application, the Commissioner shall send*
20 *a letter to the applicant which specifies the additional*
21 *requirements that the applicant must satisfy within 30 days after*
22 *receiving the letter to obtain a license. If the applicant does not*
23 *satisfy all additional requirements set forth in the letter within 30*
24 *days after receipt of the letter, the application will be deemed to*
25 *have been denied, and the applicant must reapply to obtain a*
26 *license. The Commissioner may, for good cause, extend the 30-day*
27 *period prescribed in this subsection.*

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

29 645A.040 1. Every license issued pursuant to the provisions
30 of this chapter expires on July 1 of each year if it is not renewed. A
31 license may be renewed by filing an application for renewal, paying
32 the annual fee for the succeeding year and submitting all
33 information required to complete the renewal.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



1 bind ourselves, our heirs, executors, administrators, successors and
2 assigns, jointly and severally, firmly by these presents.

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

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

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

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

29
30(Seal)

31 Principal

32(Seal)

33 Surety

34 By

35 Attorney-in-fact

36

37 Nevada Licensed

38 ~~{resident agent}~~ Insurance Agent

39
40 4. Each escrow agency shall deposit a corporate surety bond
41 that complies with the provisions of this section or a substitute form
42 of security that complies with the provisions of NRS 645A.042 in
43 the following amount based upon the average monthly balance of
44 the trust account or escrow account maintained by the escrow
45 agency pursuant to NRS 645A.160:



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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

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

5. A bond used to satisfy the requirements of NRS 627.180 or a substitute for that bond which satisfies the requirements of NRS 627.183 may be used to satisfy the requirements of this section if:

(a) The amount required by NRS 627.180 for a bond is not less than the amount required by this section for a bond; or

(b) The amount required by NRS 627.180 for a bond is less than the amount required by this section for a bond, and the escrow agency deposits an additional bond in an amount not less than the difference between the amount required by NRS 627.180 and the amount required by this section.

Sec. 7. (Deleted by amendment.)

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

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

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

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

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

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

(d) Any other factors the Commissioner deems relevant.



3. The Commissioner shall adopt regulations prescribing the 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 ~~[\$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 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, moral turpitude 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:



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(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~~;

(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, moral turpitude or money laundering; or

(q) In the case of a person who performs the services of a construction control, has failed to comply with the provisions of chapter 627 of NRS.

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* of 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.



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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.

Sec. 12. NRS 645A.235 is hereby amended to read as follows:

645A.235 1. ~~{The holder of}~~ *A person who engages in an activity for which* a license as an escrow agent or escrow agency ~~{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. 13. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 40.7, inclusive, of this act.

Sec. 14. (Deleted by amendment.)

Sec. 15. (Deleted by amendment.)

Sec. 16. *“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. 17. (Deleted by amendment.)

Sec. 17.5. 1. “Loan processor” means a natural person who:

(a) Receives, collects, distributes or analyzes information that is commonly used for the processing of a residential mortgage loan; and

(b) Communicates with a consumer to obtain the information necessary for the activities described in paragraph (a).

2. The communication described in paragraph (b) of subsection 1 does not include communication offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.

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

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

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



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

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

11 3. That the address, telephone number and electronic mail
12 address of the investor must remain confidential and that the
13 mortgage broker may not provide that information to any other
14 investor unless the investor provides the mortgage broker with
15 subsequent written permission to provide such information to
16 other investors.

17 Sec. 22. 1. A mortgage broker who makes or arranges a
18 loan shall not include in any loan document a provision which
19 requires a private investor to participate in binding arbitration of
20 disputes relating to the loan.

21 2. The provisions of this section may not be varied by
22 agreement, and the rights conferred by this section may not be
23 waived. Any provision included in a loan document agreement
24 that conflicts with this section is void.

25 Sec. 23. (Deleted by amendment.)

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

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

36 (a) Require the mortgage broker to:

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

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

(II) Any delinquent taxes or insurance premiums;

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

(6) Respond within a reasonable time under the circumstances to the request of the borrower or investor to correct any errors relating to the loan.

(b) Prohibit the mortgage broker from:

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

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

(3) Requiring an investor to participate in binding arbitration of disputes relating to the loan.

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

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

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

Sec. 29. (Deleted by amendment.)

Sec. 30. (Deleted by amendment.)

Sec. 31. (Deleted by amendment.)

Sec. 32. (Deleted by amendment.)



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

2 **Sec. 34. 1.** *If an investor owes money to the mortgage*
3 *broker who is servicing a loan or to other investors, the mortgage*
4 *broker shall not withhold money due the investor in order to offset*
5 *the money owed to the mortgage broker or to another investor,*
6 *unless:*

7 **(a)** *The mortgage broker obtains the written consent of the*
8 *investor who owes the money; or*

9 **(b)** *A court order requires the mortgage broker to withhold the*
10 *money.*

11 **2.** *A mortgage broker may include in a loan servicing*
12 *agreement a provision which provides written consent to withhold*
13 *money due an investor in order to offset money owed by the*
14 *investor to the mortgage broker or other investors.*

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

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

17 **Sec. 37.** *A mortgage broker shall not act as a construction*
18 *control with respect to money belonging to a borrower or investor.*
19 *If a borrower or investor wishes to utilize a construction control*
20 *for money belonging to the borrower or investor, a mortgage*
21 *broker must place the money with a person who is independent of*
22 *the mortgage broker and is licensed or authorized to accept such*
23 *money. The money must be subject to the control of a construction*
24 *control which is in compliance with, or exempt from, the*
25 *provisions of NRS 627.180 or 627.183.*

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

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

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

29 **Sec. 40.3. 1.** *A mortgage broker shall not place or arrange*
30 *to place a private investor into a limited-liability company,*
31 *business trust or other entity before foreclosure of the real*
32 *property securing the loan unless the mortgage broker:*

33 **(a)** *Provides a copy of the organizational documents of the*
34 *limited-liability company, business trust or other entity to each*
35 *investor not later than 5 days before the investor transfers his or*
36 *her interest in the loan; and*

37 **(b)** *Obtains the written authorization of each investor who*
38 *wishes to transfer his or her interest in the loan to the limited-*
39 *liability company, business trust or other entity.*

40 **2.** *The documents provided to each investor pursuant to*
41 *paragraph (a) of subsection 1 must clearly and concisely state any*
42 *fees which will be paid to the mortgage broker by the limited-*
43 *liability company, business trust or other entity, and the sections of*
44 *the documents that state fees must be initialed by the investor.*



1 **3. A mortgage broker or mortgage agent shall not act as the**
2 **attorney-in-fact or the agent of a private investor for the signing**
3 **or dating of the written authorization.**

4 **4. Any term of a contract or other agreement that attempts to**
5 **alter or waive the requirements of this section is void.**

6 **Sec. 40.7. 1. A mortgage broker shall not assess or collect**
7 **any fee which is not:**

8 **(a) Authorized by the loan documents or loan servicing**
9 **agreement; and**

10 **(b) Assessed or collected in exchange for bona fide services**
11 **rendered or costs incurred.**

12 **2. A mortgage broker shall apply all fees collected in the**
13 **manner set forth in the loan documents or loan servicing**
14 **agreement.**

15 **Sec. 41. NRS 645B.010 is hereby amended to read as follows:**

16 645B.010 As used in this chapter, unless the context otherwise
17 requires, the words and terms defined in NRS 645B.0104 to
18 645B.0135, inclusive, **and sections 14 to 18, inclusive, of this act**
19 have the meanings ascribed to them in those sections.

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

22 645B.0125 1. "Mortgage agent" means:

23 (a) A natural person who:

24 (1) Is an employee of a mortgage broker or mortgage banker
25 who is required to be licensed pursuant to this chapter or chapter
26 645E of NRS; and

27 (2) Is authorized by the mortgage broker or mortgage banker
28 to engage in, on behalf of the mortgage broker or mortgage banker,
29 any activity that would require the person, if the person were not an
30 employee of the mortgage broker or mortgage banker, to be licensed
31 as a mortgage broker or mortgage banker pursuant to this chapter or
32 chapter 645E of NRS; ~~or~~

33 (b) A mortgage broker, qualified employee or mortgage banker
34 who is required by NRS 645B.405 or 645E.290 to be licensed as a
35 mortgage agent ~~or~~; **or**

36 **(c) A loan processor who is an independent contractor and**
37 **who is associated with a mortgage broker, mortgage banker or**
38 **person who holds a certificate of exemption pursuant to**
39 **NRS 645B.016.**

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

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

43 (a) Except as otherwise provided in paragraph (b) of subsection
44 1, is licensed as a mortgage broker or mortgage banker;



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

(c) ~~Performs~~ *Except as otherwise provided in paragraph (c) of subsection 1, performs* only clerical or ministerial tasks for a mortgage broker ~~or~~ *or mortgage banker; or*

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

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

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

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

645B.015 Except as otherwise provided in NRS 645B.016, *the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, 12 U.S.C. §§ 5101 et seq., and any regulations adopted pursuant thereto and 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 **commercial** 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 ~~15~~ 3 years after the date on which the loan is made or the deed of trust is recorded, whichever occurs later.

8. 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.

~~18-1~~ 9. Agencies of the United States and of this State and its political subdivisions, including the Public Employees' Retirement System.

~~19-1~~ 10. A seller of real property who offers credit secured by a mortgage of the property sold.

11. 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.

12. 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;

(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



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(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 ~~10~~ 12, inclusive, of NRS 645B.015 to:

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

(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



1 *exemption with the Office of the Commissioner for the purposes of*
2 *complying with the requirements of the Registry or enabling a*
3 *mortgage agent to comply with the requirements of the Registry.*

4 8. *The Commissioner may require an applicant or person*
5 *described in subsection 7 to submit the information or pay the fee*
6 *directly to the Division or, if the applicant or person is required to*
7 *register or voluntarily registers with the Registry, to the Division*
8 *through the Registry.*

9 9. *An application filed pursuant to subsection 7 does not*
10 *affect the applicability of this chapter to such an applicant or*
11 *person.*

12 **Sec. 46.** NRS 645B.020 is hereby amended to read as follows:

13 645B.020 1. A person who wishes to be licensed as a
14 mortgage broker must file a written application for a license with the
15 Office of the Commissioner and pay the fee required pursuant to
16 NRS 645B.050. *The Commissioner may require the applicant or*
17 *person to submit the information or pay the fee directly to the*
18 *Division or, if the applicant or person is required to register or*
19 *voluntarily registers with the Registry, to the Division through the*
20 *Registry.* An application for a license as a mortgage broker must:

21 (a) State the name, residence address and business address of the
22 applicant and the location of each principal office and branch office
23 at which the mortgage broker will conduct business within this State
24 ~~1-4~~ *, including, without limitation, any office or other place of*
25 *business located outside this State from which the mortgage*
26 *broker will conduct business in this State and any office or other*
27 *place of business which the applicant maintains as a corporate or*
28 *home office.*

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

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

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

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

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

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

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



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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 *in this State* at
14 one or more branch offices , ~~within this State,~~ the mortgage broker
15 must apply for a license for each such branch office.

16 3. Except as otherwise provided ~~in 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, *moral turpitude* or money
33 laundering.

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

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

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

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



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1 applicant will conduct business in this State if the applicant has a
2 license issued pursuant to this chapter for an office or other place
3 of business located in this State, and the applicant submits with
4 the application for a license a statement signed by the applicant
5 which states that the applicant agrees to:

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

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

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

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

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

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

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

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

44 The condition of that obligation is such that: Whereas, the
45 principal has been issued a license as a mortgage broker or



mortgage agent by the Commissioner of Mortgage Lending 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 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~~



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~~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 amount of the surety bond that must be deposited initially by a mortgage broker based upon the expected annual loan production amount and shall determine the appropriate amount of the surety bond annually based upon the actual annual loan production.

Sec. 48. NRS 645B.046 is hereby amended to read as follows:
645B.046 1. The surety may cancel a bond upon giving 60 days' notice to the Commissioner by certified mail. Upon receipt by the Commissioner of such a notice, the Commissioner immediately shall notify the licensee who is the principal on the bond of the effective date of cancellation of the bond, and that his or her license will be revoked unless the licensee furnishes an equivalent bond ~~for~~ *a substitute form of security authorized by NRS 645B.044* before the effective date of the cancellation. The notice must be sent to the licensee by certified mail to his or her last address of record filed in the office of the Division.

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

Sec. 49. (Deleted by amendment.)

Sec. 50. NRS 645B.050 is hereby amended to read as follows:
645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on ~~[June 30,]~~ *December 31*, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner *on or after November 1 and* on or before ~~[May 31]~~ *December 31* of each year ~~[;]~~ *, or on a date otherwise specified by the Commissioner by regulation:*

(a) An application for renewal;

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

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

(d) All information required *by the Commissioner or, if applicable, required by the Registry* to complete the renewal.

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



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- 1 (a) An application for renewal;
- 2 (b) The fee required to renew the license pursuant to this
- 3 section;
- 4 (c) The information required pursuant to NRS 645B.051;
- 5 (d) Except as otherwise provided in this section, a reinstatement
- 6 fee of not more than \$200; and
- 7 (e) All information required to complete the reinstatement.
- 8 3. Except as otherwise provided in NRS 645B.016, a certificate
- 9 of exemption issued pursuant to this chapter expires each year on
- 10 December 31, unless it is renewed. To renew a certificate of
- 11 exemption, a person must submit to the Commissioner *on or after*
- 12 *November 1 and* on or before ~~November 30~~ *December 31* of each
- 13 year ~~or~~ *or on a date otherwise specified by the Commissioner by*
- 14 *regulation:*
- 15 (a) An application for renewal that includes satisfactory proof
- 16 that the person meets the requirements for an exemption from the
- 17 provisions of this chapter; and
- 18 (b) The fee required to renew the certificate of exemption.
- 19 4. If the person fails to submit any item required pursuant to
- 20 subsection 3 to the Commissioner *on or after November 1 and* on
- 21 or before ~~November 30~~ *December 31* of any year, *unless a*
- 22 *different date is specified by the Commissioner by regulation,* the
- 23 certificate of exemption is cancelled as of December 31 of that year.
- 24 Except as otherwise provided in NRS 645B.016, the Commissioner
- 25 may reinstate a cancelled certificate of exemption if the person
- 26 submits to the Commissioner ~~or~~ *on or before February 28 of the*
- 27 *following year:*
- 28 (a) An application for renewal that includes satisfactory proof
- 29 that the person meets the requirements for an exemption from the
- 30 provisions of this chapter;
- 31 (b) The fee required to renew the certificate of exemption; and
- 32 (c) Except as otherwise provided in this section, a reinstatement
- 33 fee of not more than \$100.
- 34 5. Except as otherwise provided in this section, a person must
- 35 pay the following fees to apply for, to be issued or to renew a
- 36 license as a mortgage broker pursuant to this chapter:
- 37 (a) To file an original application for a license, not more than
- 38 \$1,500 for the principal office and not more than \$40 for each
- 39 branch office. The person must also pay such additional expenses
- 40 incurred in the process of investigation as the Commissioner deems
- 41 necessary.
- 42 (b) To be issued a license, not more than \$1,000 for the principal
- 43 office and not more than \$60 for each branch office.
- 44 (c) To renew a license, not more than \$500 for the principal
- 45 office and not more than \$100 for each branch office.



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

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

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

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

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

9. The Commissioner may, by regulation, adjust any fee or date set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his 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.

10. The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Commissioner or, if the licensee is required to register or voluntarily registers with the Registry, to the Commissioner through the Registry.

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 who is required to register or voluntarily registers with the Registry 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 NRS 645B.175, those accounts must be audited. ~~{The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that the public accountant submits the report to the mortgage broker.}~~

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

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

645B.092 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. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. 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. 54. NRS 645B.095 is hereby amended to read as follows:

645B.095 1. 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 broker; or

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

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

3. The person who acquires stock resulting in a change of control of the mortgage broker shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements of this chapter *and the Registry, if applicable*, for obtaining a license will be satisfied after the change of control. Except as otherwise provided in subsection 4, 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 broker.

4. A mortgage broker 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. 55. NRS 645B.165 is hereby amended to read as follows:

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



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

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

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

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

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

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

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

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

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

5. A mortgage broker shall:

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

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

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

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



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

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

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

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

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

(a) A construction control;

(b) An escrow agency or escrow agent; or

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

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

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

(a) Owns or controls a majority of the voting stock or holds any other controlling interest, directly or indirectly, that gives 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 ~~is~~:

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



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

~~3 (b) 2.~~ Explaining which party is responsible for the payment
4 of the fees described in ~~paragraph (a);~~ **subsection 1;** and

~~5 (c) 3.~~ Explaining the probable impact the fees described in
6 ~~paragraph (a)~~ **subsection 1** may have on the terms of the loan,
7 including, without limitation, the interest rates.

~~8 [2.—If a private investor has acquired a beneficial interest in the
9 loan, includes a fee for servicing the loan which must be specified in
10 the loan. The fee must be in an amount reasonably necessary to pay
11 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
14 secured by a lien on real property for which he or she engages in
15 activity as a mortgage broker includes ~~the~~ :

1. If the mortgage broker is not registered with the Registry,
17 **the license number of the mortgage broker ~~is~~; or**

2. 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
21 services of a mortgage agent or otherwise engage in, carry on or
22 hold himself or herself out as engaging in or carrying on the
23 activities of a mortgage agent unless the person ~~has~~ :

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

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

**3. If the person is required to register with the Registry, is
29 registered with and provides any identifying number issued by the
30 Registry.**

Sec. 61. NRS 645B.410 is hereby amended to read as follows:

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

(a) Be a natural person;

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

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

(d) Pay an application fee set by the Commissioner of not more
40 than \$185 ~~is~~; **and**

(e) Be:

**(1) Employed by, or have received an offer of employment
43 from, a mortgage broker;**

**(2) Employed by, or have received an offer of employment
45 from, a mortgage banker;**



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1 (3) *Associated with or employed by, or have received an*
2 *offer of a contract with or an offer of employment from, a person*
3 *who holds a certificate of exemption pursuant to NRS 645B.016;*
4 *or*

5 (4) *A loan processor who is not an employee and who is*
6 *associated with, or has received an offer of a contract with, a*
7 *mortgage broker, mortgage banker or person who holds a*
8 *certificate of exemption pursuant to NRS 645B.016.*

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

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

11 (b) Include a provision by which the applicant gives written
12 consent to *the Division and, if applicable, the Registry for* an
13 investigation of his or her credit history, criminal history and
14 background;

15 (c) ~~Include~~ *Unless fingerprints were submitted to the*
16 *Registry, include* a complete set of fingerprints which the Division
17 may forward to the Central Repository for Nevada Records of
18 Criminal History for submission to the Federal Bureau of
19 Investigation for its report;

20 (d) ~~If not licensed as a mortgage broker or mortgage banker~~
21 ~~pursuant to this chapter or chapter 645E of NRS, include~~ *Include* a
22 verified statement from the mortgage broker , ~~or~~ mortgage banker
23 *or person who holds a certificate of exemption pursuant to NRS*
24 *645B.016* with whom the applicant will be associated *or employed*
25 that expresses the intent of that mortgage broker , ~~or~~ mortgage
26 banker *or exempt person* to *employ or* associate the applicant with
27 the mortgage broker , ~~or~~ mortgage banker *or exempt person* and to
28 be responsible for the activities of the applicant as a mortgage agent;
29 and

30 (e) Include any other information or supporting materials
31 required pursuant to the regulations adopted by the Commissioner ,
32 ~~or~~ by an order of the Commissioner ~~or, if applicable, by the~~
33 *Registry*. Such information or supporting materials may include,
34 without limitation, other forms of identification of the person.

35 3. Except as otherwise provided ~~in this chapter,~~ *by law,* the
36 Commissioner shall issue a license as a mortgage agent to an
37 applicant if:

38 (a) The application is verified by the Commissioner and
39 complies with the applicable requirements of this chapter ~~or~~ , *other*
40 *applicable law and, if applicable, the Registry;* and

41 (b) The applicant:

42 (1) Has not been convicted of, or entered *or agreed to enter* a
43 plea of guilty or nolo contendere to, a felony in a domestic, foreign
44 or military court within the 7 years immediately preceding the date
45 of the application, or at any time if such felony involved an act of



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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 *5. The Commissioner may require the submission of an item*
22 *or the payment of a fee required by this section directly to the*
23 *Commissioner or, if the person submitting the item or fee is*
24 *required to register or voluntarily registers with the Registry, to*
25 *the Commissioner through the Registry.*

26 **Sec. 62.** NRS 645B.430 is hereby amended to read as follows:
27 645B.430 1. A license as a mortgage agent issued pursuant to
28 NRS 645B.410 expires ~~{1-year-after-the-date-the-license-is-issued,}~~
29 *each year on December 31*, unless it is renewed. To renew a license
30 as a mortgage agent, the holder of the license must *continue to meet*
31 *the requirements of subsection 3 of NRS 645B.410 and must*
32 submit to the Commissioner ~~{each-year,}~~ *on or after November 1*
33 *and on or before {the-date-the-license-expires:} December 31 of*
34 *each year, or on a date otherwise specified by the Commissioner*
35 *by regulation:*

36 (a) An application for renewal;

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

42 (c) A renewal fee set by the Commissioner of not more than
43 \$170.

44 2. If the holder of the license as a mortgage agent fails to
45 submit any item required pursuant to subsection 1 to the



Commissioner ~~[each year]~~ *on or after November 1 and* on or before ~~[the date the license expires,]~~ *December 31 of any year, unless a different date is specified by the Commissioner by regulation,* the license is cancelled ~~[.]~~ *as of December 31 of that year.* The Commissioner may reinstate a cancelled license if the holder of the license submits to the Commissioner ~~[.]~~ *on or before February 28 of the following year:*

(a) An application for renewal;

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

(c) A reinstatement fee of \$75.

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

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

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

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

~~—7.]~~ 5. *The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Division or, if the licensee is required to register or voluntarily registers with the Registry, to the Division through the Registry.*

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

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

645B.450 1. A person licensed as a mortgage agent pursuant to the provisions of NRS 645B.410 may not be associated with or employed by more than one *licensed or registered* mortgage broker *or mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* at the same time.

2. A mortgage broker, *mortgage banker or person who holds a certificate of exemption pursuant to NRS 645B.016* shall not associate with or employ a person as a mortgage agent or authorize a person to be associated with the mortgage broker, *mortgage banker or exempt person* as a mortgage agent if the mortgage agent is not licensed with the Division pursuant to NRS 645B.410. *Before allowing a mortgage agent to act on its behalf, a mortgage broker,*



1 *mortgage banker or person who holds a certificate of exemption*
2 *pursuant to NRS 645B.016 must:*

3 *(a) Enter its sponsorship of the mortgage agent with the*
4 *Registry; or*

5 *(b) If the mortgage agent is not required to be registered with*
6 *the Registry, notify the Division of its sponsorship of the mortgage*
7 *agent.*

8 3. If a mortgage agent terminates his or her association or
9 employment with a mortgage broker , *mortgage banker or person*
10 *who holds a certificate of exemption pursuant to NRS 645B.016*
11 *for any reason, the mortgage broker , mortgage banker or exempt*
12 *person shall, not later than the third business day following the date*
13 *of termination:*

14 *(a) ~~Deliver~~ Remove its sponsorship of the mortgage agent*
15 *from the Registry; or*

16 *(b) If the mortgage agent is not required to be registered with*
17 *the Registry, deliver to the Division and to the mortgage agent ~~for~~*
18 *~~send by certified mail to~~ at the last known residence address of the*
19 *mortgage agent a written statement which ~~advises the mortgage~~*
20 *~~agent that the termination is being reported to the Division; and~~*

21 *~~— (b) Deliver or send by certified mail to the Division;~~*

22 *~~— (1) The license or license number of the mortgage agent;~~*

23 *~~— (2) A written statement of the circumstances surrounding the~~*
24 *~~termination; and~~*

25 *~~— (3) A copy of the written statement that the mortgage broker~~*
26 *~~delivers or mails to the mortgage agent pursuant to paragraph (a).]~~*
27 *includes the name, address and license number of the mortgage*
28 *agent and a statement of the circumstances of the termination.*

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

30 645B.490 *Except as otherwise required by the Registry for*
31 *persons who are required to register or voluntarily register with*
32 *the Registry:*

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

39 2. At any time within 6 months after termination of such
40 service, if the mortgage broker or mortgage agent complies with the
41 provisions of subsection 1, the mortgage broker or mortgage agent
42 may be reinstated, without having to meet any qualification or
43 requirement other than the payment of the reinstatement fee, as
44 provided in NRS 645B.050 or 645B.430, and the mortgage broker



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1 or mortgage agent is not required to make payment of the renewal
2 fee for the current year.

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

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

8 645B.600 1. A person may file with the Commissioner a
9 complaint alleging that another person has violated a provision of
10 this chapter, a regulation adopted pursuant to this chapter or an
11 order of the Commissioner.

12 2. A complaint filed pursuant to this section must:

13 (a) Be in writing;

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

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

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

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

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

27 **Sec. 66.** NRS 645B.670 is hereby amended to read as follows:

28 645B.670 Except as otherwise provided in NRS 645B.690:

29 1. For each violation committed by an applicant for a license
30 issued pursuant to this chapter, whether or not the applicant is issued
31 a license, the Commissioner may impose upon the applicant an
32 administrative fine of not more than \$25,000 if the applicant:

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

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

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

43 2. For each violation committed by a mortgage broker, the
44 Commissioner may impose upon the mortgage broker an
45 administrative fine of not more than \$25,000, may suspend, revoke



1 or place conditions upon the mortgage broker's license, or may do
2 both, if the mortgage broker, whether or not acting as such:

3 (a) Is insolvent;

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

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

10 (d) Is in such financial condition that the mortgage broker
11 cannot continue in business with safety to his or her customers;

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

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

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

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

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

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

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

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

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



(n) 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;

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

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

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

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

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

(1) Had been convicted of, or entered *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 application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, *moral turpitude* or money laundering; or

(2) 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 or registration ~~{suspended or}~~ revoked within the immediately preceding 10 years;

(t) Has violated NRS 645C.557; *or*

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

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

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

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



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

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

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

(e) Has 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, *moral turpitude* or money laundering.

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

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

(h) Has engaged in any other conduct constituting a deceitful, 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*



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(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.



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

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

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

6 645E.010 As used in this chapter, unless the context otherwise
7 requires, the words and terms defined in NRS 645E.020 to
8 645E.100, inclusive, ***and section 69 of this act*** have the meanings
9 ascribed to them in those sections.

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

11 645E.040 “Commercial property” means any real property
12 which is located in this state and which is ~~not~~ ***neither*** used ~~for a~~
13 ~~residential dwelling or dwellings intended for occupancy by four or~~
14 ~~fewer families.]~~ ***as a dwelling nor upon which a dwelling is***
15 ***constructed or intended to be constructed. For the purposes of this***
16 ***section, “dwelling” has the meaning ascribed to it in section***
17 ***103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).***

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

19 645E.150 Except as otherwise provided in NRS 645E.160, ***the***
20 ***Secure and Fair Enforcement for Mortgage Licensing Act of***
21 ***2008, 12 U.S.C. §§ 5101 et seq., and any regulations adopted***
22 ***pursuant thereto or other applicable law,*** the provisions of this
23 chapter do not apply to:

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

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

34 3. An employee benefit plan, as defined in 29 U.S.C. §
35 1002(3), if the loan is made directly from money in the plan by the
36 plan’s trustee.

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

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

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

42 7. Any one natural person, or husband and wife, who provides
43 money for investment in ***commercial*** loans secured by a lien on real
44 property, on his or her own account, unless such a person makes a
45 loan secured by a lien on real property using his or her own money



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1 and assigns all or a part of his or her interest in the loan to another
2 person, other than his or her spouse or child, within ~~15~~ 3 years after
3 the date on which the loan is made or the deed of trust is recorded,
4 whichever occurs later.

5 **8. A natural person who only offers or negotiates terms of a**
6 **residential mortgage loan:**

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

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

11 ~~18~~ 9. Agencies of the United States and of this State and its
12 political subdivisions, including the Public Employees' Retirement
13 System.

14 ~~19~~ 10. A seller of real property who offers credit secured by a
15 mortgage of the property sold.

16 **11. A nonprofit agency or organization:**

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

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

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

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

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

28 **12. A housing counseling agency approved by the United**
29 **States Department of Housing and Urban Development.**

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

31 645E.160 1. Except as otherwise provided in subsection 2, a
32 person who claims an exemption from the provisions of this chapter
33 pursuant to subsection 1 of NRS 645E.150 must:

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

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

37 (c) Include with the written application satisfactory proof that
38 the person meets the requirements of subsection 1 of NRS
39 645E.150; and

40 (d) Provide evidence to the Commissioner that the person is
41 duly licensed to conduct his or her business, including, if applicable,
42 the right to transact mortgage loans, and such license is in good
43 standing pursuant to the laws of this State, any other state or the
44 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 ~~19~~ 12, inclusive, of NRS 645E.150 to:

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

(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 him or her, 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.

8. The Commissioner may require an applicant or person described in subsection 7 to submit the information or pay the fee directly to the Division or, if the applicant or person is required to



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1 *register or voluntarily registers with the Registry, to the Division*
2 *through the Registry.*

3 *9. An application filed pursuant to subsection 7 does not*
4 *affect the applicability of this chapter to such an applicant or*
5 *person.*

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

7 645E.170 1. A person may apply to the Commissioner for an
8 exemption from the provisions of this chapter governing the making
9 of a loan of money ~~§~~ *only for a loan secured by commercial*
10 *property.*

11 2. The Commissioner may grant the exemption if the
12 Commissioner finds that:

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

15 (b) The lender or the debtor has established a record of sound
16 performance, efficient management, financial responsibility and
17 integrity;

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

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

22 3. The Commissioner:

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

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

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

28 645E.200 1. A person who wishes to be licensed as a
29 mortgage banker must file a written application for a license with
30 the Office of the Commissioner and pay the fee required pursuant to
31 NRS 645E.280. An application for a license as a mortgage banker
32 must:

33 (a) Be verified.

34 (b) State the name, residence address and business address of
35 the applicant and the location of each principal office and branch
36 office at which the mortgage banker will conduct business in this
37 State, including, without limitation, any office or other place of
38 business located outside this State from which the mortgage banker
39 will conduct business in this State ~~§~~ *and any office or other place*
40 *of business which the applicant maintains as a corporate or home*
41 *office.*

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

44 (d) If the applicant is not a natural person, list the name,
45 residence address and business address of each person who will



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1 have an interest in the mortgage banker as a principal, partner,
2 officer, director or trustee, specifying the capacity and title of each
3 such person.

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

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

7 (g) Include a financial statement of the applicant.

8 (h) *Include a complete set of fingerprints for each natural*
9 *person who is a principal, partner, officer, director or trustee of*
10 *the applicant which the Division may forward to the Central*
11 *Repository for Nevada Records of Criminal History for submission*
12 *to the Federal Bureau of Investigation for its report.*

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

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

19 3. Except as otherwise provided ~~fin this chapter,}~~ *by law*, the
20 Commissioner shall issue a license to an applicant as a mortgage
21 banker if:

22 (a) The application *is verified by the Commissioner and*
23 *complies with the requirements of this chapter {;}, other applicable*
24 *law and, if applicable, the Registry;* and

25 (b) The applicant and each general partner, officer or director of
26 the applicant, if the applicant is a partnership, corporation or
27 unincorporated association:

28 (1) Has ~~la good reputation for honesty, trustworthiness and~~
29 ~~integrity and displays competence to transact the business of a~~
30 ~~mortgage banker in a manner which safeguards the interests of the~~
31 ~~general public. The applicant must submit satisfactory proof of these~~
32 ~~qualifications to the Commissioner.~~

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

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

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

42 ~~— (5) Has not had a license that was issued in any other state,~~
43 ~~district or territory of the United States or any foreign country~~
44 ~~suspended or revoked within the 10 years immediately preceding the~~
45 ~~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, moral turpitude 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 officer or director of the corporation or unincorporated association has committed any act or omission that would be cause for refusing to issue a license to a natural person.

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



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

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

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

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

645E.280 1. A license issued to a mortgage banker pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner *on or after November 1 and* on or before December 31 of each year ~~and~~, *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 license pursuant to this section ~~and~~; *and*

(c) *All information required by the Commissioner or, if applicable, required by the Registry to complete the renewal.*

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner *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 license is cancelled ~~and~~ *as of December 31 of that year.* The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner ~~and~~ *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 license pursuant to this section; ~~and~~

(c) ~~and~~ *Except as otherwise provided in this section, a reinstatement fee of not more than \$200 and; 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 *on or after November 1 and* on or before December 31 of each year ~~and~~, *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



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

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner *on or 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 ~~it~~ *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) ~~it~~ *Except as otherwise provided in this section, a* reinstatement fee of not more than \$100.

5. ~~it~~ *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. ~~it~~ *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



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determined to be necessary for the Commissioner to carry out his or her duties pursuant to this chapter.

10. The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Division or, if the licensee is required to register or voluntarily registers with the Registry, to the Division through the Registry.

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

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

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

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



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

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

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

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

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

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

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

645E.350 1. Each mortgage banker shall keep and maintain at all times at each location where the mortgage banker conducts business in this State complete and suitable records of all mortgage transactions made by the mortgage banker at that location. Each mortgage banker 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 banker.

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

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

(b) Include any information required 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 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:



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(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 who is required to register or voluntarily registers with the Registry 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 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~~ ***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 may require the financial statement to be submitted directly to the Commissioner or, if the mortgage banker that submits the financial statement is required to register or voluntarily registers with the Registry, to the Division through the Registry.***

5. 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 ~~15~~ 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.



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

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

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

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

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

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

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

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

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

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by 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 licensee, the Commissioner may impose upon the licensee an administrative fine of not more than ~~[\$10,000,]~~ **\$25,000**, may suspend, revoke or place conditions upon the license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;



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(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, moral turpitude 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;



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1 (o) Has violated NRS 645C.557;
2 (p) Has commingled the money or other property of a client
3 with his or her own or has converted the money or property of
4 others to his or her own use; or

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

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

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

10 645E.690 1. If a person offers or provides any of the services
11 of a mortgage banker or mortgage agent or otherwise engages in,
12 carries on or holds himself or herself out as engaging in or carrying
13 on the business of a mortgage banker or mortgage agent and, at the
14 time:

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

17 (b) The person's license was suspended or revoked pursuant to
18 this chapter,

19 ➔ the Commissioner shall impose upon the person an
20 administrative fine of not more than \$50,000 for each violation and,
21 if the person has a license, the Commissioner ~~{shall}~~ *may suspend*
22 *or* revoke it.

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

33 (a) Impose upon the mortgage banker an administrative fine of
34 not more than ~~{ \$10,000 }~~ *\$25,000* for each violation;

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

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

41 **Sec. 86.** NRS 645E.955 is hereby amended to read as follows:

42 645E.955 1. ~~{The holder of}~~ *A person who engages in an*
43 *activity for which* a license as a mortgage banker ~~{may be}~~ *is*
44 *required pursuant to this chapter, without regard to whether such*
45 *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, 88.5 and 90 of this
10 act.

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

16 **Sec. 88.5.** *A person who performs any covered service for*
17 *compensation, a foreclosure consultant and a loan modification*
18 *consultant shall not claim, demand, charge, collect or receive any*
19 *compensation before a homeowner has executed a written*
20 *agreement with the lender or servicer incorporating the offer of*
21 *mortgage assistance obtained from the lender or servicer by the*
22 *person who performs any covered service for compensation, the*
23 *foreclosure consultant or the loan modification consultant.*

24 **Sec. 89.** (Deleted by amendment.)

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

29 **2.** *As used in this section:*

30 *(a) “Mortgage agent” has the meaning ascribed to in NRS*
31 *645B.0125; and*

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

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

35 645F.280 1. The Commissioner shall establish by regulation
36 rates to be paid by ~~fescrow agencies, mortgage agents, mortgage~~
37 ~~brokers, mortgage bankers, persons who perform any covered~~
38 ~~service for compensation, foreclosure consultants and loan~~
39 ~~modification consultants] all persons licensed by the Commissioner~~
40 *or the Division* for supervision and examinations by the
41 Commissioner or the Division.

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

44 (a) The complexity of the various examinations to which the rate
45 applies;



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- (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 ~~+~~

~~—(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.



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~~(c)~~ (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,



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1 ↪ residential mortgage loan originators included in the Registry for
2 access by the public.

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

4 645F.300 As used in NRS 645F.300 to 645F.450, inclusive,
5 *and sections 88 and 88.5 of this act*, unless the context otherwise
6 requires, the words and terms defined in NRS 645F.310 to
7 645F.370, inclusive, *and section 88 of this act* have the meanings
8 ascribed to them in those sections.

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

10 645F.310 "Covered service" includes, without limitation:

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

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

16 3. Contacting a creditor on behalf of a homeowner.

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

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

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

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

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

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

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

39 *11. Providing the services of a loan modification consultant.*

40 *12. Providing the services of a foreclosure consultant.*

41 **Sec. 97.** NRS 645F.370 is hereby amended to read as follows:

42 645F.370 "Residence in foreclosure" means residential real
43 property consisting of not more than four family dwelling units ~~to~~
44 ~~one of which the homeowner occupies as his or her principal place~~
45 ~~of residence,~~ and against which there is an outstanding notice of the



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1 pendency of an action for foreclosure recorded pursuant to NRS
2 14.010 or notice of default and election to sell recorded pursuant to
3 NRS 107.080.

4 **Sec. 98.** NRS 645F.380 is hereby amended to read as follows:
5 645F.380 ~~¶The~~

6 ***1. Except as otherwise provided in subsection 2, the***
7 ***provisions of NRS 645F.300 to 645F.450, inclusive, and sections***
8 ***88 and 88.5 of this act*** do not apply to, and the terms “foreclosure
9 consultant” and “foreclosure purchaser” do not include:

10 ~~¶1~~ ***(a)*** An attorney at law rendering services in the
11 performance of his or her duties as an attorney at law, unless the
12 attorney at law is rendering those services in the course and scope of
13 his or her employment by or other affiliation with a ~~mortgage~~
14 ~~broker or mortgage agent;~~ ***person who is licensed or required to be***
15 ***licensed pursuant to NRS 645F.390;***

16 ~~¶2~~ ***(b)*** A provider of debt-management services registered
17 pursuant to chapter 676A of NRS while providing debt-management
18 services pursuant to chapter 676A of NRS;

19 ~~¶3~~ ***(c)*** A person or the authorized agent of a person acting
20 under the provisions of a program sponsored by the Federal
21 Government, this State or a local government, including, without
22 limitation, the Department of Housing and Urban Development, the
23 Federal Home Loan Mortgage Corporation, the Federal National
24 Mortgage Association or the Federal Home Loan Bank ~~¶~~ ***System;***

25 ~~¶4~~ ***(d)*** A person who holds or is owed an obligation secured by
26 a mortgage or other lien on a residence in foreclosure if the person
27 performs services in connection with this obligation or lien and the
28 obligation or lien did not arise as the result of or as part of a
29 proposed foreclosure reconveyance;

30 ~~¶5~~ ***(e)*** Any person doing business under the laws of this State
31 or of the United States relating to banks, trust companies, savings
32 and loan associations, industrial loan and thrift companies, regulated
33 lenders, credit unions, insurance companies, or a mortgagee which
34 is a United States Department of Housing and Urban Development
35 approved mortgagee and any subsidiary or affiliate of those persons,
36 and any agent or employee of those persons while engaged in the
37 business of those persons;

38 ~~¶6~~ ***(f)*** A person, other than a person who is licensed pursuant
39 to NRS 645F.390, who is licensed pursuant to chapter 692A or any
40 chapter of title 54 of NRS while acting under the authority of the
41 license;

42 ~~¶7~~ ***(g)*** A nonprofit agency or organization that offers credit
43 counseling or advice to a homeowner of a residence in foreclosure
44 or a person in default on a loan; or



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~~{8-}~~ (h) 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.

2. The provisions of section 88.5 of this act apply to an attorney at law who renders services in the performance of his or her duties as an attorney at law regardless of whether the attorney at law renders those services in the course and scope of his or her employment by or other affiliation with a person who is licensed or required to be licensed pursuant to NRS 645F.390.

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 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~~



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1 ~~consultant~~ shall execute a written contract with a homeowner
2 before providing any covered service.

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

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

8 645F.394 ~~[1.—All money paid to a person who performs any~~
9 ~~covered service for compensation, a foreclosure consultant or a loan~~
10 ~~modification consultant by a person in full or partial payment of~~
11 ~~covered services to be performed:~~

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

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

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

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

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

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



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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 ~~for 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~~



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~~foreclosure consultant~~ \$25,000 on any person licensed or 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 or any other applicable law.~~

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. 106.5. 1. The Commissioner shall issue a provisional license as an escrow agency or an escrow agent, as applicable, to a person if, on or before October 1, 2011, the person submits to the Commissioner:

(a) For a provisional license as an escrow agency, proof satisfactory to the Commissioner that the person is a construction control and that the majority of the business conducted by the person is business in which the person serves as a construction control;

(b) For a provisional license as an escrow agent, proof satisfactory to the Commissioner that the person is a natural person who engages in activity related to the business of a construction control on behalf of a construction control who holds a provisional license as an escrow agency or holds a license as an escrow agency;

(c) A complete application for a license as an escrow agency or an escrow agent, as applicable, which complies with the requirements of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto, accompanied by all other documentation and materials required of an applicant for a license as an escrow agency or an escrow agent, as applicable, by the provisions of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto, except for regulations adopted pursuant to NRS 645A.021;

(d) For a provisional license as an escrow agency, a bond which complies with the requirements of NRS 645A.041, as amended by section 6 of this act, or a substitute for that bond which complies with the requirements of NRS 645A.042; and

(e) A statement satisfactory to the Commissioner, signed by the person, that the person understands the provisions of this section including, without limitation, the provisions governing the expiration of a provisional license.

2. Upon receipt of documentation and materials from a person pursuant to subsection 1, the Commissioner shall:

(a) Determine whether the person has submitted all documentation and materials required by subsection 1 for a provisional license as an escrow agency or an escrow agent;

(b) If the person has submitted all documentation and materials required by subsection 1 for a provisional license as an escrow agency, issue to the person a provisional license as an escrow agency;



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(c) If the person has submitted all documentation and materials required by subsection 1 for a provisional license as an escrow agent, issue to the person a provisional license as an escrow agent; and

(d) Without regard to whether the Commissioner issues a provisional license as an escrow agency or an escrow agent to the person pursuant to paragraph (b) or (c), if the person has submitted all documentation and materials required by paragraph (c) of subsection 1 to apply for a license as an escrow agency or an escrow agent, process the materials as an application for a license as an escrow agency or an escrow agent, as applicable, in accordance with the provisions of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto. Notwithstanding any provisions of this paragraph to the contrary, if the Commissioner issues a provisional license as an escrow agency or an escrow agent to the person pursuant to paragraph (b) or (c), the Commissioner may cease any processing of the person's application for a license as an escrow agency or an escrow agent, as applicable, upon expiration of the provisional license pursuant to the provisions of this section.

3. Except as otherwise provided in this section, a provisional license as an escrow agency or an escrow agent shall be deemed to be a license as an escrow agency or an escrow agent, as applicable.

4. A provisional license expires automatically:

(a) Notwithstanding the provisions of subsection 7, upon receipt by the person of written notice from the Commissioner that the Commissioner has denied, for any reason, the person's application for a license as an escrow agency or an escrow agent, as applicable;

(b) Upon the issuance to the person by the Commissioner of a license as an escrow agency or an escrow agent, as applicable;

(c) Ninety days after the date of issuance of the provisional license if the holder of the provisional license:

(1) Is a natural person who is required by NRS 645A.021 and any regulations adopted pursuant thereto to complete educational prerequisites to obtain a license as an escrow agency or an escrow agent, as applicable;

(2) Has not completed the educational prerequisites specified in subparagraph (1) as required for an applicant for a license as an escrow agency or an escrow agent, as applicable; and

(3) Has not requested, or the Commissioner has denied a request by the holder for, an extension of the time for completion of the educational prerequisites specified in this paragraph; or

(d) On December 31, 2011, if the holder of the provisional license has not requested, or the Commissioner has denied a request by the holder for, an extension of the expiration date set forth in this paragraph.



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5. A request for an extension pursuant to subparagraph (3) of paragraph (c) of subsection 4 or paragraph (d) of subsection 4 must set forth reasons which would support a finding by the Commissioner of good cause to grant the extension. The Commissioner may grant such a request for an extension only upon a finding by the Commissioner that good cause exists to grant such an extension.

6. The Commissioner shall not issue a provisional license to a person who submits the documentation and materials required by subsection 1 for a provisional license after October 1, 2011.

7. A provisional license issued by the Commissioner before July 1, 2011:

(a) Is effective on July 1, 2011; and

(b) Shall be deemed to have been issued on July 1, 2011.

8. As used in this section:

(a) "Commissioner" has the meaning ascribed to it in NRS 645A.010.

(b) "Construction control" has the meaning ascribed to it in NRS 627.050.

(c) "License" means a license as an escrow agency or an escrow agent, as applicable, issued pursuant to the provisions of chapter 645A of NRS, as amended by this act, and all regulations adopted pursuant thereto.

(d) "Provisional license" means a provisional license as an escrow agency or an escrow agent, as applicable, issued pursuant to the provisions of this section.

Sec. 107. This act becomes effective:

1. 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

2. On July 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 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.

