

Amendment No. 772

Senate Amendment to Assembly Bill No. 77 Second Reprint (BDR 54-481)

Proposed by: Senator Schneider**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of A.B. 77 (§§ 8, 9, 50, 62, 76, 91, 92).

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted ☐ Lost ☐	_____	Adopted ☐ Lost ☐	_____
Concurred In ☐ Not ☐	_____	Concurred In ☐ Not ☐	_____
Receded ☐ Not ☐	_____	Receded ☐ Not ☐	_____

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

SHORT FORM AMENDMENT

Sections 87, 88.5, 95 and 98 of this act are the only sections affected by this amendment.

MSN/TMC



Date: 5/24/2011

A.B. No. 77—Makes various changes relating to mortgage lending and related professionals.
(BDR 54-481)



If this amendment is adopted, the Legislative Counsel's Digest will be changed as follows:

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.

Section 87 of Assembly Bill No. 77 is hereby amended as follows:

Sec. 87. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 88, ~~88.5~~ and 90 of this act.

Section 88.5 of Assembly Bill No. 77 is hereby amended as follows:

Sec. 88.5. ~~(Deleted by amendment.)~~

Section 95 of Assembly Bill No. 77 is hereby amended as follows:

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

2 645F.300 As used in NRS 645F.300 to 645F.450, inclusive, ~~and [sections]~~ **section 88** ~~and~~
3 ~~88.5] of this act~~, unless the context otherwise requires, the words and terms defined in NRS
4 645F.310 to 645F.370, inclusive, ~~and section 88 of this act~~ have the meanings ascribed to them
5 in those sections.

Section 98 of Assembly Bill No. 77 is hereby amended as follows:

6 **Sec. 98.** NRS 645F.380 is hereby amended to read as follows:

7 645F.380 ~~The~~

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

11 1. ~~[(a)]~~ An attorney at law rendering services in the performance of his or her duties as an
12 attorney at law, unless the 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 broker or mortgage agent;]~~ **person**
14 **who is licensed or required to be licensed pursuant to NRS 645F.390;**

15 2. ~~[(b)]~~ A provider of debt-management services registered pursuant to chapter 676A of NRS
16 while providing debt-management services pursuant to chapter 676A of NRS;

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

22 4. ~~[(d)]~~ A person who holds or is owed an obligation secured by a mortgage or other lien on
23 a residence in foreclosure if the person performs services in connection with this obligation or
24 lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure
25 reconveyance;

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

32 6. ~~[(f)]~~ A person, other than a person who is licensed pursuant to NRS 645F.390, who is
33 licensed pursuant to chapter 692A or any chapter of title 54 of NRS while acting under the
34 authority of the license;

35 7. ~~[(g)]~~ A nonprofit agency or organization that offers credit counseling or advice to a
36 homeowner of a residence in foreclosure or a person in default on a loan; or

37 8. ~~[(h)]~~ A judgment creditor of the homeowner whose claim accrued before the recording of
38 the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS
39 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

40 ~~[2. The provisions of section 88.5 of this act apply to an attorney at law who renders~~
41 ~~services in the performance of his or her duties as an attorney at law regardless of whether the~~
42 ~~attorney at law renders those services in the course and scope of his or her employment by or~~

1 ~~other affiliation with a person who is licensed or required to be licensed pursuant to NRS~~
2 ~~645F.390.]~~