

ASSEMBLY BILL NO. 311—ASSEMBLYMEN
ARAUJO; NEAL AND THOMPSON

MARCH 16, 2015

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to the regulation of residential mortgage bankers, mortgage brokers, mortgage loan originators and mortgage servicers and enacts the Nevada Private Money Real Estate Loan Act. (BDR 54-668)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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

AN ACT relating to mortgage lending; requiring a mortgage banker, mortgage broker, mortgage loan originator and mortgage servicer to obtain a private money endorsement before engaging in the solicitation of private money investors to fund residential mortgage loans; providing for the licensure and regulation of mortgage bankers, mortgage brokers, mortgage loan originators and mortgage servicers who originate, broker and service residential mortgage loans secured by real property located in this State; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law establishes the office of the Commissioner of Mortgage Lending
2 within the Division of Mortgage Lending of the Department of Business and
3 Industry. (NRS 232.510, 232.520, 645F.150-645F.190) The Commissioner and the
4 Division are granted the authority to administer the provisions of chapters 645A,
5 645B, 645E and 645F of NRS, subject to the supervision of the Director of the
6 Department. (NRS 645F.250) Under existing law: (1) chapter 645A of NRS
7 provides for the licensure and regulation of escrow agencies and agents; (2) chapter
8 645B of NRS provides for the licensure and regulation of mortgage brokers and
9 mortgage agents; (3) chapter 645E of NRS provides for the licensure and regulation
10 of mortgage bankers; and (4) chapter 645F of NRS provides for the licensure and



regulation of foreclosure consultants, loan modification consultants and certain other persons. In addition, chapter 645B of NRS establishes certain provisions governing mortgage brokers who engage in the practice of brokering mortgage loans funded by private investors.

Sections 50-144 of this bill create new, and amend existing, provisions of chapter 645B of NRS to provide for the licensure and regulation of all mortgage bankers, mortgage brokers, mortgage loan originators and mortgage servicers who originate, broker and service residential mortgage loans secured by real property located in this State. **Sections 2-47** of this bill create a new chapter within title 54 of NRS, to be known as the Nevada Private Money Real Estate Loan Act, that authorizes the Commissioner of Mortgage Lending to regulate any person who holds a license pursuant to chapter 645B of NRS and who is engaged in the practice of soliciting private money investors to fund residential mortgage loans. Such licensees must apply for and receive a private money endorsement to their existing license and comply with certain regulations and reporting requirements. **Sections 145-151** of this bill amend certain provisions of chapter 645E of NRS to make the chapter applicable only to mortgage bankers who originate commercial mortgage loans. **Sections 152-161** of this bill amend certain provisions of chapter 645F of NRS, regarding the duties and powers of the Commissioner, to reflect the changes made by the provisions of this bill. **Section 180** of this bill repeals various sections of chapters 645B, 645E and 645F of NRS in accordance with the changes made by the other provisions of this bill.

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 47, inclusive, of this act.

Sec. 2. *This chapter may be cited as the Nevada Private Money Real Estate Loan Act.*

Sec. 3. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 16, inclusive, of this act, and NRS 645B.0104 to 645B.0132, inclusive, and sections 50 to 69, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *“Applicant” means a person who has made application for a private money endorsement in accordance with the provisions of this chapter.*

Sec. 5. *“Construction control” has the meaning ascribed to it in NRS 627.050.*

Sec. 6. *“Insider loan” means any extension of credit to an insider. For the purposes of this section, “extension of credit” includes, without limitation, any new loan, loan renewal or line of credit or any other financial right structured in any manner and arranged by a private money endorsee as a means for the borrower to defer payment on an existing debt or to incur debt and defer immediate payment.*



1 **Sec. 7. “Lending limit” means the maximum dollar amount**
2 **permitted for the aggregate amount of insider loans arranged by a**
3 **private money endorsee.**

4 **Sec. 8. “Majority of the private money investors” means the**
5 **accumulation of private money investors holding 51 percent or**
6 **more of the beneficial interests in a loan based on the percentage**
7 **of dollars outstanding on the principal balance of the loan.**

8 **Sec. 9. “Mortgage banker” has the meanings ascribed to it in**
9 **NRS 645E.100 and section 61 of this act.**

10 **Sec. 10. “Policy of title insurance” has the meaning ascribed**
11 **to it in NRS 692A.035.**

12 **Sec. 11. “Private money endorsee” means a person who,**
13 **directly or indirectly:**

14 1. **Makes or funds, or offers to make or fund, a loan with**
15 **money provided by one or more private money investors;**

16 2. **Solicits or accepts any money from a private money**
17 **investor to invest in a loan secured by a mortgage or deed of trust**
18 **on real property; or**

19 3. **Buys or sells, or offers to buy or sell, notes secured by a**
20 **mortgage or deed of trust on real property with money provided by**
21 **one or more private money investors.**

22 **Sec. 12. “Private money endorsement” means an**
23 **endorsement issued by the Commissioner to a person who is**
24 **licensed as a mortgage banker, mortgage broker, mortgage loan**
25 **originator or mortgage servicer pursuant to chapter 645B of NRS**
26 **or as a mortgage banker pursuant to chapter 645E of NRS to**
27 **engage in the activities of a private money endorsee.**

28 **Sec. 13. “Private money investor” means a person who**
29 **provides his or her own money for investment through a private**
30 **money endorsee with the purpose of acquiring ownership of, or a**
31 **beneficial interest in, a loan secured by a mortgage or deed of**
32 **trust on real property.**

33 **Sec. 14. “Private money loan” means a loan secured by a**
34 **mortgage or deed of trust on real property that is funded, in whole**
35 **or in part, by money provided by a private money investor. To**
36 **qualify as a private money loan, the loan transaction must be**
37 **closed by a private money endorsee as the lender of record before**
38 **assigning any portion of the loan to any private money investor,**
39 **even if the assignments are made simultaneously at the initial**
40 **escrow closing.**

41 **Sec. 15. “Title agent” has the meaning ascribed to it in**
42 **NRS 692A.060.**

43 **Sec. 16. “Title insurer” has the meaning ascribed to it in**
44 **NRS 692A.070.**



1 **Sec. 17.** *A person shall not, directly or indirectly, provide, or*
2 *offer to provide, any of the services of a private money endorsee in*
3 *this State without first obtaining a private money endorsement in*
4 *accordance with the provisions of this chapter.*

5 **Sec. 18.** 1. *A person who is licensed pursuant to chapter*
6 *645B or 645E of NRS may apply to the Commissioner for a private*
7 *money endorsement.*

8 2. *An application for a private money endorsement must be*
9 *made in writing to the Commissioner on a form prescribed by the*
10 *Commissioner.*

11 3. *In addition to any information required by chapter 645B or*
12 *645E of NRS, as applicable, an application for a private money*
13 *endorsement must include:*

14 (a) *The application fee required pursuant to section 21 of this*
15 *act;*

16 (b) *Evidence that, where required, the applicant has the*
17 *requisite experience with the origination and servicing of private*
18 *money loans needed to effectively comply with the requirements of*
19 *this chapter; and*

20 (c) *Evidence that the applicant has met any educational*
21 *standards adopted by the Commissioner pursuant to subsection 2*
22 *of section 22 of this act.*

23 **Sec. 19.** *The Commissioner shall not issue a private money*
24 *endorsement to an applicant unless, after investigation, the*
25 *Commissioner finds:*

26 1. *That the applicant:*

27 (a) *Is licensed pursuant to chapter 645B or 645E of NRS and*
28 *meets all the requirements of this chapter; and*

29 (b) *Has provided satisfactory proof that he or she has*
30 *completed any educational requirements adopted by the*
31 *Commissioner pursuant to subsection 2 of section 22 of this act;*
32 *and*

33 2. *If the applicant:*

34 (a) *Is applying to be the qualified employee of a person*
35 *licensed pursuant to chapter 645B or 645E of NRS, that the*
36 *applicant has a minimum of 2 years of verifiable experience*
37 *working for a private money endorsee in good standing within the*
38 *immediately preceding 5 years; or*

39 (b) *Is not applying to be the qualified employee of a person*
40 *licensed pursuant to chapter 645B or 645E of NRS, that the*
41 *applicant has provided satisfactory evidence that he or she is, or*
42 *will be, working under the direct supervision of a qualified*
43 *employee who holds a valid private money endorsement. A*
44 *qualified employee with a valid private money endorsement may*
45 *supervise more than one private money endorsee.*



Sec. 20. 1. Each private money endorsement issued pursuant to the provisions of this chapter expires, and may be renewed, at the same time as the license issued pursuant to chapter 645B or 645E of NRS, as applicable, of the holder of the private money endorsement.

2. To renew a private money endorsement, the holder of the private money endorsement shall submit a written application for renewal at a time and on a form prescribed by the Commissioner. The application for renewal must:

(a) Include the annual renewal fee required pursuant to section 21 of this act;

(b) Provide satisfactory evidence that the applicant continues to meet the requirements pursuant to sections 18 and 19 of this act to hold a private money endorsement;

(c) Provide satisfactory evidence that the applicant has successfully completed any continuing educational requirements adopted by the Commissioner pursuant to subsection 2 of section 22 of this act; and

(d) Provide any other applicable information required by the Commissioner.

Sec. 21. 1. The Commissioner shall establish by regulation a schedule of fees that are sufficient to pay, but not to exceed, the reasonably anticipated costs to the Division of administering and enforcing the provisions of this chapter as follows:

(a) To file an application for or to renew or reinstate a private money endorsement, a fee not to exceed \$50;

(b) To amend an existing or obtain a duplicate copy of a private money endorsement, a fee not to exceed \$20; and

(c) To file a change of association for a private money endorsement, a fee not to exceed \$10.

2. If a person who holds a private money endorsement fails to renew the endorsement, the person may reinstate the private money endorsement if, within 60 days after the expiration of the private money endorsement, the person submits an application for renewal pursuant to section 20 of this act and pay the fees for renewal and reinstatement established pursuant to subsection 1.

Sec. 22. 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall have jurisdiction over and shall exercise the general supervision and control over all holders of private money endorsements subject to this chapter and doing business in this State.

2. In addition to any other duty or authority assigned or granted pursuant to this chapter and chapters 645B and 645E of NRS, the Commissioner may:



(a) Adopt any regulations necessary to efficiently and effectively carry out the provisions of this chapter, including, without limitation, regulations establishing the educational certifications and requirements for applicants for and holders of a private money endorsement;

(b) Issue or refuse to issue, renew or refuse to renew, reinstate or refuse to reinstate or amend or refuse to amend a private money endorsement; and

(c) Revoke, suspend or place a condition on a private money endorsement in accordance with the provisions of this chapter or chapter 645B or 645E of NRS, as applicable.

3. The authority granted pursuant to this section does not authorize the Commissioner to regulate loan brokerage fees within this State.

Sec. 23. 1. A private money endorsee shall not accept or receive money from a private money investor directly, or arrange for a private money investor to indirectly pay money to a third party, to invest in or to acquire ownership of or a beneficial interest in a loan secured by a mortgage or deed of trust on real property unless:

(a) The private money endorsee provides to the private money investor the following information in writing:

(1) Whether the real property that will secure the loan is encumbered by any other liens and, if so, the priority of each such lien, the amount of debt secured by each such lien and the current status of that debt, including, without limitation, whether the debt is in default or whether a notice of foreclosure has been issued by the lienholder, which may be accomplished by providing to the private money investor a preliminary title report prepared by a title company that is contracted to issue a lender's policy of title insurance upon the closing of the loan;

(2) Whether the private money endorsee or any control person of the private money endorsee has any direct or indirect interest in the borrower or prospective borrower or any existing debt secured by the property;

(3) Whether any disciplinary action has been taken by the Commissioner against the private money endorsee or any control person of the private money endorsee within the immediately preceding 12 months and the nature of such disciplinary action; and

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

(b) The private money investor and the private money endorsee sign and date the prescribed disclosures or forms required by paragraph (a) and prescribed by the Commissioner pursuant to



section 24 of this act, except if the private money investor is not a natural person, the disclosures or forms required by this section may be signed by any person duly authorized to sign the disclosures or forms on behalf of the private money investor; and

(c) The private money endorsee gives the private money investor a signed copy of the required disclosures or forms.

2. A private money investor and a private money endorsee shall sign separate disclosures or forms for each loan for which the private money investor provides money. A private money endorsee shall not act as the attorney-in-fact or the agent of a private money investor with respect to the signing or dating of any disclosures or forms.

3. A private money investor and private money endorsee must use the disclosures or forms prescribed by the Commissioner and may not agree to alter or waive the provisions of such disclosures or forms by contract or other agreement. Any provision of a contract or other agreement to alter or waive the provisions of the disclosures or forms required by this section is void and without effect.

4. The Commissioner may order a private money endorsee to disclose to private money investors, or to the general public, information concerning the private money endorsee, any control person of the private money endorsee or any loan in which the private money endorsee is, or has been, involved if the Commissioner, in his or her sole judgment, believes that the information:

(a) Would be of material interest to a reasonable private money investor who is deciding whether to invest money through the private money endorsee; or

(b) Is necessary to protect the welfare of the public.

Sec. 24. The Commissioner, with the advice and consent of the Advisory Council on Mortgage Investments and Mortgage Lending, shall prescribe disclosures and forms that explain the risks associated with investing in a loan secured by a mortgage or deed of trust on real property through a private money endorsee, including, without limitation:

1. The possibility that the borrower may default on the loan;

2. The scope and nature of losses of a private money investor that may result from proceeding with a foreclosure of the real property securing the loan in the event of a default;

3. The fact that payments of principal and interest are not guaranteed and that the private money investor may lose the entire amount of principal that he or she has invested;

4. The fact that the investment of the private money investor is not insured by a depository insurer and is not otherwise insured



or guaranteed by any federal or state governmental agency or entity;

5. A recommendation that the private money investor seek independent legal counsel before investing in any loan secured by a mortgage or deed of trust on real property; and

6. Any other information deemed relevant by the Commissioner or required by regulations adopted by the Commissioner.

Sec. 25. 1. An advertisement for a private money endorsee that is designed, intended or reasonably likely to solicit money from a private money investor must include within the advertisement a statement in substantially the following form:

Money invested in a loan secured by a mortgage or deed of trust on real property is not guaranteed to earn any interest or return and is not insured by any governmental agency or entity. Nevada law requires that, before investing in a loan, an investor must be provided with certain disclosures regarding the loan in which he or she is investing. It is recommended that an investor seek the advice of independent legal counsel before making any investment in a loan secured by a mortgage or deed of trust on real property.

2. The statement required by subsection 1, must be provided in the same language as the remainder of the advertisement and, if included in a written or print advertisement, be printed in a typeface or font proportional to the size of the advertisement as prescribed by regulations adopted by the Commissioner.

Sec. 26. 1. Except as otherwise provided in subsection 4 or 5, before a private money investor may invest through a private money endorsee in a loan secured by a mortgage or deed of trust on real property, the private money investor shall provide a statement, on a form prescribed by the Commissioner, certifying that the private money investor meets the following requirements:

(a) The total amount of money invested by the private money investor in loans secured by a mortgage or deed of trust on real property does not exceed 50 percent of the current net worth or net annual income of the household of the private money investor, whichever is greater; and

(b) The current net worth of the household of the private money investor is more than \$250,000, excluding any equity in real property used as the primary residence of the private money investor, or the net annual income of the household of the private money investor was more than \$70,000 for each of the



1 immediately preceding 2 tax years and there is a reasonable
2 expectation that the net income of the household of the private
3 money investor will be more than \$70,000 in the current tax year.

4 2. In the absence of actual knowledge to the contrary, a
5 private money endorsee is not responsible for determining the
6 validity of a statement submitted in accordance with the provisions
7 of subsection 1 and may rely on such information as certified by
8 the private money investor.

9 3. A private money investor shall verify, on a form prescribed
10 by the Commissioner, that the private money investor continues to
11 meet the minimum financial requirements set forth in subsection 1
12 for each subsequent investment in a loan secured by a mortgage
13 or deed of trust on real property made through the private money
14 endorsee.

15 4. A private money investor may apply to the Commissioner
16 for a waiver of the minimum financial requirements contained
17 within subsection 1. Before approving any such waiver the
18 Commissioner shall consider the education, finances and
19 experience of the private money investor as an investor in loans
20 secured by a mortgage or deed of trust on real property. The
21 Commissioner may require, and the private money investor shall
22 submit, any documentation deemed necessary by the
23 Commissioner to adequately consider the merits of the application.
24 In an administrative proceeding or civil action arising under this
25 subsection the burden of proof rests with the applicant.

26 5. The provisions of this section do not apply to a transaction
27 conducted by a private money endorsee investing money on his or
28 her own behalf.

29 **Sec. 27.** 1. Before a private money investor invests money
30 through a private money endorsee in a loan secured by a mortgage
31 or deed of trust on real property, the private money endorsee shall
32 provide to the private money investor, unless waived in writing by
33 the private money investor:

34 (a) The written application for the loan, which must be signed
35 by the prospective borrower and contain:

36 (1) The full name and address of the prospective borrower,
37 including, without limitation, all known aliases;

38 (2) A history of the employment and income of the
39 prospective borrower;

40 (3) Details of the monthly expenses and obligations of the
41 prospective borrower, including, without limitation, any expenses
42 or obligations relating to domestic or child support; and

43 (4) Any other information requested by the private money
44 investor;



(b) Evidence supporting the representations of the prospective borrower regarding his or her employment and income history, such as a tax return or statement of the past annual income of the prospective borrower provided by an employer;

(c) A report on the credit history of the prospective borrower issued by a recognized credit reporting agency;

(d) An explanation by the prospective borrower of any material derogatory item in the credit history report;

(e) A verification from the private money endorsee that the information within the credit history report has been compared by the private money endorsee to the information provided by the prospective borrower in the loan application and any noted discrepancies have been reported to the private money investor;

(f) An analysis by the private money endorsee regarding the ability of the prospective borrower to pay the loan; and

(g) A written appraisal of the real property securing the loan that:

(1) Was completed within 6 months before the first solicitation by the private money endorsee of the private money investor for money to fund the loan;

(2) Meets the standards set forth in the Uniform Standards of Professional Appraisal Practice, as adopted by the Appraisal Standards Board of The Appraisal Foundation; and

(3) Was performed by an appraiser who is authorized to perform appraisals in this State pursuant to chapter 645C of NRS or, in the case of real property located outside this State, performed by an appraiser licensed and in good standing pursuant to the laws of that state.

2. If a private money investor has executed a written waiver of the requirement to provide an appraisal pursuant to subsection 1, the private money endorsee shall provide to the private money investor a written disclosure which contains any information in the possession or knowledge of the private money endorsee regarding the valuation of the property, including, without limitation, any analysis of valuation performed by the private money endorsee, the valuation methods and techniques used by the private money endorsee and any opinions of valuation, from any source, prepared for or provided to the private money endorsee.

3. Notwithstanding a written waiver of the requirements of subsection 1 executed by a private money investor, any appraisal of real property obtained by a private money endorsee must be provided by the private money endorsee to:



(a) Any private money investor whom the private money endorsee has solicited to provide money for a loan secured by a mortgage or deed of trust on the real property; and

(b) The prospective borrower, if the prospective borrower paid for the appraisal.

4. As used in this section, "appraisal" has the meaning ascribed to it in NRS 645C.030.

Sec. 28. 1. A private money endorsee shall not engage in any act or transaction on behalf of a private money investor pursuant to a power of attorney unless:

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

(b) The provisions of the power of attorney:

(1) Have been approved by the Commissioner or are substantially in a form prescribed by regulation of the Commissioner;

(2) Expressly prohibit the private money endorsee from engaging in any act or transaction that subordinates the priority of a recorded deed of trust unless, before such an act or transaction, the private money endorsee obtains written approval for such a subordination from the private money investor;

(3) Expressly prohibit the private money endorsee from using or releasing any money in which the private money investor owns a beneficial interest, pursuant to a loan funded by the private money investor, for a purpose that is not directly related to providing services for the loan unless, before any such money is used or released for another purpose, the private money endorsee obtains written approval from the private money investor to use or release the money for such other purpose; and

(4) Expressly provide that the power of attorney is effective only for the term of the specific loan funded by the private money investor.

2. A private money endorsee shall not act as the attorney-in-fact or agent of a private money investor with respect to providing written approval for a power of attorney executed in accordance with the provisions of this section. A private money endorsee and a private money investor may not agree to alter or waive the provisions of this section by contract or other agreement. Any such contract or agreement shall be void.

Sec. 29. 1. An insider loan made or arranged by a private money endorsee must be disclosed to the borrower and each private money investor involved in the loan. A private money investor who funds an insider loan may not waive the provisions of this subsection.



2. A private money endorsee or any person licensed pursuant to chapter 645B or 645E of NRS:

(a) Shall fully disclose his or her status as, connection to or relationship with any construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer to each private money investor.

(b) Shall not require as a condition to a private money investor acquiring ownership or a beneficial interest in a loan secured by a mortgage or deed of trust on real property that the private money investor transact business with or use the services of the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer for which a disclosure is required pursuant to paragraph (a).

(c) Shall not require a private money investor to authorize the private money endorsee or person licensed pursuant to chapter 645B or 645E of NRS, as applicable, to transact business with or use the services of the construction control, escrow agency, escrow agent, title agent, title insurer or escrow officer for which a disclosure is required pursuant to paragraph (a), if the private money endorsee or person licensed pursuant to chapter 645B or 645E of NRS is licensed as, conducts business as, holds a controlling interest in or is a control person of the:

(1) Construction control;

(2) Escrow agency or escrow agent; or

(3) Title agent, title insurer or escrow officer of the title agent or title insurer.

3. As used in this section:

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

(b) "Escrow agent" has the meaning ascribed to it in NRS 645A.010.

(c) "Escrow officer" has the meaning ascribed to it in NRS 692A.028.

Sec. 30. 1. A private money endorsee shall not accept money from a private money investor to acquire ownership of or a beneficial interest in a loan which has more than one private money investor at the time of the origination of the loan unless the private money endorsee provides to each private money investor a form, prescribed by the Commissioner, allowing the private money investor to choose one of the following options:

(a) That, upon receipt of a written request submitted by another private money investor who owns or has a beneficial interest in the loan, the private money endorsee may provide to that other private money investor the name, address, telephone number and electronic mail address of the private money investor;



(b) That, upon receipt of a written request submitted by another private money investor who owns or has a beneficial interest in the loan, the private money endorsee may provide to that other private money investor the name, address, telephone number and electronic mail address of the private money investor only if the loan is in default; or

(c) That the name, address, telephone number and electronic mail address of the private money investor must remain confidential and that the private money endorsee may not provide that information to any other private money investor unless the private money investor provides the private money endorsee with subsequent written permission to provide such information to other private money investors.

2. A private money investor who obtains the contact information of another private money investor as a result of a disclosure made in accordance with the provisions of this section shall only use such information for purposes relating to the specific loan in which both private money investors are jointly invested.

3. A private money investor who obtains the contact information of another private money investor as a result of a disclosure made in accordance with the provisions of this section shall treat such information as confidential and shall not release or use such information for any malicious purpose.

Sec. 31. Before a private money investor invests in a loan secured by a mortgage or deed of trust on real property through a private money endorsee, the private money endorsee shall provide, and the private money investor shall sign, a new entity disclosure, on a form prescribed by the Commissioner, which explains the actions that will occur upon a default by the borrower and a subsequent decision by a majority of the private money investors authorizing the automatic transfer of the investment, without any further signature or acknowledgment of the private money investor, into a limited-liability company, business trust or other entity for the special purpose of managing, completing and disposing of the collateral assets.

Sec. 32. A private money endorsee shall ensure that each loan secured by a mortgage or deed of trust on real property for which he or she engages in activity as a private money endorsee includes a disclosure to the prospective borrower:

1. Describing, in a specific dollar amount, the fees earned by the private money endorsee;

2. Explaining which party is responsible for the payment of the fees described in subsection 1; and



3. Explaining the probable impact the fees described in subsection 1 may have on the terms of the loan, including, without limitation, the interest rate of the loan.

Sec. 33. A private money endorsee that solicits or directly or indirectly receives money from a private money investor shall not make, or cause or encourage to be made, in any advertisement or communication before, during or after the solicitation or receipt of money from the private money investor, any explicit or implicit statement, representation or promise, oral or written, which a reasonable person would construe as a guarantee or assurance that the private money investor will be repaid the principal amount of money he or she invests or will earn a specific rate of return or a specific rate of interest on the principal amount of money he or she invests. A person who violates any provision of this section is guilty of a misdemeanor.

Sec. 34. 1. If a private money endorsee offers to pay or pays premium interest on money that the private money endorsee receives from a person to acquire ownership of or a beneficial interest in a loan secured by a mortgage or deed of trust on real property, or in full or partial payment of such a loan, the premium interest must be paid from the assets or income of the private money endorsee.

2. As used in this section, “premium interest” means that amount of interest a private money endorsee pays to a person which exceeds the amount which is being paid to any other private money investor pursuant to the terms of the loan.

Sec. 35. 1. All money paid to a private money endorsee from a private money investor to acquire ownership of or a beneficial interest in a loan secured by a mortgage or deed of trust on real property must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the private money endorsee. 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 private money endorsee.

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

(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the borrower or his or her designee, less the amount owed to the private money endorsee for the payment of any fee or service charge;

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



(c) Pursuant to any instructions regarding the escrow account.

3. The amount of money held in trust pursuant to subsection 1 must not be released to the borrower or his or her designee unless:

(a) The amount of money released is equal to the total amount of money which is being loaned to the borrower for that loan, less the amount owed to the private money endorsee for the payment of any fee or service charge; and

(b) The private money endorsee has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement which names as an insured each private money investor who owns a beneficial interest in the loan be issued for the real property securing the loan.

4. Except as otherwise provided in this section, all money paid to a private money endorsee by a person in full or in partial payment of a loan secured by a mortgage or deed of trust on real property, must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the private money endorsee. 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 private money endorsee.

5. The amount of money held in trust pursuant to subsection 4:

(a) Must be released, upon the deduction and payment of any fee or service charge owed to the private money endorsee, to each private money investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that the private money investor owns in the loan; and

(b) Must not be released, in any proportion, to a private money investor who owns a beneficial interest in the loan, unless the amount of money described in paragraph (a) is released to each private money investor who owns a beneficial interest in the loan.

6. A private money investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to the private money investors in the manner set forth in subsection 5. A private money endorsee shall not act as the attorney-in-fact or the agent of a private money investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the private money investor to:



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

(b) Receive all other payments in full and in accordance with the provisions of subsection 5.

7. Upon reasonable notice, any private money endorsee described in this section shall:

(a) Account to any private money investor or borrower who has paid to the private money endorsee money that is required to be deposited in a trust account pursuant to this section; and

(b) Account to the Commissioner for all money which the private money endorsee received from each private money investor or borrower and which the private money endorsee is required to deposit in a trust account pursuant to this section.

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

9. If a private money endorsee receives any money pursuant to this section, the private money endorsee, after the deduction and payment of any fee or service charge owed to the private money endorsee, shall not release the money to:

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

(b) Any person who has a contractual right to receive the money, if the private money endorsee knows or, in light of all the surrounding facts and circumstances, reasonably should know that the contractual right of the person to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.

10. Money in an impound trust account is not subject to execution or attachment on any claim against the private money endorsee.

11. It is unlawful for a private money endorsee knowingly to keep or cause to be kept any money in a depository financial institution under the heading of "impound trust account" or any other name designating such money as belonging to the private money investors or borrowers of the private money endorsee, unless the money has been paid to the private money endorsee by a private money investor or borrower and is being held in trust by the private money endorsee pursuant to this section.



Sec. 36. 1. *If a private money endorsee maintains any trust accounts in which the private money endorsee deposits payments from a borrower on a loan secured by a mortgage or deed of trust on real property and, on the last day of any month, the borrower has failed to make two or more consecutive payments or is otherwise in default in accordance with the terms of the loan, the private money endorsee or mortgage servicer shall:*

(a) Not later than 15 days after the end of each month, submit to the Commissioner a report containing information regarding the delinquency or default;

(b) Not later than 15 days after the end of each month, send to each private money investor who owns a beneficial interest in the loan a notice containing information regarding the delinquency or default; and

(c) Comply with the provisions of this section for each month, on a continuing basis, until:

(1) The borrower, or a designee of the borrower, remedies the delinquency or otherwise cures the default; or

(2) The mortgage or deed of trust securing the loan is extinguished.

2. *The private money endorsee shall specifically identify on each monthly report or notice required by this section any insider loan made by the private money endorsee.*

Sec. 37. *A private money endorsee shall not assign all or part of his or her interest in a loan secured by a mortgage or deed of trust on real property, unless the private money endorsee:*

1. Obtains an endorsement or policy of title insurance for the real property; and

2. Records the assignment in the office of the county recorder of the county in which the property is located.

Sec. 38. 1. *A private money endorsee shall retain at his or her primary office, unless an alternative place is specified by the Commissioner, and make available for inspection by the Commissioner during normal business hours the following documents:*

(a) A copy of the written appraisal or, if no written appraisal was required, a copy of any valuation analysis or data for each property for which the private money endorsee solicited or otherwise received money from a private money investor. Such documents must be maintained at each office of the private money endorsee where money was received from a private money investor to acquire ownership of or a beneficial interest in a loan secured by a mortgage or deed of trust on the real property and must be made available during normal business hours for inspection by the private money investor.



(b) Signed and dated copies of all disclosures and documents required by this chapter and, for each loan, a statement signed by the private money investor, on a form prescribed by the Commissioner, acknowledging that:

(1) The private money investor received the disclosures and documents, or that the private money investor waived in writing the right to receive the disclosures and documents; and

(2) The decision by the private money investor to fund the loan was made after the private money investor had the opportunity to receive and review the disclosures and documents.

(c) A copy of any policy of hazard insurance covering real property securing a loan which has coverage adequate to cover the replacement costs of all improvements on the property, including, without limitation, an endorsement naming the private money investor as a beneficiary or additional insured under the policy, if applicable.

(d) If the private money investor or a borrower is not a natural person, a copy of the authorization issued by the applicable entity granting authority to enter into a loan.

(e) A certified copy of the promissory note for any loan funded, in whole or in part, by a private money investor.

(f) A certified copy of the recorded mortgage or deed of trust on real property securing a loan funded, in whole or in part, by a private money investor.

(g) A certified copy of a lender's policy of title insurance for each property securing a loan funded, in whole or in part, by a private money investor.

(h) A record of the history of payments made by a borrower on each loan funded, in whole or in part, by a private money investor.

2. A private money endorsee shall retain at his or her primary office, and make available for inspection by the Commissioner during normal business hours, a statement, on a form prescribed by the Commissioner, acknowledging that copies of the documents listed in subsection 1 relating to any loan funded, in whole or in part, by a private money investor were provided to that private money investor.

Sec. 39. If a later assignment is made of any loan funded, in whole or in part, by a private money investor, the private money endorsee shall retain at his or her primary office, provide to the assignee and make available for inspection by the Commissioner during normal business hours, an original or certified copy of the following documents relating to the loan:

1. The promissory note and the executed assignment of the note;



2. The recorded mortgage or deed of trust and the recorded assignment of the beneficial interest in the mortgage or deed of trust;

3. The endorsement to the assignee of the existing lender's policy of title insurance or a new lender's policy of title insurance naming the assignee as the primary beneficiary; and

4. Any policy of hazard insurance which has coverage adequate to cover the replacement costs of all improvements on the property securing the loan, including, without limitation, an endorsement naming the assignee as a primary beneficiary or additional insured under the policy, if applicable.

Sec. 40. Not later than 3 business days after the closing of a loan secured by a mortgage or deed of trust on real property and funded, in whole or in part, by a private money investor, the private money endorsee who arranged the loan shall provide to the private money investor a certified copy of the recorded mortgage or deed of trust securing the loan.

Sec. 41. 1. Except as otherwise provided by law or by agreement between the parties and regardless of the date the interests were created, if the beneficial interests in a loan or the ownership interests in the real property securing a loan belongs to more than one person, the majority of the private money investors or the holders of 51 percent or more of the ownership interests in the real property, as indicated on a trustee's deed upon sale recorded pursuant to subsection 9 of NRS 107.080, a deed recorded pursuant to subsection 5 of NRS 40.430 or a deed in lieu of foreclosure, and any subsequent deed selling, transferring or assigning an ownership interest, may act on behalf of all of the holders of the beneficial interests or ownership interests of record on matters which require the action of the holders of the beneficial interests in the loan or the ownership interests in the real property, including, without limitation:

(a) The designation of a mortgage broker, mortgage agent, servicing agent or any other person to act on behalf of the holders of the beneficial interests or ownership interests of record;

(b) The foreclosure of the property for which the loan was made;

(c) The subsequent sale, transfer, encumbrance or lease of the real property owned by the holders resulting from a foreclosure or the receipt of a deed in lieu of foreclosure in full satisfaction of the loan, to a bona fide purchaser or encumbrancer for value;

(d) The release of any obligation under the loan in return for an interest in equity in the real property or, if the loan was made to a person other than a natural person, an interest in equity of that entity; and



(e) The modification or restructuring of any term of the loan, deed of trust or other document relating to the loan, including, without limitation, changes to the maturity date or interest rate and the acceptance of payment of less than the full amount of the loan and any accrued interest in full satisfaction of the loan.

2. A person designated to act pursuant to subsection 1 on behalf of the holders of the beneficial interests in a loan or the ownership interests in real property shall, not later than 30 days before the date on which the holders will determine whether to act pursuant to subsection 1, send a written notice of the proposed action to each holder of a beneficial interest or ownership interest at the holder's last known address, by a delivery service that provides proof of delivery or evidence that the notice was sent. The written notice must state:

(a) The actions that will be taken on behalf of the holders who consent to an action pursuant to this section, if the majority of the private money investors or the holders of 51 percent or more of the ownership interests in the real property act pursuant to subsection 1;

(b) The actions that will be taken on behalf of the holders who do not consent to an action pursuant to this section, if the majority of the private money investors or the holders of 51 percent or more of the ownership interests in the real property act pursuant to subsection 1; and

(c) The amount of the costs or, if an amount is unknown, an estimate of the amount of the costs that will be allocated to, or due from, the holder and deducted from any proceeds owed to the holder.

3. If real property is sold, transferred, encumbered or leased pursuant to paragraph (c) of subsection 1, any beneficial interest in the loan or ownership interest in the real property of a holder who does not consent to the sale, transfer, encumbrance or lease, including, without limitation, any interest of a tenant in common who does not consent to the sale, transfer, encumbrance or lease, must be sold, transferred, encumbered or leased by a reference to this section and by the signatures on the necessary documents of the holders consenting to the sale, transfer, encumbrance or lease of the real property. The holders consenting to the sale, transfer, encumbrance or lease of the real property shall designate a representative to sign any necessary documents on behalf of the holders who do not consent to the sale, transfer, encumbrance or lease and, if the representative maintains written evidence of the consent of the number of holders described in subsection 1, the representative is not liable for any action taken pursuant to this subsection.



4. Any action which is taken pursuant to subsection 1 must be in writing.

5. The provisions of this section do not apply to a transaction involving only two private money investors with equal interests.

Sec. 42. 1. A private money endorsee shall not place or arrange to place a private money investor into a limited-liability company, business trust or other entity before or after foreclosure of the real property securing the loan, or receipt of a deed in lieu of foreclosure in full satisfaction of a loan secured by the real property, unless the private money endorsee:

(a) Provides a copy of the organizational documents of the limited-liability company, business trust or other entity to each private money investor not later than 5 days before the transfer of the interest in the loan or the real property;

(b) Obtains the written authorization of a sufficient number of the private money investors to act on behalf of all the private money investors pursuant to section 41 of this act; and

(c) Obtains the written authorization of each private money investor consenting to the transfer of his or her interest in the loan or the real property to the limited-liability company, business trust or other entity.

2. If a private money investor is placed into a limited-liability company, business trust or other entity pursuant to subsection 1, any beneficial interest in a loan or ownership interest in real property of the private money investor who does not consent to the placement, including, without limitation, any interest of a tenant in common who does not consent to the placement, must be placed in the limited-liability company, business trust or other entity by a reference to this section and by the signatures on the necessary documents of the investors consenting to the placement. The private money investors who consent to an action pursuant to subsection 1 shall designate a representative to sign any necessary documents on behalf of the private money investors who do not consent to the action, and if the representative maintains written evidence of the consent of the number of private money investors described in paragraph (b) of subsection 1, the representative is not liable for any action taken pursuant to this subsection.

3. The documents provided to each private money investor pursuant to paragraph (a) of subsection 1 must clearly and concisely state any fees which will be paid to the private money endorsee by the limited-liability company, business trust or other entity, and the sections of the documents that state fees must be initialed by the private money investor and any representative designated pursuant to subsection 2.



4. A private money endorsee shall not act as the attorney-in-fact or the agent of a private money investor for the signing or dating of the written authorization.

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

Sec. 43. 1. Before servicing a loan in which a private money investor has acquired a beneficial interest, a private money endorsee must enter into a written servicing agreement with each private money investor which describes specifically the services which the private money endorsee will provide and the compensation the private money endorsee will receive for those services. The compensation of the private money endorsee must include an amount reasonably necessary to pay the cost of servicing the loan.

2. A private money endorsee shall include in each servicing agreement provisions which:

(a) Require the private money endorsee to:

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

(2) Release to the private money investor within 15 days after receipt all money paid to the private money endorsee in full or partial payment of a loan;

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

(4) Provide to the private money investor prompt written notice of:

(I) Any *lis pendens*, mechanic's lien or other lien recorded against the real property securing a loan after the origination of the loan, if the private money endorsee 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 a private money investor for a tally of any vote of the group of private money investors with interests in the same loan, provide to the private money investor a statement of the number of private money investors voting in favor of an action and the number of private money 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 private money investor to correct any errors relating to a loan.

(b) Prohibit the private money endorsee from:



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

(2) Using money paid to the private money endorsee 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 a private money investor to participate in binding arbitration of disputes relating to a loan.

(c) Allow the majority of the private money investors or the private money endorsee 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.

(d) Except as otherwise allowed by law, prohibit a private money endorsee from releasing a borrower or guarantor from personal liability for a loan unless a majority of the private money investors approve such a release.

(e) If a private money investor owes money to the private money endorsee who is servicing a loan or to other private money investors, prohibit the private money endorsee from withholding money owed to the private money investor in order to offset the money owed to the private money endorsee or to another private money investor, unless:

(1) The private money endorsee obtains the written consent of the private money investor who owes the money; or

(2) A court order requires the private money endorsee to withhold the money.

(f) Allow a private money endorsee to include in a loan servicing agreement a provision which provides written consent to withhold money owed to a private money investor in order to offset money owed by the private money investor to the private money endorsee or other private money investors.

3. A private money endorsee shall not assess or collect any fee which is not:

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

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

4. A private money endorsee shall apply all fees collected in the manner set forth in the loan documents or loan servicing agreement.



1 **Sec. 44.** *A private money endorsee shall not act as a*
2 *construction control with respect to money belonging to a*
3 *borrower or private money investor. If a borrower or private*
4 *money investor wishes to utilize a construction control for money*
5 *belonging to the borrower or private money investor, a private*
6 *money endorsee must place the money with a person who is*
7 *independent of the private money endorsee and is licensed or*
8 *authorized to accept such money. The money must be subject to*
9 *the control of a construction control which is in compliance with,*
10 *or exempt from, the provisions of NRS 627.180 or 627.183.*

11 **Sec. 45.** *A private money endorsee maintaining a trust*
12 *account pursuant to the requirements of this chapter or chapter*
13 *645B or 645E of NRS shall:*

14 1. *Annually provide to the Commissioner a financial*
15 *statement of the trust account;*

16 2. *Maintain a subsidiary ledger for each private money*
17 *investor which must include:*

18 (a) *The name and address of the private money investor;*

19 (b) *The amount of the initial investment and any subsequent*
20 *investment made by the private money investor;*

21 (c) *The date of any investment made by the private money*
22 *investor;*

23 (d) *Each specific loan in which the private money investor has*
24 *invested, including, without limitation:*

25 (1) *The number of the loan;*

26 (2) *The name of the borrower;*

27 (3) *The closing date of the loan; and*

28 (4) *The percentage of the beneficial interests of the loan*
29 *held by the private money investor, if more than one person holds*
30 *a beneficial interest in the loan;*

31 (e) *The total amount of money invested;*

32 (f) *The maturity date of any loan in which the private money*
33 *investor has invested;*

34 (g) *Any change in the investment made on behalf of the*
35 *private money investor; and*

36 (h) *The status of each loan in which the private money*
37 *investor has invested, including, without limitation, whether the*
38 *loan is current or delinquent and, if the loan is delinquent, the*
39 *number of months the loan is past due and the total amount of*
40 *the delinquency;*

41 3. *Keep monthly records reconciling all payments received on*
42 *the loan relating to the trust account from the borrower and any*
43 *subsequent disbursements to a private money investor;*



4. Not later than 90 days after the end of each fiscal year of the private money endorsee, provide each private money investor with a statement that details:

(a) The total amount of money the private money investor has invested with the private money endorsee;

(b) The total amount of money the private money investor has invested in each loan;

(c) The current status of each loan in which the private money investor has an interest;

(d) All money collected and disbursed from each loan in which the private money investor has an interest; and

(e) The amortized balance of each loan in which the private money investor has an interest; and

5. Maintain a separate trust account for a particular loan if required by an order of the Commissioner. Any such order shall be issued at the sole discretion of the Commissioner.

Sec. 46. 1. A private money endorsee who maintains a trust account shall, not later than 90 days after the end of the fiscal year of the private money endorsee, provide to the Commissioner an annual financial statement of each trust account which has been:

(a) Prepared from the books and records of the private money endorsee by a certified public accountant who holds an active permit to engage in the practice of public accounting in this State; and

(b) Audited in accordance with generally accepted auditing standards.

2. A financial statement of a trust account submitted pursuant to this section must include, if applicable:

(a) A balance statement showing the assets and liabilities of the trust account;

(b) A statement of all receipts, disbursements and changes to the cash balance of the trust account;

(c) A supplementary schedule detailing each of the liabilities of the trust account; and

(d) A reconciliation of the cash balance with the supplementary schedule of the liabilities of the trust account.

3. In addition to the annual financial statement of a trust account required pursuant to subsection 1, the private money endorsee shall submit to the Commissioner, not later than 270 days after the start of each fiscal year of the private money endorsee, an unaudited financial statement of the trust account for the first 6 months of the fiscal year. The statement required by this subsection may be self-prepared.



4. If a private money endorsee requests an extension, in writing, before the date on which any financial statement required by this section is due, the Commissioner, at his or her sole discretion, may grant a reasonable extension, not to exceed 30 days, for the submission of the financial statement.

5. In addition to any extension granted pursuant to subsection 4, if a private money endorsee requests, in writing, an additional extension, the Commissioner may, for good cause, grant one additional extension, not to exceed 30 days, for the submission of the required financial statement.

Sec. 47. 1. Except as otherwise provided in subsection 4, it is unlawful for a private money endorsee, or any other person licensed pursuant to chapter 645B or 645E of NRS, to offer, promise, allow, give or pay, directly or indirectly, any part or share of the commission, compensation or fee of the private money endorsee or other person arising or accruing from any real estate loan transaction to any person who is not a private money endorsee or licensed pursuant to chapter 645B or 645E of NRS, in consideration of services performed, or to be performed, by the unlicensed person relating to the real estate loan transaction.

2. A private money endorsee, or any other person licensed pursuant to chapter 645B or 645E of NRS, may pay a commission, compensation or fee to another private money endorsee or other person licensed pursuant to chapter 645B or 645E of NRS for the assistance of the private money endorsee or other person with the real estate loan transaction as long as any such payment is separately shown on the escrow closing statement for the loan.

3. A mortgage loan originator licensed pursuant to chapter 645B of NRS shall not be associated with or accept a commission, compensation or fee from any person other than the mortgage banker or mortgage broker with whom his or her license is associated pursuant to chapter 645B of NRS at the time of the real estate loan transaction.

4. A private money endorsee, or any other person licensed pursuant to chapter 645B or 645E of NRS, may offer, promise, allow, give or pay, directly or indirectly, a part or share of the commission, compensation or fee of the private money endorsee or other person arising or accruing from a commercial real estate loan transaction to a person who is not a private money endorsee or licensed pursuant to chapter 645B or 645E of NRS for services associated with the commercial real estate loan transaction if the person receiving such payment:

(a) Does not reside or maintain a place of business in Nevada; and



(b) Is in compliance with the applicable licensing requirements, if any, of the jurisdiction in which his or her primary place of business is located.

Sec. 48. NRS 645A.037 is hereby amended to read as follows:

645A.037 1. Except as otherwise provided in subsection 2, a licensee may not conduct the business of administering escrows for compensation within any office, suite, room or place of business in which any other business is solicited or engaged in, except a notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of administering escrows pursuant to this chapter in the same office or place of business as a mortgage banker if:

(a) The licensee and the mortgage banker:

- (1) Operate as separate legal entities;
- (2) Maintain separate accounts, books and records;
- (3) Are subsidiaries of the same parent corporation; and
- (4) Maintain separate licenses; and

(b) The mortgage banker is licensed by this state pursuant to chapter 645B or 645E of NRS and does not conduct any business as a mortgage broker licensed pursuant to chapter 645B of NRS in the office or place of business.

Sec. 49. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 50 to 105, inclusive, of this act.

Sec. 50. *“Affiliate” means a person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, another person and engaged in business or a transaction regulated by this chapter.*

Sec. 51. *“Applicant” means any person who has made application for a license, renewal of a license, exemption or waiver pursuant to this chapter.*

Sec. 52. *“Borrower” means a person who is a debtor on a residential mortgage loan.*

Sec. 53. *“Branch office” means an office other than a principal office operated by a licensee for the purpose of engaging in any activity regulated by this chapter.*

Sec. 54. *“Control person” means:*

1. *An executive officer, director, general partner, trustee, member or insider of a licensee; or*

2. *A person who has the authority to participate in the direction, directly or indirectly through one or more persons, of the management or policies of a licensee.*



1 **Sec. 55.** *“Escrow” has the meaning ascribed to it in*
2 *NRS 645A.010.*

3 **Sec. 56.** *“Executive officer” means an officer, manager,*
4 *partner or managing member of a licensee who exercises, or is*
5 *authorized to exercise, executive decision-making authority for the*
6 *licensee, including, without limitation, a chief executive officer,*
7 *president, vice president, chief financial officer, chief operations*
8 *officer, chief legal officer, controller or compliance officer or a*
9 *natural person holding any similar position.*

10 **Sec. 57.** *“Exempt person” means a person who is not*
11 *required to obtain a license pursuant to this chapter.*

12 **Sec. 58.** *“Immediate family member” means a natural*
13 *person related within the second degree of consanguinity as*
14 *determined by the common law, a spouse or a natural person*
15 *related to a spouse within the second degree of consanguinity as*
16 *so determined.*

17 **Sec. 59.** *“Insider” means a director, officer or employee of a*
18 *licensee or any person who owns or controls a beneficial interest*
19 *in a licensee equivalent to 10 percent or more of the total*
20 *ownership interests of the licensee.*

21 **Sec. 60.** *“License” means a license or other authority*
22 *granted by the Commissioner in accordance with the provisions of*
23 *this chapter.*

24 **Sec. 61.** *“Mortgage banker” means a person who, for a fee,*
25 *originates residential mortgage loans using his or her own money*
26 *or money borrowed from a warehouse lender and who retains*
27 *beneficial ownership of the loans or sells such beneficial*
28 *ownership, in whole or in part, to third parties.*

29 **Sec. 62.** *“Mortgage loan originator” means:*

30 1. *A natural person who is an employee or independent*
31 *contractor of a licensee or exempt person and who, with respect to*
32 *a residential real estate loan:*

33 (a) *Receives from a prospective borrower a residential*
34 *mortgage loan application;*

35 (b) *Offers or negotiates with a prospective borrower the terms*
36 *of a residential mortgage loan; or*

37 (c) *Performs the functions of a loan processor.*

38 2. *The term does not include:*

39 (a) *A natural person who performs clerical or ministerial tasks*
40 *as an employee at the direction of and subject to the supervision*
41 *and instruction of a licensee or an exempt person;*

42 (b) *A natural person solely engaged in the business of*
43 *extending credit related to a timeshare plan, as that term is defined*
44 *in 11 U.S.C. § 101(53D);*



(c) A person who only engages in the business of a real estate salesperson or real estate broker and is licensed pursuant to chapter 645 of NRS, unless that person is compensated for such services by a lender, mortgage broker or other mortgage loan originator, or an agent thereof;

(d) A natural person who engages solely in offering or negotiating the terms of a residential real estate loan:

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

(2) Secured by a dwelling that served as the residence of the natural person;

(e) A natural person who is registered as a mortgage loan originator with, and maintains a unique identifier through, the Registry and who:

(1) Is an employee of a depository financial institution, or a subsidiary of a depository financial institution, that is regulated by a federal banking agency; or

(2) Is an employee of an institution regulated by the Farm Credit Administration; or

(f) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to his or her representation of the client, unless the attorney is compensated for such services by a lender, mortgage broker or mortgage loan originator.

Sec. 63. “Mortgage servicer” means a person who directly or indirectly services residential real estate loans.

Sec. 64. “Principal office” means the primary place of business of a person where a majority of the executive officers are located or which serves as the corporate or main office of the person.

Sec. 65. “Qualified employee” means a licensed mortgage loan originator who is designated by a mortgage banker, mortgage broker or mortgage servicer, and approved by the Commissioner, to act on behalf of the mortgage banker, mortgage broker or mortgage servicer to supervise and control the conduct of the business of the mortgage banker, mortgage broker or mortgage servicer at a principal office or branch office.

Sec. 66. “Real estate brokerage activity” means the performance by a person of any of the functions of a real estate broker as specified in NRS 645.030.

Sec. 67. “Service,” when used in the context of the servicing of residential real estate loans, means:

1. The collection of six or more payments of principal, interest or an amount to be placed in escrow, including, without



1 limitation, hazard insurance or taxes, on a residential mortgage
2 loan for the account of a licensee; or

3 2. The collection or remittance, or the right to collect or
4 remit, for any lender, mortgage banker or beneficial owner or
5 holder of a promissory note secured by a mortgage or deed of trust
6 on residential real property, any payment of principal, interest or
7 an amount to be placed in escrow, including, without limitation,
8 hazard insurance or taxes, for the underlying property securing a
9 residential mortgage loan, in accordance with the terms of the
10 residential mortgage loan, a mortgage servicing agreement or an
11 agreement with a mortgagor or a beneficiary of a deed of trust.

12 **Sec. 68.** "Sponsor" mean a person who:

13 1. Has a unique identifier in the Registry;

14 2. Is approved by the Commissioner in the Registry as a
15 licensed mortgage banker, mortgage broker or mortgage servicer
16 or is an exempt person; and

17 3. Has indicated in the Registry that a natural person will act
18 as a mortgage loan originator for that person under that person's
19 license or status as an exempt person.

20 **Sec. 69.** "Unique identifier" means the number or other
21 identifier assigned to a person by protocols established by the
22 Registry.

23 **Sec. 70.** The provisions of this chapter may be cited as the
24 Nevada Residential Mortgage Loan Act.

25 **Sec. 71.** The Commissioner is authorized to administer,
26 interpret and enforce the provisions of this chapter and adopt
27 regulations necessary to carry out the provisions of this chapter.

28 **Sec. 72.** A person shall not, directly or indirectly, provide, or
29 offer to provide, any of the services of a mortgage banker,
30 mortgage broker, mortgage loan originator or mortgage servicer
31 in this State without first obtaining the applicable license issued
32 pursuant to this chapter, unless the person is exempt from the
33 provisions of this chapter pursuant to NRS 645B.015.

34 **Sec. 73.** 1. An application for a license as a mortgage
35 banker, mortgage broker, mortgage loan originator or mortgage
36 servicer must be made in writing to the Commissioner on a form
37 prescribed by the Commissioner.

38 2. The applicant shall include in the application:

39 (a) The application fee required pursuant to section 84 of this
40 act;

41 (b) All information required on any application form
42 prescribed by the Commissioner;

43 (c) Written consent authorizing the Commissioner to conduct a
44 background investigation of the applicant and, if applicable, each
45 control person of the applicant, including, without limitation,



1 authorization to obtain a credit report from a consumer reporting
2 agency described in section 603(f) of the Fair Credit Reporting
3 Act, 15 U.S.C. § 1681a(f), a criminal history report from the
4 Federal Bureau of Investigation or any criminal history repository
5 of any state, national or international governmental agency or
6 entity and information related to any administrative, civil or
7 criminal findings by any governmental agency or entity;

8 (d) A complete set of fingerprints if the applicant is a natural
9 person, or, if the applicant is not a natural person, a complete set
10 of fingerprints of each control person of the applicant, for
11 submission to the Federal Bureau of Investigation or any
12 governmental agency or entity authorized to receive such
13 information for a state, national or international criminal history
14 background check; and

15 (e) Any other information required by this chapter, a
16 regulation adopted pursuant to this chapter or an order of the
17 Commissioner, or as requested in connection with the evaluation
18 and investigation of the applicant's qualifications and suitability
19 for licensure.

20 **Sec. 74.** The Commissioner shall not issue a license to
21 perform the services of a mortgage loan originator to an applicant
22 unless, after investigation, the Commissioner finds that the
23 applicant is in compliance with all of the following:

24 1. Meets all applicable requirements of this chapter.

25 2. Is at least 18 years of age.

26 3. Is:

27 (a) Employed and sponsored by, or has received a verified
28 offer of employment and sponsorship from, a mortgage banker,
29 mortgage broker or mortgage servicer who holds a license or is an
30 exempt person pursuant to this chapter; or

31 (b) A loan processor or underwriter who is an independent
32 contractor and who is sponsored by, or has received an offer of a
33 contract and sponsorship with, a mortgage banker, mortgage
34 broker or mortgage servicer who holds a license pursuant to this
35 chapter or is an exempt person.

36 4. Has not been convicted of, or entered or agreed to enter a
37 plea of guilty or nolo contendere to, a felony in a domestic, foreign
38 or military court within the 7 years immediately preceding the date
39 of the application, or at any time if such felony involved an act of
40 fraud, dishonesty or a breach of trust, money laundering or moral
41 turpitude. For the purposes of this subsection, a person shall not
42 be considered to have been convicted or entered a plea of guilty or
43 nolo contendere if the conviction or plea has been pardoned or
44 vacated.



5. Has not had a license or registration as a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer revoked in this State or any other jurisdiction and has not had any financial services license or registration revoked within the 10 years immediately preceding the date of the application. For the purposes of this subsection, a license or registration shall not be considered to have been revoked if the revocation was subsequently vacated.

6. Has demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination by the Commissioner that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter.

7. Has completed the hours of education required by section 80 of this act.

8. Has passed a qualified written examination pursuant to section 81 of this act.

9. Has a sponsorship in the Registry that is approved by the Commissioner and is covered by the corporate surety bond of the sponsor deposited with the Commissioner pursuant to NRS 645B.042.

Sec. 75. The Commissioner shall not issue a license to perform the services of a mortgage banker, mortgage broker or mortgage servicer to an applicant unless, after investigation, the Commissioner finds that the applicant is in compliance with all of the following:

1. Meets all applicable requirements of this chapter.

2. Has provided the name and residence and business addresses of each natural person who will be employed and sponsored by the applicant as a mortgage loan originator.

3. Has demonstrated experience, financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination by the Commissioner that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter.

4. Has demonstrated that each control person of the applicant:

(a) Has not had a license or registration as a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer revoked in this State or any other jurisdiction and has not had any financial services license or registration revoked within the 10 years immediately preceding the date of the application. For the purposes of this subsection, a license or registration shall not be considered to have been revoked if the revocation was subsequently vacated.



(b) 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, money laundering or moral turpitude. For the purposes of this paragraph, a person shall not be considered to have been convicted or entered a plea of guilty or nolo contendere if the conviction or plea has been pardoned or vacated.

(c) Has demonstrated experience, financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination by the Commissioner that the control persons will operate honestly, fairly and efficiently for the purposes of this chapter.

5. Has designated a qualified employee for each principal office and, if applicable, each branch office, in accordance with section 78 of this act and each qualified employee has been approved by the Commissioner.

6. Has deposited a corporate surety bond with the Commissioner pursuant to NRS 645B.042.

7. Has submitted to the Commissioner a financial statement in accordance with the requirements of NRS 645B.085.

Sec. 76. 1. An applicant for a license as a mortgage banker, mortgage broker or mortgage servicer shall obtain a license for the principal office and each branch office from which the applicant will conduct activity as a mortgage banker, mortgage broker or mortgage servicer related to any residential mortgage loan secured by a mortgage or deed of trust on real property located in this State.

2. An applicant for a license as a mortgage banker, mortgage broker or mortgage servicer who will conduct activity as a mortgage banker, mortgage broker or mortgage servicer related to any residential mortgage loan secured by a mortgage or deed of trust on real property located in this State under one or more assumed names must apply for a separate license for each assumed name.

3. A licensee may not conduct business from any location or under any name or assumed name other than the location and name that appear on its license issued pursuant to this chapter.

Sec. 77. Any person who holds himself or herself out directly to the public as being able to take or process a residential mortgage loan application shall have a licensed principal office or branch office located in this State.

Sec. 78. 1. A mortgage banker, mortgage broker or mortgage servicer shall designate a natural person to serve as a



1 *qualified employee for each principal office and, if applicable,*
2 *branch office licensed pursuant to this chapter. A natural person*
3 *must not be designated to serve as a qualified employee unless the*
4 *natural person:*

5 *(a) Is a licensed mortgage loan originator pursuant to this*
6 *chapter;*

7 *(b) Has at least 2 years of verifiable experience in the*
8 *residential mortgage industry within the immediately preceding 5*
9 *years;*

10 *(c) Is designated by a mortgage banker, mortgage broker or*
11 *mortgage servicer to act on behalf of the mortgage banker,*
12 *mortgage broker or mortgage servicer and to supervise and*
13 *control the conduct of the business of the mortgage banker,*
14 *mortgage broker or mortgage servicer at that office;*

15 *(d) Will be present at the designated office for a majority of the*
16 *time that the office is open to the public;*

17 *(e) Is designated to serve as the qualified employee at not more*
18 *than one office; and*

19 *(f) Is approved by the Commissioner to act as the qualified*
20 *employee for the licensee at the designated office.*

21 *2. If a qualified employee is not approved by the*
22 *Commissioner, or subsequently becomes ineligible because he or*
23 *she does not meet or no longer meets the requirements of*
24 *subsection 1, the mortgage banker, mortgage broker or mortgage*
25 *servicer who designated the qualified employee shall, within 30*
26 *days after the disapproval or ineligibility:*

27 *(a) If a qualified employee becomes ineligible, provide written*
28 *notification to the Commissioner;*

29 *(b) Designate a new qualified employee for the office for*
30 *which the qualified employee was not approved or became*
31 *ineligible; and*

32 *(c) Request the approval of the Commissioner for the new*
33 *qualified employee designated pursuant to paragraph (b).*

34 **Sec. 79.** *1. An applicant shall demonstrate that the*
35 *applicant has, and each licensee shall continuously maintain, a*
36 *minimum net worth as follows:*

37 *(a) For a mortgage broker who does not accept money from a*
38 *prospective borrower before the closing of a residential mortgage*
39 *loan, a positive net worth;*

40 *(b) For a mortgage banker or mortgage broker who accepts*
41 *money from a prospective borrower before the closing of a*
42 *residential mortgage loan, \$50,000; and*

43 *(c) For a mortgage servicer, \$250,000.*



2. Net worth, as used in this section, must be calculated in accordance with generally accepted accounting principles with the exclusion of the following assets:

(a) Any asset owed to the applicant or licensee from a control person of the applicant or licensee or from a person in which the applicant or licensee, or a control person of the applicant or licensee, holds a beneficial interest;

(b) Goodwill and other similar intangible assets; and

(c) Organization costs.

Sec. 80. 1. A natural person who is an applicant for a license as a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer shall complete at least 30 hours of approved educational courses before a license may be issued. The 30 hours of required education must include, without limitation:

(a) Three hours of instruction relating to ethics, which must include, without limitation, instruction on issues relating to fraud, consumer protection and fair lending;

(b) Three hours of instruction relating to federal law and regulations pertaining to mortgage lending;

(c) Two hours of instruction relating to lending standards for the nontraditional mortgage product marketplace;

(d) Four hours of instruction relating to Nevada law and regulations pertaining to mortgage lending;

(e) Twelve hours of instruction relating to mortgage origination or servicing; and

(f) Six hours of elective courses.

2. A natural person who is an applicant to renew a license as a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer shall complete at least 10 hours of approved courses of continuing education during the 12 months immediately preceding the date on which the license expires. The 10 hours of courses must include, without limitation:

(a) Three hours of instruction relating to federal law and regulations pertaining to mortgage lending;

(b) Two hours of instruction relating to ethics, which must include, without limitation, instruction on issues relating to fraud, consumer protection and fair lending;

(c) Two hours of instruction relating to lending standards for the nontraditional mortgage product marketplace;

(d) Two hours of instruction relating to Nevada law and regulations pertaining to mortgage lending; and

(e) One hour of instruction relating to mortgage origination or servicing.



3. Only educational courses reviewed and approved by the Registry or the Commissioner may be used to satisfy the requirements of this section.

4. The Commissioner may accept any hours of instruction completed in fulfillment of the requirements for a license in another state as the hours of instruction required for an initial license or courses of continuing education in this State if the Commissioner determines that those hours of instruction meet the requirements of this section.

5. Nothing in this section precludes, for the purpose of satisfying an educational requirement set forth in this section, any approved course that is provided by the employer of a mortgage loan originator, an entity which is affiliated with the employer by an agency contract or any subsidiary or affiliate of such employer or entity.

6. A licensed mortgage loan originator may not take an approved course more than once to meet the annual requirements for continuing education required by this section.

7. A licensed mortgage loan originator who is an approved instructor of a course approved pursuant to this section may receive credit toward the requirements for hours of continuing education at the rate of 2 hours of credit for each 1 hour taught by the mortgage loan originator.

Sec. 81. 1. A natural person who is an applicant for a license as a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer must pass a qualified written examination developed by the Registry and administered by a provider approved by the Registry based on reasonable standards.

2. A written examination is not considered a qualified written examination for the purposes of this section unless the examination adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including, without limitation:

(a) Ethics;

(b) Federal law and regulations pertaining to mortgage origination, lending and servicing, including, without limitation, issues relating to fraud, consumer protection, nontraditional mortgage products and fair lending; and

(c) Nevada law and regulations pertaining to mortgage origination, lending and servicing, including, without limitation, issues relating to fraud, consumer protection, nontraditional mortgage products and fair lending.

3. If a provider is approved by the Registry to administer an examination, the provider may provide the examination at the location of the employer of the applicant, the location of any



1 subsidiary or affiliate of the employer, or the location of any entity
2 with which the applicant holds an exclusive arrangement to
3 conduct the business of a mortgage loan originator.

4 4. To pass a qualified written examination, a natural person
5 must achieve a score of 75 percent or more, unless a higher
6 passing score is established by the Registry.

7 5. A natural person may retake the examination 3
8 consecutive times, at least 30 days apart. If a natural person fails 3
9 consecutive examinations, the person must wait at least 6 months
10 before retaking the examination.

11 6. An applicant for a license who previously held the same
12 license, and whose previous license expired for a reason unrelated
13 to a complaint filed or investigation conducted pursuant to NRS
14 645B.600 and 645B.610, may be excused from the requirements of
15 this section if his or her application for the new license is
16 submitted within 5 years after the date on which the previous
17 license expired.

18 **Sec. 82.** 1. Before a licensee may transfer, sell or convey
19 his or her ownership or beneficial interest which will total 25
20 percent or more of the total ownership or beneficial interests in
21 any entity required to possess a license pursuant to this chapter,
22 the licensee must submit a written application to the
23 Commissioner for approval of the transfer, sale or conveyance.
24 The application must include:

25 (a) The fee required pursuant to section 84 of this act to
26 transfer ownership or control of the entity;

27 (b) The name and percentage of ownership or beneficial
28 interest in the entity of each person obtaining an ownership or
29 beneficial interest resulting in a cumulative transfer of 25 percent
30 or more of the total ownership or beneficial interests in the entity;
31 and

32 (c) A personal questionnaire and complete set of fingerprints
33 of each person identified in paragraph (b), on a form prescribed
34 by the Commissioner, and written consent authorizing the
35 Commissioner to conduct a background investigation of the
36 person in the same manner as provided for in section 73 of this
37 act.

38 2. The Commissioner shall conduct the investigation of the
39 person required by this section to determine that the requirements
40 necessary for the licensure of the person pursuant to this chapter
41 are met.

42 3. A transfer, sale or conveyance that is subject to the
43 requirements of this section is not effective until approved by the
44 Commissioner.



Sec. 83. 1. *A licensee seeking to amend the name, address or qualifications of the licensee shall submit a written application to the Commissioner for approval of the amendment. The application must:*

(a) Be submitted to the Commissioner, on a form and in a manner prescribed by the Commissioner, not less than 30 days before the anticipated effective date of the proposed amendment to the licensee's name or qualifications or not more than 10 days after the change of the licensee's address;

(b) Include all information required by the Commissioner in accordance with regulations adopted pursuant to this chapter; and

(c) Include the amendment fee required pursuant to section 84 of this act.

2. *An amendment to a licensee's name or qualifications is not effective until approved by the Commissioner.*

Sec. 84. 1. *The Commissioner shall establish by regulation a schedule of fees that are sufficient to pay, but not to exceed, the Division's reasonably anticipated costs of administering and enforcing this chapter, including, without limitation, the cost of legal services provided by the Attorney General and administrative expenses billed to the Division by other agencies or entities. The maximum allowable fees shall be as follows:*

(a) For an initial application for a license as a mortgage banker, mortgage broker or mortgage servicer, not more than \$2,500 for a principal office and not more than \$500 for each branch office.

(b) For a renewal of a license as a mortgage banker, mortgage broker or mortgage servicer, not more than \$500 per office, plus an annual assessment. The annual assessment must be based on a fee, not to exceed \$25 per each residential mortgage loan, assessed on the total number of residential mortgage loans brokered, made or serviced during the immediately preceding calendar year.

(c) For an initial or renewal application for a license as a mortgage loan originator, not more than \$185.

(d) For a duplicate of a license or to amend the name, address or qualifications of a licensee, not more than \$50.

(e) To change the sponsorship of a mortgage loan originator, not more than \$50.

(f) To transfer the ownership or control of a mortgage banker, mortgage broker or mortgage servicer, not more than \$500.

(g) For the reinstatement of a license as a mortgage banker, mortgage broker or mortgage servicer, not more than \$200.

(h) For the reinstatement of a license as a mortgage loan originator, not more than \$75.



2. In addition to any fee required pursuant to subsection 1, a mortgage banker, mortgage broker or mortgage servicer shall pay the actual travel, lodging and meal expenses incurred by employees or contractors of the Division who travel outside this State to conduct an examination or investigation of the mortgage banker, mortgage broker or mortgage servicer.

3. The Commissioner may require a licensee that fails to timely submit any financial statement or report required pursuant to this chapter or sections 2 to 47, inclusive, of this act to pay a late fee not to exceed \$25 per day that the statement or report is late, up to a maximum of \$1,000. Any such late fee must be assessed in addition to any other disciplinary action taken pursuant to this chapter or sections 2 to 47, inclusive, of this act.

Sec. 85. 1. Any fee or assessment received by the Commissioner pursuant to the provisions of this chapter and sections 2 to 47, inclusive, of this act is nonrefundable.

2. All fees, assessments, fines and other money collected pursuant to this chapter or sections 2 to 47, inclusive, of this act are in addition to any fee required by the Registry and must be deposited in the Account for Mortgage Lending created by NRS 645F.270.

3. All fees, assessments, fines and other money collected pursuant to this chapter or sections 2 to 47, inclusive, of this act and deposited in the Account for Mortgage Lending must not be used for any purpose not authorized by NRS 645F.270 and must not revert to the State General Fund.

Sec. 86. 1. A natural person licensed as a mortgage loan originator pursuant to the provisions of this chapter must not be sponsored or employed by, or otherwise provide services as a mortgage loan originator for, more than one mortgage banker, mortgage broker or mortgage servicer or exempt person, at the same time.

2. A mortgage banker, mortgage broker, mortgage servicer or exempt person shall not sponsor or employ a natural person as a mortgage loan originator, or otherwise authorize a natural person to act as a mortgage loan originator on its behalf, if the mortgage loan originator is not licensed pursuant to this chapter. Before allowing a mortgage loan originator to act on his or her behalf, a mortgage banker, mortgage broker, mortgage servicer or exempt person shall sponsor the mortgage loan originator in the Registry and pay the applicable sponsorship fee.

3. If a mortgage loan originator terminates his or her employment or sponsored status with a mortgage banker, mortgage broker, mortgage servicer or exempt person, the mortgage banker, mortgage broker, mortgage servicer or exempt



person, as applicable, shall, not later than the third business day following the date of the termination:

(a) Remove its sponsorship of the mortgage loan originator from the Registry; and

(b) Notify the Commissioner, on a form prescribed by the Commissioner, of the termination.

4. A mortgage banker, mortgage broker, mortgage servicer or exempt person shall not, directly or indirectly, pay any compensation, commission, fees, points or other remuneration for services as a mortgage loan originator to any person other than a mortgage loan originator who is employed and sponsored by the mortgage banker, mortgage broker, mortgage servicer or exempt person.

5. A mortgage loan originator shall not, directly or indirectly, receive any compensation, commission, fees, points or other remuneration for the performance of services as a mortgage loan originator from any person other than the mortgage banker, mortgage broker, mortgage servicer or exempt person that is the employer and sponsor of the mortgage loan originator.

6. A mortgage loan originator shall not act as or provide any of the services of a mortgage loan originator, or otherwise hold himself or herself out as engaging in or carrying on the activities of a mortgage loan originator, during any period that the mortgage loan originator is not employed and sponsored by a mortgage banker, mortgage broker, mortgage servicer or exempt person.

Sec. 87. The unique identifier assigned to a mortgage banker, mortgage broker, mortgage loan originator, mortgage servicer or exempt person must be clearly shown on all forms, solicitations and advertisements relating to residential mortgage of the mortgage banker, mortgage broker, mortgage loan originator, mortgage servicer or exempt person.

Sec. 88. A mortgage servicer, in addition to any duties imposed by other statutes or the common law, shall:

1. Safeguard and account for any money handled by the mortgage servicer for a borrower or lender;

2. Follow reasonable and lawful instructions from a borrower or lender;

3. Act with reasonable skill, care and diligence;

4. With its application and renewal and with its supplemental filings from time to time, file with the Commissioner a complete and current schedule of the ranges of costs and fees it charges borrowers for its servicing-related activities;

5. File with the Commissioner, upon request, a report in a form and format acceptable to the Commissioner detailing the



activities of the mortgage servicer in this State, including, without limitation:

(a) The number of residential mortgage loans the mortgage servicer is servicing;

(b) The type and characteristics of the residential mortgage loans the mortgage servicer is servicing;

(c) The number of residential mortgage loans serviced by the mortgage servicer which are in default, along with a breakdown of such loans with delinquencies of more than 90 days; and

(d) Information on any foreclosures of properties securing residential mortgage loans serviced by the mortgage servicer which have been commenced in this State;

6. At the time a mortgage servicer accepts assignment of servicing rights for a residential mortgage loan, the mortgage servicer shall disclose to the borrower:

(a) Any notice required by the Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 et seq., or regulations adopted pursuant thereto;

(b) A schedule of the ranges and categories of the costs and fees of the mortgage servicer for servicing-related activities which must comply with the laws of this State and which must not exceed those submitted to the Commissioner; and

(c) A notice in a form and content acceptable to the Commissioner that the mortgage servicer is licensed by the Commissioner and that any complaint about the servicer may be submitted to the Commissioner; and

7. In the event of a delinquency or other act of default on the part of the borrower, act in good faith to inform the borrower of the facts concerning the loan and the nature and extent of the delinquency or default and, if the borrower replies, negotiate with the borrower, subject to the duties and obligations of the mortgage servicer to the lender under the mortgage servicing contract, if any, to resolve the delinquency.

Sec. 89. A person shall not transfer servicing rights or obligations for a residential mortgage loan to another person unless that person holds a valid license as a mortgage servicer or is an exempt person pursuant to this chapter.

Sec. 90. 1. For each residential mortgage loan, a mortgage servicer shall annually deliver to the borrower an account statement showing the unpaid principal balance of the residential mortgage loan at the end of the immediately preceding 12-month period, the interest paid during that period, the amounts deposited into and dispersed from escrow during that period and an itemization of each payment made or credited to the borrower's account during that period. The itemization must include, without



1 limitation, the date and amount of each payment received, how
2 each payment was applied to principal, interest, late fees and other
3 charges and be understandable to the borrower. The mortgage
4 servicer shall provide the statement required by this subsection
5 within 30 days after the end of each 12-month period.

6 2. A mortgage servicer shall not charge a fee to a borrower
7 for the cost of providing the annual statement required by
8 subsection 1. A mortgage servicer may charge a reasonable fee,
9 not to exceed the actual cost of copying and delivering the annual
10 statement, to a borrower for additional copies of the annual
11 statement if such additional copies are requested by the borrower.

12 3. Within 7 days after the receipt of a request from a
13 borrower, or his or her authorized representative, a mortgage
14 servicer shall deliver to the borrower, or other designated person,
15 a payoff statement for the residential mortgage loan that includes
16 a breakdown of the charges. The payoff statement must include all
17 information necessary to effect a payoff of the residential
18 mortgage loan, including, without limitation, where to remit the
19 payment.

20 4. A mortgage servicer shall not charge a borrower a fee for
21 preparing and delivering up to two payoff statements within any
22 12-month period. If a borrower requests more than two payoff
23 statements within a 12-month period, the mortgage servicer may
24 charge a reasonable fee, not to exceed the actual cost of preparing
25 and delivering the payoff statement, for each additional payoff
26 statement requested by a borrower.

27 5. Within 30 days after the payoff of a residential mortgage
28 loan has been effectuated, a mortgage servicer shall refund to the
29 borrower any money representing an overpayment, including,
30 without limitation, money received in excess of the payoff amount
31 and money held in escrow.

32 **Sec. 91.** A licensee who acts as a mortgage servicer for
33 another party, or a licensee who contracts with another party to
34 service residential mortgage loans on behalf of the licensee, shall
35 enter into a written agreement with the other party specifying the
36 terms of the mortgage service agreement.

37 **Sec. 92. 1.** In addition to any other activity prohibited
38 under this chapter, an applicant or licensee shall not:

39 (a) Knowingly make, or cause to be made, to the
40 Commissioner any false representation of a material fact;

41 (b) Suppress or withhold from the Commissioner any
42 information which the applicant or licensee possesses and which,
43 if submitted by the applicant or licensee, would have the effect of
44 rendering the applicant or licensee ineligible to be licensed
45 pursuant to the provisions of this chapter; or



(c) Violate any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner when completing and filing his or her application for an initial license, completing and filing his or her application for renewal of a license or during the course of any investigation of the applicant or licensee conducted by the Commissioner.

2. In addition to any other activity prohibited under this chapter, a mortgage banker, mortgage broker or mortgage servicer shall not:

(a) Be insolvent;

(b) Be grossly negligent or incompetent in performing any act for which the mortgage banker, mortgage broker or mortgage servicer is required to be licensed pursuant to the provisions of this chapter;

(c) Fail to conduct business in accordance with any law or to violate any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Be in such financial condition that the mortgage banker, mortgage broker or mortgage servicer cannot continue in business without jeopardizing its financial, contractual, fiduciary or statutory obligations to third parties, including, without limitation, customers, clients, employees, borrowers or lenders;

(e) Make any material misrepresentation in connection with any transaction governed by the provisions of this chapter;

(f) Suppress or withhold from a borrower or prospective borrower any material facts, data or other information relating to any transaction governed by the provisions of this chapter of which the mortgage banker, mortgage broker or mortgage servicer knew or with the exercise of reasonable diligence should have known;

(g) Knowingly make or cause to be made to the Commissioner any false representation of material fact or suppress or withhold from the Commissioner any information which the mortgage banker, mortgage broker or mortgage servicer possesses and which, if submitted by the mortgage banker, mortgage broker or mortgage servicer, would have the effect of rendering the mortgage banker, mortgage broker or mortgage servicer ineligible to be licensed pursuant to the provisions of this chapter;

(h) Fail to account for all money received in or disbursed from a trust, escrow, impound or similar account;

(i) Refuse to permit an examination by the Commissioner of its books and affairs or refuse, within a reasonable time, to furnish any information, or make any report, required by the Commissioner pursuant to the provisions of this chapter;



(j) Be convicted of, or enter a plea of guilty or nolo contendere to, a felony in a domestic, military or foreign court while holding a license issued pursuant to the provisions of this chapter;

(k) Refuse to pay, within a reasonable time, any fee, assessment, cost or expense that the mortgage banker, mortgage broker or mortgage servicer is required to pay pursuant to the provisions of this chapter or any regulation adopted pursuant to this chapter;

(l) Fail to satisfy a claim that has been reduced to judgment;

(m) Fail to account for or remit any funds of a borrower or prospective borrower within a reasonable time after a request for the accounting or remittal;

(n) Commingle any money or property of a borrower or prospective borrower with the money of the mortgage banker, mortgage broker or mortgage servicer or convert money or property of a borrower or prospective borrower for the private use of the mortgage banker, mortgage broker or mortgage servicer;

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

(p) Repeatedly violate the policies and procedures of the mortgage banker, mortgage broker or mortgage servicer;

(q) Fail to exercise reasonable supervision over the activities of any mortgage loan originator whom is sponsored or employed by the mortgage banker, mortgage broker or mortgage servicer pursuant to the provisions of this chapter;

(r) Instruct a mortgage loan originator to commit an act that would be cause for the revocation or suspension of the license of the mortgage banker, mortgage broker or mortgage servicer, regardless of whether the mortgage loan originator commits the act;

(s) Employ a person as a mortgage loan originator or authorize a person to be associated with the mortgage banker, mortgage broker or mortgage servicer as a mortgage loan originator if the mortgage banker, mortgage broker or mortgage servicer knows, or in light of all the surrounding facts and circumstances reasonably should have known, that the person:

(1) Has been convicted of, or agreed to enter a plea of guilty or nolo contendere to, a felony in any domestic, foreign or military jurisdiction within the 7 years immediately preceding the date on which the person applies for a license as a mortgage loan originator or at any time if such felony involved an act of fraud or dishonesty, a breach of trust, moral turpitude or money laundering; or

(2) Has a license or registration as a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer



1 *revoked or suspended in this State or any other jurisdiction, or has*
2 *had a financial services license or registration revoked or*
3 *suspended within the immediately preceding 10 years;*

4 *(t) Violate NRS 645C.557;*

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

7 *(v) Fail to amend its address with the Commissioner; or*

8 *(w) Engage, or offer to engage, or hold itself out as being able*
9 *to provide or conduct services related to private money lending*
10 *without first obtaining and maintaining a private money*
11 *endorsement pursuant to sections 2 to 47, inclusive, of this act.*

12 *3. In addition to any other activity prohibited under this*
13 *chapter, a mortgage loan originator shall not:*

14 *(a) Be grossly negligent or incompetent in performing any act*
15 *for which the mortgage loan originator is required to be licensed*
16 *pursuant to this chapter;*

17 *(b) Make a material misrepresentation in connection with any*
18 *transaction governed by the provisions of this chapter;*

19 *(c) Suppress or withhold from a borrower or prospective*
20 *borrower any material facts, data or other information relating to*
21 *any transaction governed by the provisions of this chapter of*
22 *which the mortgage loan originator knew, or with the exercise of*
23 *reasonable diligence should have known;*

24 *(d) Knowingly make or cause to be made to the Commissioner*
25 *any false representation of material fact or suppress or withhold*
26 *from the Commissioner any information which the mortgage loan*
27 *originator possesses and which, if submitted by the mortgage*
28 *loan originator, would have the effect of rendering the mortgage*
29 *loan originator ineligible to be licensed pursuant to the provisions*
30 *of this chapter;*

31 *(e) Be convicted of, or enter a plea of guilty or nolo contendere*
32 *to, a felony in a domestic, military or foreign court while holding a*
33 *license issued pursuant to the provisions of this chapter;*

34 *(f) Fail to account for or remit any money of a borrower or*
35 *prospective borrower within a reasonable time after a request for*
36 *such an accounting or remittal;*

37 *(g) Commingle any money or property of a borrower or*
38 *prospective borrower with the money of the mortgage loan*
39 *originator or convert money or property of a borrower or*
40 *prospective borrower for the private use of the mortgage loan*
41 *originator;*

42 *(h) Engage in any other conduct constituting a deceitful,*
43 *fraudulent or dishonest business practice;*

44 *(i) Violate NRS 645C.557;*



(j) Repeatedly violate the policies and procedures of the mortgage banker, mortgage broker or mortgage servicer by whom the mortgage loan originator is sponsored or employed;

(k) Violate, or assist another in violating any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(l) Associate with, or be employed or sponsored by, a mortgage banker, mortgage broker or mortgage servicer at more than one office of the mortgage banker, mortgage broker or mortgage servicer;

(m) While employed or sponsored by one mortgage banker, mortgage broker, mortgage servicer or exempt person, associate with or be sponsored or employed by another mortgage banker, mortgage broker, mortgage servicer or exempt person; or

(n) Engage, or offer to engage, or hold himself or herself out as being able to provide or conduct services related to private money lending without first obtaining and maintaining a private money endorsement pursuant to sections 2 to 47, inclusive, of this act.

Sec. 93. 1. A licensee shall not, directly or indirectly:

(a) Make a false, misleading or deceptive advertisement regarding residential mortgage loans or the availability of residential mortgage loans; or

(b) Represent that an activity for which a licensee may not be licensed pursuant to this chapter as being an activity for which a licensee may be licensed pursuant to this chapter.

2. Except as otherwise provided in subsection 3, an advertisement for an activity for which a licensee may be licensed pursuant to this chapter or sections 2 to 47, inclusive, of this act must be separate and distinct from an advertisement for an activity for which a licensee may not be licensed pursuant to this chapter or sections 2 to 47, inclusive, of this act.

3. A mortgage banker, mortgage broker or mortgage servicer may advertise jointly with a person licensed pursuant to chapter 624 or 645 of NRS if each licensed person is disclosed separately in the advertisement and each licensed person incurs a pro rata share of the costs associated with the advertisement.

4. A licensee must include in its advertisements, including any advertising material available on the Internet:

(a) The complete name of the licensee and the complete name under which the licensee is licensed pursuant to this chapter and, if the advertisement is for a mortgage loan originator, the name of the mortgage banker, mortgage broker or mortgage servicer who sponsors or employs the mortgage loan originator;



(b) The unique identifier of the licensee and the address and telephone number associated with the license; and

(c) A description of any activity mentioned in the advertisement in which a licensee is allowed to engage, provided in nontechnical words and language.

5. A licensee shall not use advertising material that simulates the appearance of a check, a communication from a governmental entity or an envelope containing a check or a communication from a governmental entity unless:

(a) The words “THIS IS NOT A CHECK,” “NOT NEGOTIABLE” or “THIS IS NOT A GOVERNMENTAL ENTITY,” as appropriate, appear prominently on the envelope and any material that simulates the appearance of a check or a communication from a governmental entity; and

(b) If the material simulates the appearance of a check, the material does not contain an American Bankers Association Routing Number, microencoding or any other marks intended to create the appearance that the material is a negotiable check.

6. A licensee shall not refer to an existing lender or financial institution, other than the licensee itself, on any advertising material without the written consent of the lender or financial institution.

7. In addition to the requirements set forth in this chapter, each advertisement that a licensee uses in carrying on its business must comply with the requirements of:

(a) The provisions of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and

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

8. For the purposes of this section, “advertising” includes, without limitation, commercial messages that promote the availability of mortgage products or investments that are or may be offered by a licensee. Commercial messages include, without limitation, those in the form of:

(a) Print media;

(b) Sales literature;

(c) Sales brochures or flyers;

(d) Billboards;

(e) Listings in a telephone directory, if more than a line listing;

(f) Radio and television advertisements;

(g) Mass mailings distributed by the United States Postal Service or another such delivery service or by electronic mail;

(h) Telephone or seminar scripts;

(i) Websites or other Internet sites that promote or accept applications for residential mortgage loans; and



(j) Business cards.

Sec. 94. 1. A licensee must report any disciplinary or enforcement action, denial of a license application, settlement agreement or other similar action involving the licensee and another state or federal regulator. The licensee must file a report with the Commissioner within 10 days after the action, on a form and in a manner prescribed by the Commissioner.

2. A licensee must report any bankruptcy petition filed by or against the licensee. The licensee shall file the report, on a form and in a manner prescribed by the Commissioner, within 10 days after the filing of the bankruptcy petition.

Sec. 95. 1. Except as otherwise provided in subsection 2, a licensee may surrender his or her license by delivering the license to the Commissioner along with written notice, on a form and in a manner prescribed by the Commissioner, that the licensee is surrendering the license.

2. A licensee whose license has been destroyed or lost, and who wishes to surrender his or her license, may comply with the requirements of subsection 1 by submitting to the Commissioner a notarized affidavit of the destruction or loss of the license accompanied by the written notice required by subsection 1.

3. A mortgage banker, mortgage broker or mortgage servicer may not close its principal office or any branch office, until:

(a) The mortgage banker, mortgage broker or mortgage servicer has complied with the requirements of subsection 1; and

(b) The Commissioner has approved the closure.

4. A request for approval of the closure of an office of a mortgage banker, mortgage broker or mortgage servicer must be submitted to the Commissioner and contain the following information:

(a) The status of any incomplete applications for residential mortgage loans and the manner in which the loans will be finalized;

(b) An accounting of each trust account maintained by the mortgage banker, mortgage broker or mortgage servicer and a plan for the distribution of the money in each account;

(c) Whether any mortgage loan originator employed with or sponsored by the mortgage banker, mortgage broker or mortgage servicer has been terminated and evidence of the termination; and

(d) In regard to the records of the mortgage banker, mortgage broker or mortgage servicer maintained pursuant to NRS 645B.080:

(1) The address of the location at which the records will be maintained; and



(2) The name, telephone number and mailing address of the person who will be responsible for maintenance of the records.

Sec. 96. 1. Each quarter, on a form and in a manner prescribed by the Commissioner, a mortgage banker, mortgage broker or mortgage servicer shall submit to the Commissioner, through the Registry, a report of the condition and activity of the mortgage banker, mortgage broker or mortgage servicer, as applicable. The report must:

(a) Specify the volume of loans made by the mortgage banker, arranged by the mortgage broker or serviced by the mortgage servicer, as applicable, for the quarter, or state that no loans were arranged, made or serviced in that quarter;

(b) Include any other information required by the Commissioner; and

(c) Be submitted on or before the date prescribed by the Commissioner.

2. The Commissioner may require a mortgage banker, mortgage broker or mortgage servicer to submit other special reports as needed.

Sec. 97. 1. If the Commissioner finds that an applicant or licensee has violated, or directly or indirectly counseled, aided or abetted a violation of, this chapter or any regulation adopted pursuant to this chapter, the Commissioner may take one or more of the following actions:

(a) Refuse to issue or renew a license;

(b) Assess an administrative fine against an applicant of not more than \$25,000 for each violation, regardless of whether the applicant is issued a license;

(c) Impose an administrative fine against a licensee, or a control person of a licensee, of not more than \$25,000 for each violation;

(d) Place conditions or restrictions upon a license or suspend or revoke a license; or

(e) Require a licensee or control person of a licensee to make restitution to each natural person injured, if the Commissioner finds that the violation resulted in an injury. Notwithstanding the provisions of paragraph (m) of subsection 1 of NRS 622A.120, the payment of restitution shall be made in a manner consistent with the provisions of chapter 622A of NRS.

2. An order issued or administrative fine assessed pursuant to this chapter may be enforced, or sued for and recovered, by and in the name of the Commissioner and may be collected and enforced by summary proceedings by the Attorney General.

3. In determining the amount of an administrative fine imposed pursuant to this chapter, whether to suspend or revoke a



license, the amount of restitution or to refuse to issue or renew a license, the Commissioner shall consider, without limitation:

(a) The extent to which the violation was a knowing and willful violation;

(b) The extent of the injury suffered because of the violation;

(c) The corrective action taken by the person to ensure the violation will not be repeated;

(d) The record of the licensee in complying with the provisions of this chapter; and

(e) Any other factor the Commissioner deems relevant.

Sec. 98. 1. If a person engages in an activity in violation of the provisions of this chapter, the Commissioner may issue an order to the person directing the person to cease and desist from engaging in the activity.

2. The order to cease and desist must be in writing and served personally, or sent by certified mail or by other means reasonably calculated to obtain service on the person, and must state that, in the opinion of the Commissioner, the person has engaged in an activity:

(a) For which the person has not received a license or approval as an exempt person as required by this chapter; or

(b) In a manner that violates the provisions of this chapter or any regulation adopted pursuant to this chapter.

3. Not later than 30 calendar days after receiving an order pursuant to this section, the person who receives the order may file a verified petition with the Commissioner to request a hearing. Upon receipt of the verified petition, the Commissioner may, for good cause shown, suspend the order pending the hearing. The Commissioner shall hold the hearing on a date not later than 30 calendar days after the date the petition is filed unless the Commissioner and the petitioner agree to another date. The order to cease and desist is automatically rescinded if the Commissioner fails to:

(a) Hold a hearing:

(1) Not later than 30 calendar days after the date the petition is filed; or

(2) On a date, and at a time, agreed to by the Commissioner and petitioner; or

(b) Render a written decision within 45 calendar days after the date the hearing is concluded.

4. Any hearing held pursuant to this section shall be conducted pursuant to the provisions of chapter 233B of NRS and other applicable provisions of law.



5. If a person fails to file a verified petition to request a hearing within 30 calendar days after receiving the order, the Commissioner shall issue a final order.

6. A final order issued pursuant to subsection 5 or a decision of the Commissioner issued after a hearing is a final decision of the Division for the purposes of judicial review.

Sec. 99. 1. The Commissioner shall give notice to a licensee of his or her intention to enter an order suspending or revoking that person's license, or notice to an applicant of his or her refusal to issue a license, or notice to a licensee or applicant of his or her intention to impose an administrative fine, in writing and served personally, sent by certified mail to the licensee or applicant, as applicable, or by other means reasonably calculated to obtain service.

2. Within 20 days after a notice is received pursuant to subsection 1, the licensee or applicant may request a hearing to contest the order or refusal. If a hearing regarding a suspension, revocation, refusal or fine is not requested, the Commissioner shall enter a final order regarding the suspension, revocation, refusal or fine. If timely requested, a hearing shall be conducted pursuant to the provisions of chapter 233B of NRS and other applicable provisions of law.

Sec. 100. 1. If, in the opinion of the Commissioner, a person has engaged in fraud, the Commissioner may serve upon that person written notice of his or her intention to prohibit that person from being employed by, or an agent or control person of, a licensee licensed pursuant to this chapter or a licensee, or employee of a licensee, licensed pursuant to chapter 645A, 645E or 645F of NRS.

2. A notice issued pursuant to subsection 1 must contain a statement of the facts supporting the prohibition and set a date for a hearing to be held. If the person does not appear at the hearing, he or she is deemed to have consented to the issuance of an order in accordance with the notice and the Commissioner shall issue such an order.

3. If, after a hearing held pursuant to subsection 2, the Commissioner finds that any of the grounds specified in the notice have been established, the Commissioner may issue an order of suspension or prohibition from being a licensee, or from being employed by, or an agent or control person of, any licensee licensed pursuant to this chapter or a licensee, or the employee of a licensee, licensed pursuant to chapter 645A, 645E or 645F of NRS.

4. An order issued pursuant to subsection 2 or 3 is effective upon service of the person. The Commissioner shall also serve a



copy of the order upon the licensee of which the person is an employee, agent or control person, as applicable. The order shall remain in effect until it is stayed, modified, terminated or set aside by the Commissioner or a reviewing court.

5. More than 5 years after the date of an order issued pursuant to subsection 2 or 3, the person subject to the order may apply to the Commissioner to terminate the order.

6. If the Commissioner considers that a person who is served notice pursuant to subsection 1 poses an imminent threat of financial loss to applicants for residential mortgage loans, the Commissioner may serve upon the person an order of suspension from being employed by, or an agent or control person of, any licensee. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect pending the completion of a review as provided pursuant to this section or the dismissal of the order by the Commissioner.

7. Unless otherwise agreed to by the Commissioner and the person served with an order issued pursuant to subsection 6, the hearing required pursuant to subsection 2 to review the suspension must be held not earlier than 5 days or later than 20 days after the date of the notice.

8. If a person is convicted of a felony involving fraud, dishonesty or breach of trust, the Commissioner may issue an order suspending or prohibiting that person from being a licensee and from being employed by, or an agent or control person of, a licensee licensed pursuant to this chapter or a licensee licensed pursuant to another chapter of title 54 of NRS that pertains to financial services. More than 5 years after the date of the order, the person subject to the order may apply to the Commissioner to terminate the order.

9. The Commissioner shall mail a copy of any notice or order issued pursuant to this section to the licensee of which the person subject to the notice or order is an employee, agent or control person.

10. As used in this section, “fraud” includes, without limitation, mortgage lending fraud as described in NRS 205.372, actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, fraud in the inducement, fraud in fact, fraud in law or any other form of fraud.

Sec. 101. 1. After a determination has been made pursuant to section 100 of this act and before conducting a hearing, the Commissioner may issue an order for the summary suspension of a licensee pursuant to subsection 3 of NRS 233B.127. The order must be based on an affidavit by a person familiar with the facts set forth in the affidavit or, if appropriate, based upon an affidavit,



1 on information and belief, that an imminent threat of financial
2 loss or imminent threat to the public welfare exists and must
3 contain findings to that effect.

4 2. In a proceeding relating to an order of summary
5 suspension commenced pursuant to subsection 3 of NRS
6 233B.127, the person presiding over the hearing shall grant a
7 request to dissolve the summary suspension order unless he or she
8 finds that an imminent threat of financial loss or an imminent
9 threat to the public welfare exists which requires emergency
10 action and the continuation of the summary suspension order.

11 3. The record created at the hearing of the summary
12 suspension shall become part of the record on the complaint as a
13 subsequent hearing in a contested case.

14 **Sec. 102.** A summary suspension order, a cease and desist
15 order or any injunctive relief issued or granted in relation to a
16 licensee shall be in addition to, and not in place of, an informal
17 conference, criminal prosecution or proceeding to deny, revoke or
18 suspend a license or any other legal action.

19 **Sec. 103.** An owner, partner, member, officer, director,
20 trustee, employee, agent, broker or other person, or a
21 representative acting on the authority of such a person, who
22 willfully or intentionally performs any of the following acts is
23 guilty of a misdemeanor punishable by a fine of not more than
24 \$50,000 or imprisonment in the county jail for not more than 364
25 days, or both fine and imprisonment:

26 1. Engaging in this State in the business of a mortgage
27 banker, mortgage broker, mortgage loan originator or mortgage
28 servicer without holding the applicable license or without being an
29 exempt person pursuant to this chapter;

30 2. Engaging in the activity of a private money endorsee, as
31 defined in section 11 of this act, without first obtaining the
32 endorsement required pursuant to sections 2 to 47, inclusive, of
33 this act; or

34 3. Coercing or inducing a real estate appraiser to inflate the
35 value of real property used as collateral for a residential mortgage
36 loan in any manner, including, without limitation by:

37 (a) Representing or implying that the real estate appraiser will
38 not be selected to conduct an appraisal of the real property or
39 selected for future appraisal work unless the appraiser agrees in
40 advance to a value, range of values or minimum value for the real
41 property; or

42 (b) Representing or implying that the real estate appraiser will
43 not be paid for an appraisal unless the appraiser agrees in
44 advance to a value, range of values or minimum value for the real
45 property.



Sec. 104. *Failure by a person who holds a license pursuant to this chapter to comply with the provisions of this chapter does not affect the validity or enforceability of any residential mortgage loan, unless the residential mortgage loan is invalid or unenforceable pursuant to the provisions of any other law of this State or any federal law.*

Sec. 105. *Notwithstanding the place of execution, nominal or real, of a residential mortgage loan, if the real property securing the loan is located in this State, the residential mortgage loan is subject to the provisions of this chapter and all other applicable laws of this State and federal law.*

Sec. 106. NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0104 to ~~645B.0135,~~ 645B.0132, inclusive, *and sections 50 to 69, inclusive, of this act* have the meanings ascribed to them in those sections.

Sec. 107. NRS 645B.0104 is hereby amended to read as follows:

645B.0104 “Clerical or ministerial tasks” means *duties subsequent to the receipt of a residential mortgage loan application, including, without limitation,* communication with a person to obtain, and the receipt, collection and distribution of, information necessary for the processing or underwriting of a mortgage loan. *The term does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms.*

Sec. 108. NRS 645B.0105 is hereby amended to read as follows:

645B.0105 “Commissioner” means the Commissioner of Mortgage Lending ~~and~~ *and the Commissioner’s designees.*

Sec. 109. NRS 645B.0112 is hereby amended to read as follows:

645B.0112 “Dwelling” ~~has the meaning ascribed to it in section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(v).~~ *means a residential structure that contains one to four housing units, regardless of whether the structure is attached to real property. The term includes, without limitation, a single-family home, townhouse, apartment, condominium unit, cooperative unit, mobile home or trailer, if it is used as a residence.*



Sec. 110. NRS 645B.0119 is hereby amended to read as follows:

645B.0119 “Financial services license or registration” means any license or registration issued in this State or any other state, district or territory of the United States that authorizes the person who holds the license or registration to engage in any business or activity described in the provisions of this chapter, title 55 or 56 of NRS or chapter 604A, 645, 645A, 645C, 645E, **645F**, 645G or 649 of NRS.

Sec. 111. NRS 645B.0123 is hereby amended to read as follows:

645B.0123 “Licensee” means a person who is licensed or required to be licensed ~~as a mortgage broker~~ pursuant to this chapter. ~~[The term does not include a person issued a license as a mortgage agent pursuant to NRS 645B.410 who is acting properly within the scope of that license.]~~

Sec. 112. NRS 645B.0124 is hereby amended to read as follows:

645B.0124 ~~[1.]~~ “Loan processor” **or “underwriter”** means a natural person who ~~is~~:

~~—(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.]~~ **performs clerical or ministerial tasks for a mortgage banker, mortgage broker or mortgage servicer.**

Sec. 113. NRS 645B.0127 is hereby amended to read as follows:

645B.0127 1. “Mortgage broker” means a person who, directly or indirectly ~~is~~:

~~—(a) Holds himself or herself out for hire~~, **accepts or offers to accept an application for a residential mortgage loan from a prospective borrower and:**

(a) Serves or offers to serve as an agent for any person in an attempt to obtain a ~~loan which will be secured by a lien on real property;~~ **residential mortgage loan; or**

(b) [Holds himself or herself out for hire] Serves or offers to serve as an agent for any person who ~~has money to lend, if the loan is or will be secured by a lien on real property;~~

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



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

~~—(e) Offers for sale in this State any security which is exempt from registration under state or federal law and purports to make investments in promissory notes secured by liens on real property.] makes or funds, or offers to make or fund, residential mortgage loans.~~

2. The term does not include a person who ~~[is licensed as a mortgage banker, as defined in NRS 645E.100, unless the person is also licensed as a mortgage broker pursuant to this chapter.] closes or funds residential mortgage loans in his or her own name unless the person also holds a license as a mortgage banker.~~

Sec. 114. NRS 645B.0128 is hereby amended to read as follows:

645B.0128 “Nationwide Mortgage Licensing System and Registry” or “Registry” means the mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators . ~~{for licensing and registration of residential mortgage loan originators.}~~

Sec. 115. 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 *located within this State* or residential real ~~estate~~ *property located within this State* upon which is constructed or intended to be constructed a dwelling.

Sec. 116. NRS 645B.0145 is hereby amended to read as follows:

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

1. Limit any statutory or common-law right of a person to bring a civil action against a *mortgage banker*, mortgage broker , ~~{or}~~ mortgage ~~agent~~ *loan originator or mortgage servicer* for any act or omission involved in the transaction of business by or on behalf of the *mortgage banker*, mortgage broker , ~~{or}~~ mortgage ~~agent~~ *loan originator or mortgage servicer*;

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

3. Establish a basis for a person to bring a civil action against the State or its officers or employees for any act or omission in carrying out the provisions of this chapter, including, without limitation, any act or omission relating to the disclosure of information or the failure to disclose information pursuant to the provisions of this chapter.



1 **Sec. 117.** NRS 645B.0147 is hereby amended to read as
2 follows:

3 645B.0147 1. In addition to any other duties set forth in this
4 chapter, any person licensed pursuant to this chapter has a fiduciary
5 obligation to a ~~{client;}~~ *borrower or prospective borrower*.

6 2. For the purposes of this section, a person's fiduciary
7 obligation does not impose a requirement to offer or obtain access to
8 loan products or services for a ~~{client;}~~ *borrower or prospective*
9 *borrower* other than those that are offered by the person at the time
10 of the transaction.

11 3. As used in this section, "fiduciary obligation" means a duty
12 of good faith and fair dealing, including, without limitation, the duty
13 to:

14 (a) Act in the ~~{client's}~~ *borrower's or prospective borrower's*
15 best interest;

16 (b) Conduct only those mortgage transactions which are suitable
17 for the ~~{client's}~~ *borrower's or prospective borrower's* needs;

18 (c) Disclose any financial, business, professional or personal
19 interest the person has in conducting a mortgage transaction for the
20 ~~{client;}~~ *borrower or prospective borrower;*

21 (d) Disclose any material fact that the person knows or should
22 know may affect the ~~{client's}~~ *borrower's or prospective*
23 *borrower's* rights or interests or the ability to obtain the intended
24 benefit from the mortgage transaction;

25 (e) Provide an accounting to the ~~{client;}~~ *borrower or*
26 *prospective borrower* that lists all money and property received
27 from the ~~{client;}~~ *borrower or prospective borrower;*

28 (f) Not accept or collect any fee for services rendered unless the
29 fee was disclosed to the ~~{client;}~~ *borrower or prospective borrower*
30 before the service is provided; and

31 (g) Exercise reasonable care in performing any other duty
32 relating to a mortgage transaction.

33 **Sec. 118.** NRS 645B.015 is hereby amended to read as
34 follows:

35 645B.015 ~~{Except as otherwise provided in NRS 645B.016, the~~
36 ~~Secure and Fair Enforcement for Mortgage Licensing Act of 2008,~~
37 ~~12 U.S.C. §§ 5101 et seq., and any regulations adopted pursuant~~
38 ~~thereto and other applicable law, the}~~

39 **1.** *The* provisions of this chapter do not apply to:

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



~~—2.1 (a) A depository financial institution;~~

~~(b) A subsidiary or a holding company of a depository financial institution, if that depository financial institution maintains its primary office or a branch office in this State;~~

~~(c) 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~~ ~~†~~

~~—3.1 ;~~

~~(d) 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~~ ~~†~~;

~~(e) A licensed 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.~~

~~—6.1 who does not engage in the business, or otherwise hold himself or herself out as being able to provide the services, of a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer and who is rendering services as an ancillary matter to his or her representation of a client, unless the attorney is compensated by a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer or by any agent thereof;~~

~~(f) 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 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.~~

~~—9.1 ;~~

~~(g) Agencies of the United States and of this State and its political subdivisions~~ ~~†~~ ~~or corporate instrumentalities~~, including , ~~without limitation~~, the Public Employees' Retirement System ~~†~~.

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

~~—11.1 ;~~



- 1 **(h)** A nonprofit agency or organization:
2 ~~[(a)]~~ **(1)** Which provides self-help housing for a borrower who
3 has provided part of the labor to construct the dwelling securing the
4 borrower's loan;
5 ~~[(b)]~~ **(2)** Which does not charge or collect origination fees in
6 connection with the origination of residential mortgage loans;
7 ~~[(c)]~~ **(3)** Which only makes residential mortgage loans at an
8 interest rate of 0 percent per annum;
9 ~~[(d)]~~ **(4)** Whose volunteers, if any, do not receive compensation
10 for their services in the construction of a dwelling;
11 ~~[(e)]~~ **and**
12 **(5)** Which does not profit from the sale of a dwelling to a
13 borrower; ~~and~~
14 ~~—[(f) Which maintains]~~
15 **(i) A nonprofit agency or organization which:**
16 **(1) Maintains** tax-exempt status under section 501(c)(3) of
17 the Internal Revenue Code of 1986, 26 U.S.C. § 501(c)(3) ~~[-~~
18 ~~—12. A housing counseling agency approved by the United~~
19 ~~States Department of Housing and Urban Development.];~~
20 **(2) Promotes affordable housing or provides education**
21 **relating to owning a home or provides similar services;**
22 **(3) Conducts its activities in a manner that serves public or**
23 **charitable purposes;**
24 **(4) Receives funding and revenue and charges fees in a**
25 **manner that does not incentivize the agency or organization or its**
26 **employees to act other than in the best interests of its clients;**
27 **(5) Compensates employees in a manner that does not**
28 **incentivize employees to act other than in the best interests of its**
29 **clients;**
30 **(6) Provides to or identifies for the borrower any residential**
31 **mortgage loan with terms that are favorable to the borrower and**
32 **comparable to mortgage loans and housing assistance provided**
33 **under governmental housing assistance programs; and**
34 **(7) Meets such other standards that the Commissioner**
35 **deems appropriate; and**
36 **(j) A person who originates or makes not more than three**
37 **residential mortgage loans in a calendar year if:**
38 **(1) The person is not engaged in the business of originating**
39 **or making residential mortgage loans; or**
40 **(2) The loans are secured by a manufactured home as that**
41 **term is defined in NRS 118B.015.**
42 **2. Any person claiming an exemption pursuant to this section**
43 **bears the burden of demonstrating that he or she meets one or**
44 **more of the qualifications for exemption set forth in subsection 1.**



3. Any person claiming an exemption pursuant to this section who employs one or more mortgage loan originators who are required to be licensed pursuant to this chapter shall make application to the Commissioner for approval as an exempt person for the purposes of employing and sponsoring the mortgage loan originator who is subject to the provisions of this chapter. The Commissioner shall prescribe by regulation the procedure and application to obtain approval as an exempt person.

Sec. 119. NRS 645B.023 is hereby amended to read as follows:

645B.023 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of a license as a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer shall include the social security number of the applicant in the application submitted to the Commissioner.

(b) A natural person who applies for the issuance or renewal of a license as a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

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

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license as a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer may not be issued or renewed by the Commissioner if the applicant is a natural person who:

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

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

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner shall advise the applicant to contact the



district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 120. NRS 645B.035 is hereby amended to read as follows:

645B.035 ~~{1.}~~ A license ~~{as a mortgage broker}~~ **issued pursuant to this chapter** entitles a licensee to engage only in the activities authorized by this chapter.

~~{2. The provisions of this chapter do not prohibit a licensee from:~~

~~—(a) Holding a license as a mortgage banker pursuant to chapter 645E of NRS; or~~

~~—(b) Conducting the business of a mortgage banker and the business of a mortgage broker in the same office or place of business.}~~

Sec. 121. NRS 645B.042 is hereby amended to read as follows:

645B.042 1. As a condition to doing business in this State, **at the time of filing an application for a license or renewal of a license**, each **mortgage banker**, mortgage broker **or mortgage servicer** 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 **mortgage banker**, mortgage broker **or mortgage servicer, as applicable**, and all mortgage ~~{agents}~~ **loan originators** employed by or associated with the **mortgage banker**, mortgage broker ~~{}~~ **or mortgage servicer**.

2. At the time of filing an application for a license as a mortgage ~~{agent}~~ **loan originator** and at the time of filing an application for the renewal of a license as a mortgage ~~{agent,}~~ **loan originator**, the applicant shall file with the Commissioner proof that the applicant is ~~{named as a principal on}~~ **covered by** the corporate surety bond deposited with the Commissioner by the **mortgage banker**, mortgage broker **or mortgage servicer** with whom the applicant 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 645B 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~~



1 ~~payment well and truly to be made, and that we bind~~
2 ~~ourselves, our heirs, executors, administrators, successors and~~
3 ~~assigns, jointly and severally, firmly by these presents.~~

4 ~~—The condition of that obligation is such that: Whereas, the~~
5 ~~principal has been issued a license as a mortgage broker or~~
6 ~~mortgage agent by the Commissioner of Mortgage Lending~~
7 ~~and is required to furnish a bond, which is conditioned as set~~
8 ~~forth in this bond:~~

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

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

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

30
31(Seal)

32Principal

33(Seal)

34Surety

35 By.....

36Attorney-in fact

37

38Nevada Licensed Insurance Agent]

39 *a form prescribed by the Commissioner.*

40 4. Each *mortgage banker*, mortgage broker *or mortgage*
41 *servicer* shall deposit a corporate surety bond that complies with the
42 provisions of this section in the following amounts:

43 (a) For *a mortgage banker and mortgage broker*:

44 (1) *With* an annual loan *[production] volume* of \$20,000,000
45 or less, \$50,000.



~~{(b) For}~~

(2) With an annual loan ~~{production}~~ volume of more than \$20,000,000, \$75,000.

(b) For a mortgage servicer:

(1) With an annual servicing volume of \$20,000,000 or less, \$100,000.

(2) With an annual servicing volume of more than \$20,000,000, \$250,000.

5. ~~{Except as otherwise required by federal law or regulation, for}~~ For the purposes of subsection 4, *the annual loan volume or annual servicing volume will be determined from the monthly activity and quarterly reports filed with 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.}* by the mortgage banker, mortgage broker or mortgage servicer.

Sec. 122. NRS 645B.046 is hereby amended to read as follows:

645B.046 1. The surety may cancel a bond upon giving 60 days' notice, *by certified mail*, to the Commissioner ~~{by certified mail.}~~ *and the licensee who is the principal on the bond.* Upon receipt by the Commissioner of such a notice, the Commissioner *shall* 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 *summarily suspended on that date and thereafter* revoked unless the licensee furnishes an equivalent bond 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.}~~ *in accordance with the provisions of this chapter and the requirements of chapter 233B of NRS. During the pendency of the revocation proceedings, the license shall be summarily suspended in accordance with chapter 233B of NRS.*

Sec. 123. NRS 645B.048 is hereby amended to read as follows:

645B.048 1. ~~{Any}~~ *Subject to the requirements of this section, any* person claiming against a bond may ~~{bring an action in a court of competent jurisdiction on the bond for damages to the extent covered by the bond. A person who brings an action on a bond shall notify the Commissioner in writing upon filing the~~



1 ~~action. An action may not be commenced after the expiration of 3~~
2 ~~years following the commission of the act on which the action is~~
3 ~~based.] file a claim with the Commissioner for damages to the~~
4 ~~extent covered by the bond.~~

5 2. ~~[Upon receiving a request from a person for whose benefit a~~
6 ~~bond is required, the] The Commissioner shall [notify the person:~~

7 ~~—(a) That a bond is in effect and of the amount of the bond; and~~

8 ~~—(b) If there is an action against the bond, the title, court and case~~
9 ~~number of the action and the amount sought by the plaintiff.]~~

10 *prioritize and pay claims on a bond filed with the Commissioner*
11 *pursuant to this chapter in a manner that, in the Commissioner's*
12 *discretion, best protects the public interest.*

13 3. ~~[If a surety wishes to make payment without awaiting action~~
14 ~~by a court, the amount of the bond must be reduced to the extent of~~
15 ~~any payment made by the surety in good faith under the bond. Any~~
16 ~~payment must be based on written claims received by the surety~~
17 ~~before any action is taken by a court.] A claim may only be filed~~
18 ~~against a licensee's bond by the licensee's borrowers, loan~~
19 ~~applicants, loan servicing clients and the Commissioner.~~

20 4. ~~[The surety may bring an action for interpleader against all~~
21 ~~claimants upon the bond. If it does so, it shall publish notice of the~~
22 ~~action at least once each week for 2 weeks in every issue of a~~
23 ~~newspaper of general circulation in the county where the mortgage~~
24 ~~broker has its principal place of business. The surety may deduct its~~
25 ~~costs of the action, including attorney's fees and publication, from~~
26 ~~its liability under the bond.] A claim filed against a bond pursuant~~
27 ~~to this section by a borrower, loan applicant or loan servicing~~
28 ~~client must involve only a residential mortgage loan or an~~
29 ~~application for a residential mortgage loan secured by real~~
30 ~~property located in this State. The amount of the claim may not~~
31 ~~exceed the actual fees charged in connection with a loan~~
32 ~~application, overcharges of principal and interest, and excess~~
33 ~~escrow collections charged by the licensee and paid by the~~
34 ~~claimant to the licensee or the licensee's agent.~~

35 5. ~~[Claims against a bond have equal priority, and if the bond is~~
36 ~~insufficient to pay all claims in full, they must be paid on a pro rata~~
37 ~~basis. Partial payment of claims is not full payment, and any~~
38 ~~claimant may bring an action against the mortgage broker for the~~
39 ~~unpaid balance.] A claim on a bond pursuant to this section may~~
40 ~~not be commenced more than 3 years after the commission or~~
41 ~~omission of the act upon which the claim is based.~~

42 6. *Upon receipt of a bond claim, the Commissioner shall*
43 *commence an investigation pursuant to this chapter to determine*
44 *if a violation has occurred and the validity of the bond claim. If*
45 *the Commissioner determines that a claim is valid and is covered*



1 by the bond, the Commissioner shall cause written notification of
2 such determination to be served upon the licensee and provide the
3 licensee with 30 days to pay the claim without utilizing the bond. If
4 the licensee fails to pay the claim within the 30-day period, the
5 Commissioner shall file a claim with the surety in the amount of
6 the valid claim or, if the amount of the valid claim exceeds the
7 amount of the bond, the full amount of the bond.

8 7. If the Commissioner has received more claims against the
9 bond than the proceeds available from the bond, each claimant
10 shall have equal claim priority and be entitled to a pro rata
11 amount of his or her valid claim. Partial payment of a claim to a
12 claimant pursuant to this subsection shall not constitute full
13 payment of the claim and a claimant may bring an action against
14 the mortgage banker, mortgage broker or mortgage servicer, as
15 applicable, for the unpaid balance.

16 8. The Commissioner may file a claim against a bond for the
17 payment of any fines or fees due and payable to the
18 Commissioner, reimbursement for expenses incurred in
19 investigating the licensee and expenses incurred in distributing the
20 proceeds of the bond. A claim filed by the Commissioner shall be
21 subordinate to any claim filed by a licensee's borrowers, loan
22 applicants or loan servicing clients.

23 **Sec. 124.** NRS 645B.050 is hereby amended to read as
24 follows:

25 645B.050 1. ~~{A}~~ Each license ~~{as a mortgage broker}~~ issued
26 pursuant to this chapter expires each year on December 31, unless it
27 is renewed.

28 2. To renew ~~{such}~~ a license ~~{}~~ as a mortgage loan originator,
29 the licensee must submit to the Commissioner *an application for*
30 *renewal* on or after November 1 and on or before December 31 of
31 each year, or on a date otherwise specified by the Commissioner .
32 ~~{by regulation;}~~ *The application for renewal must:*

33 (a) ~~{An application for renewal;}~~ *Be in a form prescribed by the*
34 *Commissioner;*

35 (b) ~~{The}~~ *Include the annual renewal* fee required ~~{to renew the~~
36 ~~license pursuant to this section;}~~ *by section 84 of this act;*

37 (c) ~~{The information required pursuant to NRS 645B.051; and}~~
38 *Include satisfactory evidence that the applicant continues to meet*
39 *each of the requirements of this chapter to hold a license as a*
40 *mortgage loan originator;*

41 (d) *Include satisfactory evidence that the mortgage loan*
42 *originator has successfully completed the required hours of*
43 *continuing education set forth in section 80 of this act; and*

44 (e) All other information required by the Commissioner . ~~{or, if~~
45 ~~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 as of 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:~~

~~—(a) An application for renewal;~~

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

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

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

~~—(e) All information required to complete the reinstatement.~~

~~—3. Except as otherwise provided in NRS 645B.016, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or after November 1 and on or before December 31 of each year or on a date otherwise specified by the Commissioner by regulation:~~

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

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

~~—4. If the person:~~

3. Notwithstanding the provisions of paragraph (a) of subsection 3 of section 74 of this act, and subject to the limitations set forth in section 86 of this act, the Commissioner may renew the license of a mortgage loan originator who has made an application for renewal and meets all requirements for such a renewal except that the mortgage loan originator is not currently employed and sponsored by a mortgage banker, mortgage broker or mortgage servicer. Such a renewal must be designated as an approved-inactive license or a similar designation by the Commissioner.

4. To renew a license as a mortgage banker, mortgage broker or mortgage servicer, the licensee must submit to the Commissioner an application for renewal on or after November 1 and on or before December 31 of each year, or on a date otherwise specified by the Commissioner. The application for renewal must:

(a) Be in a form prescribed by the Commissioner;

(b) Include the renewal fee and annual assessment required by section 84 of this act;

(c) Include satisfactory evidence that the applicant continues to meet the requirements of this chapter to hold a license as a



mortgage banker, mortgage broker or mortgage servicer, as applicable; and

(d) All other information required by the Commissioner.

5. A licensee that fails to submit ~~[any item required pursuant to subsection 3 to the Commissioner on or after November 1 and]~~ *a complete renewal application* 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 as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner on or]~~ *may reinstate the license if,* before February 28 of the following year ~~;~~

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

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

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

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

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

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

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

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

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

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

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

~~8. Except as otherwise provided in this chapter, all fees received pursuant to this chapter are in addition to any fee required to be paid to the Registry and must be deposited in the Account 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~~



1 such an adjustment is necessary for the Commissioner to carry out
2 his or her duties pursuant to this chapter. The amount of any
3 adjustment in a fee pursuant to this subsection must not exceed the
4 amount determined to be necessary for the Commissioner to carry
5 out his or her duties pursuant to this chapter.

6 — 10. The Commissioner may require a licensee to submit an
7 item or pay a fee required by this section directly to the
8 Commissioner or, if the licensee is required to register or voluntarily
9 registers with the Registry, to the Commissioner through the
10 Registry.} *the licensee files a complete application for renewal and
11 pays all fees and assessments required by section 84 of this act.*

12 **Sec. 125.** NRS 645B.060 is hereby amended to read as
13 follows:

14 645B.060 1. Subject to the administrative control of the
15 Director of the Department of Business and Industry, the
16 Commissioner shall *have jurisdiction over, and shall* exercise
17 general supervision and control over *, all mortgage bankers,*
18 mortgage brokers *, [and] mortgage [agents doing business in this*
19 *State.] loan originators and mortgage servicers governed by the*
20 *provisions of this chapter.*

21 2. In addition to the other duties *[imposed upon him or her by*
22 *law,] or authority assigned or granted under this chapter,* the
23 Commissioner *[shall:] may:*

24 (a) Adopt *any* regulations *[-*

25 *— (1) Setting forth the requirements for an investor to acquire*
26 *ownership of or a beneficial interest in a loan secured by a lien on*
27 *real property. The regulations must include, without limitation, the*
28 *minimum financial conditions that the investor must comply with*
29 *before becoming an investor.*

30 *— (2) Establishing reasonable limitations and guidelines on*
31 *loans made by a mortgage broker to a director, officer, mortgage*
32 *agent or employee of the mortgage broker.} that are necessary to*
33 *efficiently and effectively carry out the provisions of this chapter,*
34 *except regulations concerning loan brokerage fees.*

35 (b) *[Adopt any other regulations that are necessary to carry out*
36 *the provisions of this chapter, except as to loan brokerage fees.]*
37 *Require that any application for an initial license or certificate of*
38 *exemption, or the renewal of a license or certificate of exemption,*
39 *pursuant to this chapter be submitted directly to the Division or to*
40 *the Division through the Registry.*

41 (c) *Require that any fee, assessment, late penalty, fine or*
42 *money required to be paid pursuant to this chapter be paid directly*
43 *to the Division, or to the Division through the Registry.*

44 (d) *Issue, or refuse to issue, a license or approval of an*
45 *exemption, amendment to a license or transfer of a license.*



(e) Revoke, suspend or place a condition on a license as provided in this chapter.

(f) Impose an administrative fine and assess administrative fees, assessments or attorney's fees as provided in this chapter or pursuant to applicable law.

(g) Prohibit a natural person from undertaking any activity governed by this chapter as provided for in this chapter.

(h) Impose any other administrative discipline as provided in this chapter.

(i) Bring an action in any county in this State to enforce an order or subpoena issued pursuant to this chapter.

(j) Advise the Attorney General, or prosecuting attorney of any county of this State, that a mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer is conducting business or engaging in any activity in violation of the provisions of this chapter.

(k) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

~~{(d) Except as otherwise provided in subsection 4, conduct}~~

(l) Conduct an ~~{annual}~~ examination of each mortgage banker, mortgage broker or mortgage servicer licensed or doing business ~~{in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:~~

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

~~—— (2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until after a period of time set by the Commissioner to determine any objections made by the mortgage broker.~~

~~—— (e)}~~ pursuant to this chapter. The Commissioner may also conduct more frequent examinations of a licensee pursuant to this paragraph as warranted.

(m) Conduct ~~{such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers and}~~ an examination or investigation of any mortgage ~~{agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.~~



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

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

~~—— (2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.~~

~~(g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.~~

~~3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.~~

~~4. The Commissioner may conduct examinations of a mortgage broker, as described in paragraph (d) of subsection 2, on a biennial instead of an annual basis if the mortgage broker:~~

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

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

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

~~(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.} loan originator licensed or doing business pursuant to this chapter. In connection with an investigation or examination conducted pursuant to this paragraph, the Commissioner shall have the authority to examine the books and records of any employer or sponsor of a mortgage loan originator related to the activity of that mortgage loan originator.~~

~~(n) In conducting any examination or investigation pursuant to this chapter:~~

~~(1) Issue subpoenas to compel the appearance of any person or production of any documents, books or records, administer oaths and examine any person pursuant to NRS 645B.070; and~~

~~(2) Have free access during regular business hours to the offices, places of business or other locations where a licensee or an affiliate of a licensee maintains business-related documents and to the books, accounts, papers, records, files, documents, safes and vaults of a licensee.~~



(o) Assess a fee upon any mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer, based on the rate established pursuant to NRS 645F.280, for each special audit, investigation or examination conducted of that mortgage banker, mortgage broker, mortgage loan originator or mortgage servicer pursuant to this chapter.

(p) By procedure, order or regulation, classify as confidential certain records and information if:

(1) The records or information are obtained from a governmental agency upon the express condition that such records or information remain confidential; or

(2) The records or information contain private and personal information related to a natural person, the release of which would result in an unwarranted invasion of privacy.

(q) For the purposes of conducting any examination or investigation pursuant to this chapter:

(1) Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations;

(2) Enter into agreements or relationships with other governmental officials or agencies or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods of procedure, documents, records, information or evidence obtained pursuant to an examination or investigation;

(3) Use, hire, contract with or employ public or private analytical systems, methods or software to examine or investigate a licensee or other person subject to the provisions of this chapter;

(4) Accept and rely on reports of an examination or investigation made by other governmental officials or agencies; and

(5) Accept audit reports prepared by an independent certified public accountant for the licensee, or other person subject to the provisions of this chapter, in the course of that part of the examination covering the same general subject matter as the audit, and incorporate the audit report in the report of the examination, the report of the investigation or other writing of the Commissioner.

Sec. 126. NRS 645B.080 is hereby amended to read as follows:

645B.080 1. Each mortgage banker, mortgage broker or mortgage servicer shall keep and maintain, and make available for examination by the Commissioner, at all times at ~~each location where~~ the principal office of the mortgage banker, 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.~~

~~—2.4 or mortgage servicer, complete and suitable records of all business conducted by the mortgage banker, mortgage broker or mortgage servicer to enable the Commissioner to determine whether the business of the mortgage banker, mortgage broker or mortgage servicer is conducted in compliance with the provisions of this chapter and any regulations adopted pursuant to this chapter.~~

~~2. If the mortgage banker, mortgage broker or mortgage servicer does not maintain the records required by this section within this State, the mortgage banker, mortgage broker or mortgage servicer shall provide such records to the Commissioner within 24 hours after a request for such records or the mortgage banker, mortgage broker or mortgage servicer shall pay the reasonable travel, lodging and meal expenses of the Commissioner necessary for the Commissioner to travel to the place where such records are kept.~~

~~3. The preservation of records as electronic records by means of any information processing system or other information storage device or medium in accordance with the requirements of NRS 78.0297 constitutes compliance with this section.~~

~~4. Each mortgage banker, mortgage broker or mortgage servicer 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.] preserve and keep available for examination by the Commissioner complete and suitable records related to each completed residential mortgage loan transaction for a period of~~



1 not less than 4 years after the date of the last activity relating to
2 the transaction.

3 5. Each mortgage banker, mortgage broker or mortgage
4 servicer shall preserve and keep available for examination by the
5 Commissioner complete and suitable records related to each
6 residential mortgage loan that was denied or withdrawn by the
7 prospective borrower for a period of not less than 1 year after the
8 date of the last activity relating to the transaction, or as otherwise
9 required by federal law.

10 6. As used in this section, “complete and suitable record”
11 means:

12 (a) All original books, papers and data, or copies thereof,
13 clearly reflecting the financial condition of the business of the
14 mortgage banker, mortgage broker or mortgage servicer;

15 (b) A loan file that includes, without limitation and as
16 applicable:

17 (1) The real estate sales contract;

18 (2) Escrow instructions;

19 (3) The preliminary title report;

20 (4) The loan application, including, without limitation, any
21 attachments or supplements;

22 (5) An appraisal report or any other independent
23 assessment of the value of the property securing the loan;

24 (6) Any verification of representations made by the
25 borrower on the loan application;

26 (7) The borrower’s credit report;

27 (8) A good faith estimate of closing costs, including,
28 without limitation, any additional estimates if there is a material
29 change to the original estimate and any disclosures required
30 pursuant to the federal Truth in Lending Act, 15 U.S.C. §§ 1601,
31 et seq.;

32 (9) The uniform settlement statement described by 12
33 U.S.C. § 2603;

34 (10) Any commitments made by the licensee to the
35 borrower, including, without limitation, a commitment to
36 guarantee the borrower a particular interest rate or a commitment
37 to fund the loan;

38 (11) All closing documentation, including, without
39 limitation, a recorded or confirmed mortgage or deed of trust, any
40 title insurance policy, any promissory note, any hazard insurance
41 policy and any subsequent assignment of the note, mortgage or
42 deed of trust; and

43 (12) Any additional disclosures required by state or federal
44 law or prescribed by order of the Commissioner or regulations
45 adopted pursuant to this chapter; and



(c) Books and records of the business of the mortgage banker, mortgage broker or mortgage servicer, including, without limitation:

(1) Any book or record that evidences compliance with applicable federal and state laws and regulations;

(2) A copy of each item of advertising material that was published or distributed by or on behalf of the mortgage banker, mortgage broker or mortgage servicer in the format in which the material was published or distributed;

(3) A copy of any written complaint against the mortgage banker, mortgage broker or mortgage servicer together with all correspondence, notes, responses or other documentation related to the disposition of the complaint;

(4) All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, cancelled checks or other records that relate to the business of the mortgage banker, mortgage broker or mortgage servicer;

(5) Copies of all federal tax withholding forms, reports of income for federal taxation and evidence of payments to all employees, independent contractors and other persons who worked or performed services for the mortgage banker, mortgage broker or mortgage servicer;

(6) Copies of all documents evidencing a contractual relationship between the mortgage banker, mortgage broker or mortgage servicer and any third-party provider of services related to residential mortgage loans, including, without limitation, contracts, invoices, billings and remittances to the provider or on behalf of the mortgage banker, mortgage broker or mortgage servicer;

(7) Copies of all material correspondence related to the business of the mortgage banker, mortgage broker or mortgage servicer, including, without limitation, electronic messages; and

(8) Copies of all reports, audits, examinations, inspections, reviews or investigations or other similar activities relating to the business of the mortgage banker, mortgage broker or mortgage servicer performed by any third party, including, without limitation, any regulatory or supervisory authority.

Sec. 127. NRS 645B.085 is hereby amended to read as follows:

645B.085 1. ~~Except as otherwise provided in this section,~~ At the time of application for a license and not later than 90 days after the last day of each fiscal year for a mortgage banker, mortgage broker ~~the~~ or mortgage servicer, the applicant or licensed mortgage banker, mortgage broker or mortgage servicer,



1 **as applicable**, shall submit to the Commissioner a financial
2 statement that:

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

4 (b) Has been prepared **, in accordance with generally accepted**
5 **accounting principles**, from the books and records of the **mortgage**
6 **banker, mortgage broker or mortgage servicer** by an independent
7 certified public accountant who holds a license to practice in this
8 State or in any other state ~~[that has not been revoked or suspended.]~~
9 **; and**

10 (c) **Demonstrates that the applicant or licensed mortgage**
11 **banker, mortgage broker or mortgage servicer meets the minimum**
12 **net worth requirement set forth in section 79 of this act.**

13 2. ~~[Unless otherwise prohibited by the Registry, the]~~ **The**
14 Commissioner may grant a reasonable extension for the submission
15 of a financial statement pursuant to this section if a **mortgage**
16 **banker, mortgage broker or mortgage servicer** requests such an
17 extension before the date on which the financial statement is due.

18 3. If a **mortgage banker, mortgage broker or mortgage**
19 **servicer** maintains any accounts described in ~~[subsection 1 of NRS~~
20 ~~645B.175,]~~ **section 35 of this act**, the financial statement submitted
21 pursuant to this section must be audited. ~~[If a mortgage broker~~
22 ~~maintains any accounts described in subsection 1 or 4 of NRS~~
23 ~~645B.175, those accounts must be audited.]~~

24 4. The Commissioner ~~[shall]~~ **may** adopt regulations prescribing
25 the scope of an audit conducted pursuant to subsection 3.

26 **Sec. 128.** NRS 645B.090 is hereby amended to read as
27 follows:

28 645B.090 1. Except as otherwise provided in this section or
29 by specific statute, all papers, documents, reports and other written
30 instruments filed with the Commissioner pursuant to this chapter are
31 open to public inspection.

32 2. ~~[Except as otherwise provided in subsection 3, the]~~ **The**
33 Commissioner may withhold from public inspection or refuse to
34 disclose to a person, for such time as the Commissioner considers
35 necessary, any information that, in the Commissioner's judgment,
36 would:

37 (a) Impede or otherwise interfere with an investigation or
38 examination that is currently pending against a **mortgage banker,**
39 **mortgage broker** ~~[;]~~ **, mortgage loan originator or mortgage**
40 **servicer;**

41 (b) Have an undesirable effect on the welfare of the public ~~[;]~~ **or**
42 **result in the creation of an unfair competitive advantage in the**
43 **marketplace;** or

44 (c) Reveal personal information in violation of NRS 239B.030.



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

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

~~—(b) The nature of any disciplinary action that has been taken during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter; and~~

~~—(c) If the mortgage broker makes or offers for sale in this State any investments in promissory notes secured by liens on real property;~~

~~—(1) Any information in the possession of the Commissioner regarding the present and past ownership and management structure of the mortgage broker; and~~

~~—(2) The findings and results of:~~

~~—(I) All examinations or investigations of the mortgage broker conducted pursuant to NRS 645B.060 during the immediately preceding 5 years, including, without limitation, annual or biennial examinations of the mortgage broker conducted pursuant to NRS 645B.060, including, without limitation, the rating for each annual or biennial examination and an explanation of the standards for determining that rating; and~~

~~—(II) Any other examination or audit, investigation or hearing which has been completed during the immediately preceding 3 years against the mortgage broker pursuant to the provisions of this chapter.}~~ *Information obtained during an examination or investigation conducted pursuant to this chapter is confidential and must not be available for public inspection or copying, or divulged to any person, except as otherwise provided in this section. The information may be disclosed, for the purposes of conducting the examination or investigation, to:*

(a) The Attorney General;

(b) Any regulatory agency of this State or any other state or the Federal Government;

(c) Law enforcement officials;

(d) Persons authorized by a court of competent jurisdiction;

(e) A person employed by or under contract with the Commissioner or any agency of this State to assist with the examination or investigation; or



(f) A person designated by the Commissioner in connection with an enforcement action brought pursuant to this chapter or chapter 645E or 645F of NRS or sections 2 to 47, inclusive, of this act.

4. 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 arising from the complaint are confidential.

5. An order that imposes discipline and the findings of fact and conclusions of law supporting that order, including, without limitation, all documents, records, information and testimony relied upon in the order, unless otherwise declared to be confidential pursuant to applicable law, are public records.

6. Notwithstanding the provisions of subsection 2, 3 or 4, and except as otherwise provided by applicable law, the Commissioner may disclose any information, documents or records in his or her possession or control to the public if, at the Commissioner's sole discretion, he or she determines that the release of such information is in the public interest.

7. Notwithstanding any provision of this section or NRS 645B.070 to the contrary, all records of the Commissioner may be examined by the Legislative Auditor or the Department of Taxation if necessary to carry out provisions of chapter 363A of NRS.

Sec. 129. 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 **by a borrower or prospective borrower** to a ~~[mortgage broker and his or her mortgage agents or any other person]~~ **licensee** to obtain a **residential mortgage** loan which will be secured by a ~~[lien]~~ **mortgage or deed of trust** on real property must be placed in escrow pending completion of the loan or a commitment for the loan.

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

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

(b) If the loan or commitment for the loan fails, to the ~~[person]~~ **borrower or prospective borrower** 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.] A licensee may require a borrower or prospective borrower~~



1 *to pay reasonable and necessary third-party charges representing*
2 *actual expenses incurred by the licensee and paid to a third party*
3 if the ~~{person}~~ *borrower or prospective borrower* making them first
4 signs a written agreement which specifies the estimated costs by
5 item and the estimated aggregate cost, and which recites that money
6 advanced for costs will not be refunded. If an itemized service is not
7 performed ~~{and the estimated cost thereof is not refunded, the~~
8 ~~recipient of the advance payment is subject to the penalties provided~~
9 ~~in NRS 645B.960.}~~ *or the actual cost incurred is less than the*
10 *advance fee collected, the licensee shall refund to the borrower or*
11 *prospective borrower the amount paid for the unperformed service*
12 *or the difference between the estimated cost of the service and the*
13 *actual expense incurred.*

14 4. *A licensee, or control person or qualified employee of a*
15 *licensee, who fails to comply with the provisions of this section is*
16 *subject to the penalties provided in NRS 645B.960.*

17 **Sec. 130.** NRS 645B.170 is hereby amended to read as
18 follows:

19 645B.170 1. All money paid to a mortgage ~~{broker and his or~~
20 ~~her mortgage agents}~~ *servicer* for payment of taxes or insurance
21 premiums on real property which secures any *residential mortgage*
22 loan ~~{arranged by the mortgage broker}~~ *being serviced by the*
23 *mortgage servicer* must be deposited in an insured depository
24 financial institution and kept separate, distinct and apart from
25 money belonging to the mortgage ~~{broker.}~~ *servicer*. Such money,
26 when deposited, is to be designated as an “impound trust account”
27 or under some other appropriate name indicating that the accounts
28 are not the money of the mortgage ~~{broker.}~~ *servicer*.

29 2. The mortgage ~~{broker}~~ *servicer* has a fiduciary duty to each
30 ~~{debtor}~~ *borrower* with respect to the money in an impound trust
31 account.

32 3. The mortgage ~~{broker}~~ *servicer* shall, upon reasonable
33 notice, account to any ~~{debtor}~~ *borrower* whose real property
34 secures a *residential mortgage* loan ~~{arranged by the mortgage~~
35 ~~broker}~~ *being serviced by the mortgage servicer* for any money
36 which that person has paid to the mortgage ~~{broker}~~ *servicer* for the
37 payment of taxes or insurance premiums on the real property.

38 4. The mortgage ~~{broker}~~ *servicer* shall, upon reasonable
39 notice, account to the Commissioner for all money in an impound
40 trust account.

41 5. A mortgage ~~{broker}~~ *servicer* shall:

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

45 (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:}~~ **borrower:**

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

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

➤ This subsection does not prohibit a mortgage ~~{broker:}~~ **servicer** 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:}~~ **servicer** 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. 131. NRS 645B.180 is hereby amended to read as follows:

645B.180 ~~{1:}~~ Money in an impound trust account is not subject to execution or attachment on any claim against ~~{the}~~ **a mortgage banker**, mortgage broker , **mortgage servicer** or his or her mortgage ~~{agents}~~.

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

Sec. 132. NRS 645B.196 is hereby amended to read as follows:

645B.196 1. An advertising spokesperson for a **mortgage banker**, mortgage broker **or mortgage servicer** is jointly and severally liable with the **mortgage banker**, mortgage broker **or mortgage servicer** for damages caused by the **mortgage banker**, mortgage broker **or mortgage servicer** by fraud, embezzlement, misappropriation of property, a violation of the provisions of this chapter or the regulations adopted pursuant thereto, or an action of the **mortgage banker**, mortgage broker **or mortgage servicer** that is grounds for disciplinary action, if:

(a) The advertising spokesperson knew or should have known of the fraud, embezzlement, misappropriation of property, violation of the provisions of this chapter or the regulations adopted pursuant



thereto, or action of the *mortgage banker*, mortgage broker *or mortgage servicer* that is grounds for disciplinary action; or

(b) In advertising for the *mortgage banker*, mortgage broker, *or mortgage servicer* the advertising spokesperson knew or should have known that:

(1) The conduct of the advertising spokesperson was likely to deceive, defraud or harm the public or any person who engaged in business with the *mortgage banker*, mortgage broker ~~or~~ *or mortgage servicer*; or

(2) The advertising spokesperson was disseminating material information concerning the *mortgage banker*, mortgage broker *or mortgage servicer* or the business, products or services of the *mortgage banker*, mortgage broker *or mortgage servicer* which was false or misleading.

2. As used in this section:

(a) “Advertising for a *mortgage banker*, mortgage broker ~~or~~ *or mortgage servicer*” means advertising or otherwise promoting a *mortgage banker*, mortgage broker *or mortgage servicer* or the business, products or services of the *mortgage banker*, mortgage broker *or mortgage servicer* using any medium of communication.

(b) “Advertising spokesperson for a *mortgage banker*, mortgage broker ~~or~~ *or mortgage servicer*” or “advertising spokesperson” means a person who consents to and receives compensation for using his or her name or likeness in advertising for a *mortgage banker*, mortgage broker ~~or~~ *or mortgage servicer*.

Sec. 133. NRS 645B.240 is hereby amended to read as follows:

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

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

(b) The next day that an office of the mortgage ~~broker~~ *servicer* is open to customers until 5 p.m., if the provisions of paragraph (a) do not otherwise apply.

2. A person and a mortgage ~~broker or mortgage agent~~ *servicer* may not agree to alter or waive the provisions of this section by contract or other agreement, and any such contract or



agreement is void and must not be given effect to the extent that it violates the provisions of this section.

Sec. 134. NRS 645B.460 is hereby amended to read as follows:

645B.460 1. A **mortgage banker**, mortgage broker **or mortgage servicer** shall exercise reasonable supervision and control over the activities of his or her mortgage ~~agents and must also be licensed as a mortgage agent if required pursuant to NRS 645B.405.~~ **loan originators**. Such reasonable supervision and control ~~must~~ **may** include, as appropriate:

(a) The establishment of written policies and procedures for the mortgage ~~agents;~~ **loan originators;**

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

(1) Transactions handled by the mortgage ~~agents;~~ **loan originators** pursuant to this chapter;

(2) Communications between the mortgage ~~agents;~~ **loan originators** and a party to such a transaction;

(3) Documents prepared by the mortgage ~~agents;~~ **loan originators** 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;~~ **loan originators** of any fee, deposit or money paid to the **mortgage banker**, mortgage broker , **mortgage servicer** or the mortgage ~~agents;~~ **loan originators** or held in trust by the **mortgage banker**, mortgage broker , **mortgage servicer** or the mortgage ~~agents;~~ **loan originators** pursuant to this chapter; and

(c) The establishment of a system of reporting to the ~~Division;~~ **Commissioner** of any fraudulent activity engaged in by ~~any of the~~ **a mortgage** ~~agents;~~ **loan originator**.

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

3. The Commissioner may adopt regulations prescribing standards for determining whether a **mortgage banker**, mortgage broker **or mortgage servicer** has exercised reasonable supervision and control over the activities of a mortgage ~~agent;~~ **loan originator** pursuant to this section.



1 **Sec. 135.** NRS 645B.490 is hereby amended to read as
2 follows:

3 645B.490 ~~{Except as otherwise required by the Registry for~~
4 ~~persons who are required to register or voluntarily register with the~~
5 ~~Registry.}~~

6 1. Any *mortgage banker*, mortgage broker, ~~{or}~~ mortgage
7 ~~{agent}~~ *loan originator or mortgage servicer* licensed under the
8 provisions of this chapter who is called into the military service of
9 the United States shall, at his or her request, be relieved from
10 compliance with the provisions of this chapter and placed on
11 inactive status for the period of such military service and for a
12 period of 6 months after discharge therefrom.

13 2. At any time within 6 months after termination of such
14 service, if the *mortgage banker*, mortgage broker, ~~{or}~~ mortgage
15 ~~{agent}~~ *loan originator or mortgage servicer* complies with the
16 provisions of subsection 1, the *mortgage banker*, mortgage broker,
17 ~~{or}~~ mortgage ~~{agent}~~ *loan originator or mortgage servicer* may be
18 reinstated, without having to meet any qualification or requirement
19 other than the payment of the reinstatement fee, as provided in
20 ~~{NRS 645B.050 or 645B.430,}~~ *section 84 of this act*, and the
21 *mortgage banker*, mortgage broker, ~~{or}~~ mortgage ~~{agent}~~ *loan*
22 *originator or mortgage servicer* is not required to make payment of
23 the renewal fee for the current year.

24 3. Any *mortgage banker*, mortgage broker, ~~{or}~~ mortgage
25 ~~{agent}~~ *loan originator or mortgage servicer* seeking to qualify for
26 reinstatement, as provided in subsections 1 and 2, must present a
27 certified copy of his or her honorable discharge or certificate of
28 satisfactory service to the Commissioner.

29 **Sec. 136.** NRS 645B.600 is hereby amended to read as
30 follows:

31 645B.600 1. ~~{A}~~ *The Commissioner, the Attorney General*
32 *or any* person may file with the Commissioner a complaint alleging
33 that another person has violated a provision of this chapter, a
34 regulation adopted pursuant to this chapter or an order of the
35 Commissioner. *If the complaint is made by the Commissioner, he*
36 *or she shall designate one or more employees of the Division to act*
37 *as the person filing the complaint.*

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

- 39 (a) Be in writing;
40 (b) Be signed by the person filing the complaint or the designee
41 of the person filing the complaint;
42 (c) Contain an address and a telephone number for the person
43 filing the complaint or the designee of the person filing the
44 complaint;



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

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

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

3. *Nothing in this section shall be interpreted to preclude the Commissioner from conducting an examination or investigation of any person if the Commissioner reasonably believes the person may have violated, or be in violation of, a provision of this chapter or any regulation adopted pursuant to this chapter.*

Sec. 137. NRS 645B.610 is hereby amended to read as follows:

645B.610 1. If a person properly files a complaint with the Commissioner pursuant to NRS 645B.600, the Commissioner shall investigate each violation alleged in the complaint, unless the Commissioner has previously investigated the alleged violation.

2. Except as otherwise provided in subsection 2 of NRS 645B.090, if the Commissioner does not conduct an investigation of an alleged violation pursuant to subsection 1 because he or she previously has investigated the alleged violation, the Commissioner shall provide to the person who filed the complaint a written summary of the previous investigation and the nature of any disciplinary action that was taken as a result of the previous investigation.

3. If the Commissioner conducts an investigation of an alleged violation pursuant to subsection 1, the Commissioner shall determine from the investigation whether there is reasonable cause to believe that the person committed the alleged violation.

4. If, upon investigation, the Commissioner determines that there is not reasonable cause to believe that the person committed the alleged violation, the Commissioner shall provide the reason for the determination, in writing, to the person who filed the complaint and to the person alleged to have committed the violation.

5. Except as otherwise provided in subsection ~~[6.]~~ 7, if, ~~[upon]~~ **after** investigation, the Commissioner determines that there is reasonable cause to believe that the person committed the alleged violation, the Commissioner ~~[shall:~~

~~— (a) Schedule a hearing concerning the alleged violation;~~

~~— (b) Mail to the last known address of the person who filed the complaint written notice that must include, without limitation:~~

~~— (1) The date, time and place of the hearing; and~~

~~— (2) A statement of each alleged violation that will be considered at the hearing; and~~



~~—(c) By personal service in accordance with the Nevada Rules of Civil Procedure and any applicable provision of NRS, serve written notice of the hearing to the person alleged to have committed the violation. The written notice that is served pursuant to this paragraph must include, without limitation:~~

~~———(1) The date, time and place of the hearing;~~

~~———(2) A copy of the complaint and a statement of each alleged violation that will be considered at the hearing; and~~

~~———(3) A statement informing the person that, pursuant to NRS 645B.760, if he or she fails to appear, without reasonable cause, at the hearing:~~

~~———(I) The person is guilty of a misdemeanor; and~~

~~———(II) The Commissioner is authorized to conduct the hearing in the person's absence, draw any conclusions that the Commissioner deems appropriate from his or her failure to appear and render a decision concerning each alleged violation.} may prepare a formal complaint and notice of hearing to be served upon the person alleged to have committed the violation and, if such a complaint is served, shall provide a copy of the formal complaint and notice of hearing by mail to the last known address of the person who filed the complaint.~~

~~6. If the Commissioner enters into a written consent agreement settling or resolving the alleged violation, the Commissioner shall provide a copy of the written consent agreement to the person who filed the complaint.} A formal complaint and notice of hearing pursuant to subsection 5 must be served on the person alleged to have committed the violation by personal service, certified mail or by other means reasonably calculated to obtain service and must include, without limitation:~~

~~(a) The date, time, place and nature of the hearing;~~

~~(b) The legal authority and jurisdiction under which the hearing is to be held;~~

~~(c) A reference to the particular provisions of this chapter or any regulations adopted pursuant thereto that are alleged to have been violated;~~

~~(d) A short and plain statement of the alleged violations and matters to be adjudicated;~~

~~(e) Notice informing the person that, within 15 days after service of the formal complaint and notice of hearing, the person may request an opportunity to settle the complaint through an informal conference; and~~

~~(f) Notice that if the person fails to appear at the hearing without reasonable cause:~~

~~(1) The person is guilty of a misdemeanor; and~~



(2) *The Commissioner is authorized to conduct the hearing in his or her absence, draw any conclusions that the Commissioner deems appropriate from his or her failure to appear and render a decision concerning each allegation.*

7. *If requested by the person alleged to have committed the violation, an informal conference may be held to attempt resolution of the complaint. Such a conference may result in a settlement, consent order, waiver, dismissal, default or other method of settlement agreed upon by the person alleged to have committed the violation and the Commissioner. Any settlement, consent order, default or other method of settlement may include, without limitation, the revocation or suspension of the person's license, an order to pay restitution or any other penalty provided for in this chapter.*

8. *If an informal conference results in a settlement or consent order settling or resolving the alleged violation, the Commissioner shall provide a copy of the settlement or consent order to the person who filed the complaint.*

9. The Commissioner may:

(a) Investigate and conduct a hearing concerning any alleged violation, whether or not a complaint has been filed.

(b) Hear and consider more than one alleged violation against a person at the same hearing.

Sec. 138. NRS 645B.630 is hereby amended to read as follows:

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

(a) The assets or capital of a *mortgage banker*, mortgage broker *or mortgage servicer* are impaired; or

(b) A *mortgage banker*, mortgage broker *or mortgage servicer* is conducting business in an unsafe and injurious manner that may result in danger to the public,

➤ the Commissioner shall immediately take possession of all the property, business and assets of the *mortgage banker*, mortgage broker *or mortgage servicer* that are located in this State and shall retain possession of them pending further proceedings provided for in this chapter.

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

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



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

3. If the Commissioner takes possession of the property of the *mortgage banker, mortgage broker* ~~H~~ *or mortgage servicer*, the Commissioner shall:

(a) Make or have made an inventory of the assets and known liabilities of the *mortgage banker, mortgage broker* ~~H~~ *or mortgage servicer*;

(b) File one copy of the inventory in the office of the Commissioner and one copy in the office of the clerk of the district court of the county in which the principal office of the *mortgage banker, mortgage broker or mortgage servicer* is located and shall mail one copy to each ~~{stockholder, partner, officer, director}~~ *known control person, insider* or associate of the *mortgage banker, mortgage broker or mortgage servicer* at his or her last known address; and

(c) If the *mortgage banker, mortgage broker or mortgage servicer* maintains any accounts described in ~~{NRS-645B.175,}~~ *section 35 of this act*, not later than 5 business days after the date on which the Commissioner takes possession of the property of the *mortgage banker, mortgage broker* ~~H~~ *or mortgage servicer*, mail notice of the possession to the last known address of each person whose money is deposited in such an account or whose money was or should have been deposited in such an account during the preceding 12 months.

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

Sec. 139. NRS 645B.640 is hereby amended to read as follows:

645B.640 1. If the Commissioner takes possession of the property of a mortgage broker pursuant to NRS 645B.630, the licensee ~~{, officers, directors, partners, associates or stockholders}~~ *or the control persons or insiders* of the *mortgage banker, mortgage broker or mortgage servicer* may, within 60 days after the date on which the Commissioner takes possession of the property, make good any deficit in the assets or capital of the *mortgage banker, mortgage broker or mortgage servicer* or remedy any unsafe and injurious conditions or practices of the *mortgage banker, mortgage broker* ~~H~~ *or mortgage servicer*.

2. At the expiration of the 60-day period, if the deficiency in assets or capital has not been made good or the unsafe and injurious conditions or practices remedied, the Commissioner may apply to



the court to ~~be appointed~~ **have a** receiver **appointed** and proceed to liquidate the assets of the **mortgage banker**, mortgage broker **or mortgage servicer** which are located in this State in the same manner as now provided by law for liquidation of a private corporation in receivership.

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

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

5. The expenses of the receiver and compensation of counsel, as well as all expenditures required in the liquidation proceedings, must be fixed by the Commissioner subject to the approval of the court and, upon certification of the Commissioner, must be paid out of the money in his or her hands as the receiver.

Sec. 140. NRS 645B.680 is hereby amended to read as follows:

645B.680 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a **mortgage banker**, mortgage broker , ~~for~~ mortgage ~~agent~~ **loan originator or mortgage servicer**, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

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

Sec. 141. NRS 645B.740 is hereby amended to read as follows:

645B.740 The expiration , ~~for~~ revocation **or suspension** of a license ~~for a mortgage broker or mortgage agent~~ by operation of



1 law or by order or decision of the Commissioner or a court of
2 competent jurisdiction, or the voluntary surrender of a license, does
3 not:

4 1. Prohibit the Commissioner from initiating or continuing an
5 investigation of, or action or disciplinary proceeding against, the
6 *mortgage banker, mortgage broker, ~~or~~ mortgage ~~agent~~ loan*
7 *originator or mortgage servicer* as authorized pursuant to the
8 provisions of this chapter or the regulations adopted pursuant
9 thereto; ~~or~~

10 2. Prevent ~~the imposition~~ *the Commissioner from revoking*
11 *the license of or imposing* or ~~collection of~~ *collecting* any fine or
12 penalty authorized pursuant to the provisions of this chapter or the
13 regulations adopted pursuant thereto against the *mortgage banker,*
14 *mortgage broker, ~~or~~ mortgage ~~agent~~ loan originator or*
15 *mortgage servicer;*

16 3. *Affect the administrative, civil or criminal liability of a*
17 *mortgage banker, mortgage broker, mortgage loan originator or*
18 *mortgage servicer for acts committed before the surrender,*
19 *revocation, expiration or suspension of his or her license; or*

20 4. *Impair or affect the obligations of a preexisting contract*
21 *between the mortgage banker, mortgage broker, mortgage loan*
22 *originator or mortgage servicer and another person, except as*
23 *otherwise provided by law.*

24 **Sec. 142.** NRS 645B.800 is hereby amended to read as
25 follows:

26 645B.800 1. The Attorney General has primary jurisdiction
27 for the enforcement of this chapter. The Attorney General shall, if
28 appropriate, investigate and prosecute a person who violates:

29 (a) Any provision of this chapter, a regulation adopted pursuant
30 to this chapter or an order of the Commissioner ; ~~including,~~
31 ~~without limitation, a violation of any provision of NRS 645B.620 or~~
32 ~~645B.670;~~ or

33 (b) Any other law or regulation if the violation is committed by
34 the person in the course of committing a violation described in
35 paragraph (a).

36 2. The Attorney General shall, if appropriate, investigate and
37 prosecute a person who is alleged to have committed a violation
38 described in subsection 1 whether or not:

39 (a) The Commissioner notifies the Attorney General of the
40 alleged violation;

41 (b) The Commissioner takes any disciplinary action against the
42 person alleged to have committed the violation;

43 (c) Any other person files a complaint against the person alleged
44 to have committed the violation; or



(d) A civil action is commenced against the person alleged to have committed the violation.

3. When acting pursuant to this section, the Attorney General may commence an investigation and file a criminal action without leave of court, and the Attorney General has exclusive charge of the conduct of the prosecution.

4. Except as otherwise provided by the Constitution of the United States, the Constitution of this State or a specific statute, a person shall, if requested, provide the Attorney General with information that would assist in the prosecution of any other person who is alleged to have committed a violation described in subsection 1. If a person fails, without reasonable cause, to provide the Attorney General with such information upon request, the person is guilty of a misdemeanor and shall be punished as provided in NRS 645B.950.

Sec. 143. NRS 645B.930 is hereby amended to read as follows:

645B.930 In addition to any other remedy or penalty, if a person violates the provisions of ~~NRS 645B.900 or 645B.910, the client~~ *section 72 of this act, a borrower or prospective borrower* may bring a civil action against the person for:

1. Actual and consequential damages;

2. Punitive damages, which are subject to the provisions of NRS 42.005;

3. Reasonable attorney's fees and costs; and

4. Any other legal or equitable relief that the court deems appropriate.

Sec. 144. NRS 645B.960 is hereby amended to read as follows:

645B.960 1. A person, or any general partner, director, officer, agent or employee of a person, who violates any provision of NRS 645B.165 to 645B.180, inclusive, *or section 35 of this act* is guilty of:

(a) A misdemeanor if the amount involved is less than \$650;

(b) A gross misdemeanor if the amount involved is \$650 or more but less than \$1,000; or

(c) A category D felony if the amount involved is \$1,000 or more, and shall be punished as provided in NRS 193.130.

2. In addition to any other penalty, if a person is convicted of or enters a plea of nolo contendere to a violation described in subsection 1, the court shall order the person to pay:

(a) Court costs; and

(b) Reasonable costs of the investigation and prosecution of the violation.



1 **Sec. 145.** NRS 645E.040 is hereby amended to read as
2 follows:

3 645E.040 “Commercial property” means any real property
4 which is located in this state and which is neither used as a dwelling
5 nor upon which a dwelling is constructed or intended to be
6 constructed. For the purposes of this section, “dwelling” has the
7 meaning ascribed to it in ~~{section 103(v) of the federal Truth in~~
8 ~~Lending Act, 15 U.S.C. § 1602(v).}~~ **NRS 645B.0112.**

9 **Sec. 146.** NRS 645E.100 is hereby amended to read as
10 follows:

11 645E.100 1. “Mortgage banker” means ~~{any of the following:~~

12 ~~—(a) A} a~~ person who, directly or indirectly ~~is:~~

13 ~~—(1) Holds himself or herself out as being able to:~~

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

15 ~~—(II) Make loans secured by liens on real property using~~
16 ~~his or her own money; and~~

17 ~~—(2) Does not engage in any other act or transaction described~~
18 ~~in the definition of “mortgage broker,” as set forth in NRS~~
19 ~~645B.0127, unless the person is also licensed as a mortgage broker~~
20 ~~pursuant to chapter 645B of NRS.~~

21 ~~—(b) A person who, directly or indirectly:~~

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

25 ~~—(2) Does not engage in any other act or transaction described~~
26 ~~in the definition of “mortgage broker,” as set forth in NRS~~
27 ~~645B.0127, unless the person is also licensed as a mortgage broker~~
28 ~~pursuant to chapter 645B of NRS.}~~ **, for a fee, originates**
29 **commercial mortgage loans using his or her own money or money**
30 **borrowed from a warehouse lender and who retains beneficial**
31 **ownership of the loans or sells such beneficial ownership, in**
32 **whole or in part, to third parties.**

33 2. For the purposes of this section, a person does not ~~{make}~~
34 **originate** a **commercial mortgage** loan ~~{secured by a lien on real~~
35 ~~property}~~ using his or her own money **or money borrowed from a**
36 **warehouse lender** if any portion of the money that is used to make
37 the loan is provided by another person who acquires ownership of or
38 a beneficial interest in the loan.

39 **Sec. 147.** NRS 645E.150 is hereby amended to read as
40 follows:

41 645E.150 Except as otherwise provided in NRS 645E.160, the
42 Secure and Fair Enforcement for Mortgage Licensing Act of 2008,
43 12 U.S.C. §§ 5101 et seq., and any regulations adopted pursuant
44 thereto or other applicable law, the provisions of this chapter do not
45 apply to:



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

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

11 3. An employee benefit plan, as defined in 29 U.S.C. §
12 1002(3), if the loan is made directly from money in the plan by the
13 plan's trustee.

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

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

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

19 7. Any one natural person, or husband and wife, who provides
20 money for investment in commercial loans secured by a lien on real
21 property, on his or her own account, unless such a person makes a
22 loan secured by a lien on real property using his or her own money
23 and assigns all or a part of his or her interest in the loan to another
24 person, other than his or her spouse or child, within 3 years after the
25 date on which the loan is made or the deed of trust is recorded,
26 whichever occurs later.

27 8. ~~{A natural person who only offers or negotiates terms of a~~
28 ~~residential mortgage loan:~~

29 ~~—(a) With or on behalf of an immediate family member of the~~
30 ~~person; or~~

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

32 ~~—9.} Agencies of the United States and of this State and its~~
33 ~~political subdivisions, including the Public Employees' Retirement~~
34 ~~System.~~

35 ~~{10.} 9.~~ A seller of real property who offers credit secured by a
36 mortgage of the property sold.

37 ~~{11.—A nonprofit agency or organization:~~

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

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

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



~~1 —(d) Whose volunteers, if any, do not receive compensation for~~
~~2 their services in the construction of a dwelling; and~~

~~3 —(e) Which does not profit from the sale of a dwelling to a~~
~~4 borrower.~~

~~5 —12. A housing counseling agency approved by the United~~
~~6 States Department of Housing and Urban Development.]~~

7 **Sec. 148.** NRS 645E.160 is hereby amended to read as
8 follows:

9 645E.160 1. Except as otherwise provided in subsection 2, a
10 person who claims an exemption from the provisions of this chapter
11 pursuant to subsection 1 of NRS 645E.150 must:

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

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

15 (c) Include with the written application satisfactory proof that
16 the person meets the requirements of subsection 1 of NRS
17 645E.150; and

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

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

25 3. The Commissioner may require a person who claims an
26 exemption from the provisions of this chapter pursuant to
27 subsections 2 to ~~12~~, 9, inclusive, of NRS 645E.150 to:

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

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

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

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

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

43 (a) A license as a mortgage banker pursuant to this chapter; or

44 (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 register or voluntarily registers with the Registry, to the Division through the Registry.

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

Sec. 149. NRS 645E.200 is hereby amended to read as follows:

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

(a) Be verified.

(b) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage banker will conduct business in this State, including, without limitation, any office or other place of business located outside this State from which the mortgage banker will conduct business in this State and any office or other place of business which the applicant maintains as a corporate or home office.

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



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

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

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

(g) Include a financial statement of the applicant.

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

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

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

3. Except as otherwise provided by law, the Commissioner shall issue a license to an applicant as a mortgage banker if:

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

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

(1) Has 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, *or sections 2 to 47, inclusive, of this act*, 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. 150. NRS 645E.230 is hereby amended to read as follows:

645E.230 1. A license entitles a licensee to engage only in the activities authorized by this chapter.

2. The provisions of this chapter do not prohibit a licensee from:



(a) Holding a license as a *mortgage banker*, mortgage broker , *mortgage loan originator or mortgage servicer* pursuant to chapter 645B of NRS . ~~[- or]~~

(b) Conducting the business of a mortgage banker and the business of a mortgage broker in the same office or place of business.

(c) Obtaining an endorsement pursuant to sections 2 to 47, inclusive, of this act.

Sec. 151. NRS 645E.291 is hereby amended to read as follows:

645E.291 1. A mortgage banker shall exercise reasonable supervision and control 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 and control must include, as appropriate:

(a) The establishment of written 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;

(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 banker has exercised reasonable supervision and control over the activities of a mortgage agent pursuant to this section.



1 **Sec. 152.** NRS 645F.050 is hereby amended to read as
2 follows:

3 645F.050 “Mortgage banker” has the meaning ascribed to it in
4 NRS 645E.100 **H and section 61 of this act.**

5 **Sec. 153.** NRS 645F.160 is hereby amended to read as
6 follows:

7 645F.160 The Commissioner shall not, either directly or
8 indirectly, be interested in any escrow agency, mortgage broker ,
9 **mortgage servicer, private money endorsee** or mortgage banker to
10 which chapters 645A, 645B and 645E of NRS **and sections 2 to 47,**
11 **inclusive, of this act** apply, nor engage in business as a personal
12 loan broker.

13 **Sec. 154.** NRS 645F.180 is hereby amended to read as
14 follows:

15 645F.180 1. The Commissioner may appoint deputy
16 commissioners of mortgage lending, examiners, assistants, clerks,
17 stenographers and other employees necessary to assist the
18 Commissioner in the performance of his or her duties pursuant to
19 this chapter **H and** chapters 645A, 645B and 645E of NRS **and**
20 **sections 2 to 47, inclusive, of this act** or any other law. These
21 employees shall perform such duties as are assigned to them by the
22 Commissioner.

23 2. The Commissioner may employ or contract with a certified
24 public accountant to review and conduct independent audits and
25 examinations of escrow agencies, mortgage brokers , **mortgage**
26 **servicers** and mortgage bankers. The Commissioner shall levy an
27 assessment upon each licensed escrow agency, mortgage broker ,
28 **mortgage servicer** and mortgage banker to cover all the costs related
29 to the employment of or the contract with the certified public
30 accountant and the performance of the audits and examinations.

31 3. Assessments collected by the Commissioner pursuant to
32 subsection 2 must be deposited in the State Treasury for deposit to
33 the Account for Mortgage Lending created by NRS 645F.270 and
34 accounted for separately. The Commissioner shall use the money for
35 the purposes specified in subsection 2.

36 **Sec. 155.** NRS 645F.250 is hereby amended to read as
37 follows:

38 645F.250 The Commissioner and the Division shall administer
39 the provisions of this chapter and chapters 645A, 645B and 645E of
40 NRS, **and sections 2 to 47, inclusive, of this act**, subject to
41 administrative supervision by the Director of the Department of
42 Business and Industry.



1 **Sec. 156.** NRS 645F.260 is hereby amended to read as
2 follows:

3 645F.260 The State Board of Finance shall act in an advisory
4 capacity to the Division in the administration of this chapter and
5 chapters 645A, 645B and 645E of NRS ~~[]~~ *and sections 2 to 47,*
6 *inclusive, of this act.*

7 **Sec. 157.** NRS 645F.267 is hereby amended to read as
8 follows:

9 645F.267 1. A mortgage agent, *mortgage loan originator,*
10 mortgage banker, *mortgage servicer* or mortgage broker or an
11 employee of a mortgage banker, *mortgage servicer* or mortgage
12 broker is not required to register or renew with the Registry, or
13 provide reports of financial condition to the Registry, if the
14 mortgage agent, *mortgage loan originator,* mortgage banker,
15 *mortgage servicer,* mortgage broker or employee:

16 (a) Is not a ~~[residential]~~ mortgage loan originator or the
17 supervisor of a ~~[residential]~~ mortgage loan originator; and

18 (b) Is not required to register pursuant to the provisions of the
19 federal Secure and Fair Enforcement for Mortgage Licensing Act of
20 2008 ~~[]~~, *12 U.S.C. §§ 1501 et seq.*

21 2. A mortgage agent, *mortgage loan originator,* mortgage
22 banker, *mortgage servicer* or mortgage broker or an employee of a
23 mortgage banker, *mortgage servicer* or mortgage broker who,
24 pursuant to subsection 1, is not required to register or renew with the
25 Registry and who voluntarily registers or renews with the Registry
26 shall comply with all requirements of the federal Secure and Fair
27 Enforcement for Mortgage Licensing Act of 2008, and any
28 regulations adopted pursuant thereto.

29 3. As used in this section, ~~[“residential”]~~ “ mortgage loan
30 originator” has the meaning ascribed to it in ~~[NRS 645B.01325.]~~
31 *section 62 of this act.*

32 **Sec. 158.** NRS 645F.275 is hereby amended to read as
33 follows:

34 645F.275 The Commissioner shall adopt regulations:

35 1. Establishing minimum net worth or surety bonding
36 requirements that reflect the dollar amount of loans originated by a
37 ~~[residential]~~ mortgage loan originator, as defined in ~~[NRS~~
38 ~~645B.01325.]~~ *section 62 of this act;* or

39 2. Requiring a percentage of the fees collected for the issuance
40 or renewal of a license *or endorsement* pursuant to chapter 645B or
41 645E of NRS *or sections 2 to 47, inclusive, of this act* to be
42 deposited in a mortgage recovery fund, and setting forth the
43 methods by which a person may make a claim against and be paid
44 from the fund.



1 **Sec. 159.** NRS 645F.293 is hereby amended to read as
2 follows:

3 645F.293 1. The Commissioner shall adopt regulations to
4 carry out the provisions of the federal Secure and Fair Enforcement
5 for Mortgage Licensing Act of 2008.

6 2. The regulations must include, without limitation:

7 (a) A method by which to allow for reporting regularly
8 violations of the relevant provisions of chapter 645B or 645E of
9 NRS, **or sections 2 to 47, inclusive, of this act**, enforcement actions
10 and other relevant information to the Registry; and

11 (b) A process whereby a person may challenge information
12 reported to the Registry by the Commissioner.

13 3. The regulations must not require a mortgage agent,
14 **mortgage loan originator**, mortgage banker, **mortgage servicer** or
15 mortgage broker or an employee of a mortgage banker, **mortgage**
16 **servicer** or mortgage broker to register with the Registry if the
17 mortgage agent, **mortgage loan originator**, mortgage banker,
18 **mortgage servicer**, mortgage broker or employee is exempt from
19 registration pursuant to subsection 1 of NRS 645F.267.

20 **Sec. 160.** NRS 645F.294 is hereby amended to read as
21 follows:

22 645F.294 1. Except as otherwise provided in section 1512 of
23 Public Law 110-289, 12 U.S.C. § 5111, the requirements under any
24 federal law or NRS 645B.060 and ~~645B.092~~ **645B.090** regarding
25 the confidentiality of any information or material provided to the
26 Registry, and any privilege arising under federal law or the laws of
27 this State with respect to such information or material, continue to
28 apply to such information or material after it has been disclosed to
29 the Registry. Such information and material may be shared with
30 federal and state regulatory officials with mortgage industry
31 oversight without the loss of privilege or the loss of confidentiality
32 protections provided by federal law or the provisions of NRS
33 645B.060 and ~~645B.092~~ **645B.090**.

34 2. Information or material that is subject to a privilege or
35 confidentiality under subsection 1 is not subject to:

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

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

44 3. This section does not apply to information or material
45 relating to:



(a) The employment history of; and
(b) Publicly adjudicated disciplinary and enforcement actions against,

↳ ~~residential~~ mortgage loan originators included in the Registry for access by the public.

Sec. 161. NRS 645F.296 is hereby amended to read as follows:

645F.296 1. Any person authorized to engage in activities as a ~~residential~~ mortgage loan originator on behalf of an installment loan lender licensed under chapter 675 of NRS shall obtain and maintain a license as a mortgage ~~agent~~ **loan originator**.

2. As used in this section, ~~the~~

~~—(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.]~~ **section 62 of this act.**

Sec. 162. NRS 645H.100 is hereby amended to read as follows:

645H.100 “Mortgage banker” has the meaning ascribed to it in NRS 645E.100 ~~the~~ **and section 61 of this act.**

Sec. 163. NRS 80.015 is hereby amended to read as follows:

80.015 1. For the purposes of this chapter, the following activities do not constitute doing business in this State:

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the board of directors or stockholders or carrying on other activities concerning internal corporate affairs;

(c) Maintaining accounts in banks or credit unions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation’s own securities or maintaining trustees or depositories with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside of this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside of this State and filling them by shipping goods into this State;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in NRS 231.020;



(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, chapter 645A, 645B or 645E of NRS **or sections 2 to 47, inclusive, of this act** or title 55 or 56 of NRS unless the person:

(a) Maintains an office in this State for the transaction of business;

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS;

(c) Solicits business for the activities of a mortgage broker as defined by NRS 645B.0127 or the activities of a mortgage banker as defined by NRS 645E.100 **or section 61 of this act**; or

(d) Arranges a mortgage loan secured by real property which is not commercial property as defined by NRS 645E.040.

4. The fact that a person is not doing business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section and for the purposes of NRS 80.016, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 164. NRS 86.5483 is hereby amended to read as follows:

86.5483 1. For the purposes of NRS 86.543 to 86.549, inclusive, the following activities do not constitute transacting business in this State:

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the managers or members or carrying on other activities concerning internal company affairs;

(c) Maintaining accounts in banks or credit unions;



(d) Maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside this State and filling them by shipping goods into this State;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in NRS 231.020;

(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not transacting business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, title 55 or 56 of NRS or chapter 645A, 645B or 645E of NRS *or sections 2 to 47, inclusive, of this act* unless the person:

(a) Maintains an office in this State for the transaction of business; or

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not transacting business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.



5. As used in this section, “deposits” means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 165. NRS 87A.615 is hereby amended to read as follows:

87A.615 1. For the purposes of NRS 87A.535 to 87A.625, inclusive, the following activities do not constitute transacting business in this State:

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the managers or members or carrying on other activities concerning internal company affairs;

(c) Maintaining accounts in banks or credit unions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the company’s own securities or maintaining trustees or depositories with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside this State and filling them by shipping goods into this State;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in NRS 231.020;

(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not transacting business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, title 55 or 56 of NRS or chapter 645A, 645B or 645E of NRS *or sections 2 to 47, inclusive, of this act* unless the person:

(a) Maintains an office in this State for the transaction of business; or

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise



1 personal jurisdiction over the person in any civil action, criminal
2 action, administrative proceeding or regulatory proceeding; and

3 (b) Except as otherwise provided in subsection 3, does not affect
4 the applicability of any other provision of law with respect to the
5 person and may not be offered as a defense or introduced in
6 evidence in any civil action, criminal action, administrative
7 proceeding or regulatory proceeding to prove that the person is not
8 transacting business in this State, including, without limitation, any
9 civil action, criminal action, administrative proceeding or regulatory
10 proceeding involving an alleged violation of chapter 597, 598 or
11 598A of NRS.

12 5. As used in this section, "deposits" means demand deposits,
13 savings deposits and time deposits, as those terms are defined in
14 chapter 657 of NRS.

15 **Sec. 166.** NRS 88.602 is hereby amended to read as follows:

16 88.602 1. For the purposes of NRS 88.570 to 88.605,
17 inclusive, the following activities do not constitute transacting
18 business in this State:

19 (a) Maintaining, defending or settling any proceeding;

20 (b) Holding meetings of the managers or members or carrying
21 on other activities concerning internal company affairs;

22 (c) Maintaining accounts in banks or credit unions;

23 (d) Maintaining offices or agencies for the transfer, exchange
24 and registration of the company's own securities or maintaining
25 trustees or depositaries with respect to those securities;

26 (e) Making sales through independent contractors;

27 (f) Soliciting or receiving orders outside this State through or in
28 response to letters, circulars, catalogs or other forms of advertising,
29 accepting those orders outside this State and filling them by
30 shipping goods into this State;

31 (g) Creating or acquiring indebtedness, mortgages and security
32 interests in real or personal property;

33 (h) Securing or collecting debts or enforcing mortgages and
34 security interests in property securing the debts;

35 (i) Owning, without more, real or personal property;

36 (j) Isolated transactions completed within 30 days and not a part
37 of a series of similar transactions;

38 (k) The production of motion pictures as defined in
39 NRS 231.020;

40 (l) Transacting business as an out-of-state depository institution
41 pursuant to the provisions of title 55 of NRS; and

42 (m) Transacting business in interstate commerce.

43 2. The list of activities in subsection 1 is not exhaustive.

44 3. A person who is not transacting business in this State within
45 the meaning of this section need not qualify or comply with any



provision of this chapter, title 55 or 56 of NRS or chapter 645A, 645B or 645E of NRS *or sections 2 to 47, inclusive, of this act* unless the person:

(a) Maintains an office in this State for the transaction of business; or

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not transacting business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section, “deposits” means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 167. NRS 90.530 is hereby amended to read as follows:

90.530 The following transactions are exempt from NRS 90.460 and 90.560:

1. An isolated nonissuer transaction, whether or not effected through a broker-dealer.

2. A nonissuer transaction in an outstanding security if the issuer of the security has a class of securities subject to registration under section 12 of the Securities Exchange Act of 1934, 15 U.S.C. § 78l, and has been subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78m and 78o(d), for not less than 90 days next preceding the transaction, or has filed and maintained with the Administrator for not less than 90 days preceding the transaction information, in such form as the Administrator, by regulation, specifies, substantially comparable to the information the issuer would be required to file under section 12(b) or 12(g) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78l(b) and 78l(g), were the issuer to have a class of its securities registered under section 12 of the Securities Exchange Act of 1934, 15 U.S.C. § 78l, and paid a fee of \$300 with the filing.



3. A nonissuer transaction by a sales representative licensed in this State, in an outstanding security if:

(a) The security is sold at a price reasonably related to the current market price of the security at the time of the transaction;

(b) The security does not constitute all or part of an unsold allotment to, or subscription or participation by, a broker-dealer as an underwriter of the security;

(c) At the time of the transaction, a recognized securities manual designated by the Administrator by regulation or order contains the names of the issuer's officers and directors, a statement of the financial condition of the issuer as of a date within the preceding 18 months, and a statement of income or operations for each of the last 2 years next preceding the date of the statement of financial condition, or for the period as of the date of the statement of financial condition if the period of existence is less than 2 years;

(d) The issuer of the security has not undergone a major reorganization, merger or acquisition within the preceding 30 days which is not reflected in the information contained in the manual; and

(e) At the time of the transaction, the issuer of the security has a class of equity security listed on the New York Stock Exchange, American Stock Exchange or other exchange designated by the Administrator, or on the National Market System of the National Association of Securities Dealers Automated Quotation System. The requirements of this paragraph do not apply if:

(1) The security has been outstanding for at least 180 days;

(2) The issuer of the security is actually engaged in business and is not developing the issuer's business, in bankruptcy or in receivership; and

(3) The issuer of the security has been in continuous operation for at least 5 years.

4. A nonissuer transaction in a security that has a fixed maturity or a fixed interest or dividend provision if there has been no default during the current fiscal year or within the 3 preceding years, or during the existence of the issuer, and any predecessors if less than 3 years, in the payment of principal, interest or dividends on the security.

5. A nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to purchase.

6. A transaction between the issuer or other person on whose behalf the offering of a security is made and an underwriter, or a transaction among underwriters.

7. A transaction in a bond or other evidence of indebtedness secured by a real estate mortgage, deed of trust, personal property security agreement, or by an agreement for the sale of real estate or



personal property, if the entire mortgage, deed of trust or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit.

8. A transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator.

9. A transaction executed by a bona fide secured party without the purpose of evading this chapter.

10. An offer to sell or the sale of a security to a financial or institutional investor or to a broker-dealer.

11. Except as otherwise provided in this subsection, a transaction pursuant to an offer to sell securities of an issuer if:

(a) The transaction is part of an issue in which there are not more than 25 purchasers in this State, other than those designated in subsection 10, during any 12 consecutive months;

(b) No general solicitation or general advertising is used in connection with the offer to sell or sale of the securities;

(c) No commission or other similar compensation is paid or given, directly or indirectly, to a person, other than a broker-dealer licensed or not required to be licensed under this chapter, for soliciting a prospective purchaser in this State; and

(d) One of the following conditions is satisfied:

(1) The seller reasonably believes that all the purchasers in this State, other than those designated in subsection 10, are purchasing for investment; or

(2) Immediately before and immediately after the transaction, the issuer reasonably believes that the securities of the issuer are held by 50 or fewer beneficial owners, other than those designated in subsection 10, and the transaction is part of an aggregate offering that does not exceed \$500,000 during any 12 consecutive months.

➤ The Administrator by rule or order as to a security or transaction or a type of security or transaction may withdraw or further condition the exemption set forth in this subsection or waive one or more of the conditions of the exemption.

12. An offer to sell or sale of a preorganization certificate or subscription if:

(a) No commission or other similar compensation is paid or given, directly or indirectly, for soliciting a prospective subscriber;

(b) No public advertising or general solicitation is used in connection with the offer to sell or sale;

(c) The number of offers does not exceed 50;

(d) The number of subscribers does not exceed 10; and

(e) No payment is made by a subscriber.

13. An offer to sell or sale of a preorganization certificate or subscription issued in connection with the organization of a



depository institution if that organization is under the supervision of an official or agency of a state or of the United States which has and exercises the authority to regulate and supervise the organization of the depository institution. For the purpose of this subsection, “under the supervision of an official or agency” means that the official or agency by law has authority to require disclosures to prospective investors similar to those required under NRS 90.490, impound proceeds from the sale of a preorganization certificate or subscription until organization of the depository institution is completed, and require refund to investors if the depository institution does not obtain a grant of authority from the appropriate official or agency.

14. A transaction pursuant to an offer to sell to existing security holders of the issuer, including persons who at the time of the transaction are holders of transferable warrants exercisable within not more than 90 days after their issuance, convertible securities or nontransferable warrants, if:

(a) No commission or other similar compensation, other than a standby commission, is paid or given, directly or indirectly, for soliciting a security holder in this State; or

(b) The issuer first files a notice specifying the terms of the offer to sell, together with a nonrefundable fee of \$300, and the Administrator does not by order disallow the exemption within the next 5 full business days.

15. A transaction involving an offer to sell, but not a sale, of a security not exempt from registration under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., if:

(a) A registration or offering statement or similar record as required under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., has been filed, but is not effective;

(b) A registration statement, if required, has been filed under this chapter, but is not effective; and

(c) No order denying, suspending or revoking the effectiveness of registration, of which the offeror is aware, has been entered by the Administrator or the Securities and Exchange Commission, and no examination or public proceeding that may culminate in that kind of order is known by the offeror to be pending.

16. A transaction involving an offer to sell, but not a sale, of a security exempt from registration under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq., if:

(a) A registration statement has been filed under this chapter, but is not effective; and

(b) No order denying, suspending or revoking the effectiveness of registration, of which the offeror is aware, has been entered by the Administrator and no examination or public proceeding that may



1 culminate in that kind of order is known by the offeror to be
2 pending.

3 17. A transaction involving the distribution of the securities of
4 an issuer to the security holders of another person in connection
5 with a merger, consolidation, exchange of securities, sale of assets
6 or other reorganization to which the issuer, or its parent or
7 subsidiary, and the other person, or its parent or subsidiary, are
8 parties, if:

9 (a) The securities to be distributed are registered under the
10 Securities Act of 1933, 15 U.S.C. §§ 77a et seq., before the
11 consummation of the transaction; or

12 (b) The securities to be distributed are not required to be
13 registered under the Securities Act of 1933, 15 U.S.C. §§ 77a et
14 seq., written notice of the transaction and a copy of the materials, if
15 any, by which approval of the transaction will be solicited, together
16 with a nonrefundable fee of \$300, are given to the Administrator at
17 least 10 days before the consummation of the transaction and the
18 Administrator does not, by order, disallow the exemption within the
19 next 10 days.

20 18. A transaction involving the offer to sell or sale of one or
21 more promissory notes each of which is directly secured by a first
22 lien on a single parcel of real estate, or a transaction involving the
23 offer to sell or sale of participation interests in the notes if the notes
24 and participation interests are originated by a depository institution
25 and are offered and sold subject to the following conditions:

26 (a) The minimum aggregate sales price paid by each purchaser
27 may not be less than \$250,000;

28 (b) Each purchaser must pay cash either at the time of the sale or
29 within 60 days after the sale; and

30 (c) Each purchaser may buy for the purchaser's own account
31 only.

32 19. A transaction involving the offer to sell or sale of one or
33 more promissory notes directly secured by a first lien on a single
34 parcel of real estate or participating interests in the notes, if the
35 notes and interests are originated by a mortgagee approved by the
36 Secretary of Housing and Urban Development under sections 203
37 and 211 of the National Housing Act, 12 U.S.C. §§ 1709 and 1715b,
38 and are offered or sold, subject to the conditions specified in
39 subsection 18, to a depository institution or insurance company, the
40 Federal Home Loan Mortgage Corporation, the Federal National
41 Mortgage Association or the Government National Mortgage
42 Association.

43 20. A transaction between any of the persons described in
44 subsection 19 involving a nonassignable contract to buy or sell the



securities described in subsection 18 if the contract is to be completed within 2 years and if:

(a) The seller of the securities pursuant to the contract is one of the parties described in subsection 18 or 19 who may originate securities;

(b) The purchaser of securities pursuant to a contract is any other person described in subsection 19; and

(c) The conditions described in subsection 18 are fulfilled.

21. A transaction involving one or more promissory notes secured by a lien on real estate, or participating interests in those notes, by:

(a) A mortgage banker licensed pursuant to chapter 645B or 645E of NRS to engage in those transactions; or

(b) A mortgage broker licensed pursuant to chapter 645B of NRS to engage in those transactions.

Sec. 168. NRS 205.372 is hereby amended to read as follows:

205.372 1. A person who is a participant in a mortgage lending transaction and who:

(a) Knowingly makes a false statement or misrepresentation concerning a material fact or knowingly conceals or fails to disclose a material fact;

(b) Knowingly uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or knowingly uses or facilitates the use of another person's concealment or failure to disclose a material fact;

(c) Receives any proceeds or any other money in connection with a mortgage lending transaction that the person knows resulted from a violation of paragraph (a) or (b);

(d) Conspires with another person to violate any of the provisions of paragraph (a), (b) or (c); or

(e) Files or causes to be filed with a county recorder any document that the person knows to include a misstatement, misrepresentation or omission concerning a material fact,

→ commits the offense of mortgage lending fraud which is a category C felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. A person who engages in a pattern of mortgage lending fraud or conspires or attempts to engage in a pattern of mortgage lending fraud is guilty of a category B felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, or by a fine of not more than \$50,000, or by both fine and imprisonment.



3. Each mortgage lending transaction in which a person violates any provision of subsection 1 constitutes a separate violation.

4. Except as otherwise provided in this subsection, if a lender or any agent of the lender is convicted of the offense of mortgage lending fraud in violation of this section, the mortgage lending transaction with regard to which the fraud was committed may be rescinded by the borrower within 6 months after the date of the conviction if the borrower gives written notice to the lender and records that notice with the recorder of the county in which the mortgage was recorded. A mortgage lending transaction may not be rescinded pursuant to this subsection if the lender has transferred the mortgage to a bona fide purchaser.

5. The Attorney General may investigate and prosecute a violation of this section.

6. In addition to the criminal penalties imposed for a violation of this section, any person who violates this section is subject to a civil penalty of not more than \$5,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs.

7. The owner or holder of the beneficial interest in real property which is the subject of mortgage lending fraud may bring a civil action in the district court in and for the county in which the real property is located to recover any damages suffered by the owner or holder of the beneficial interest plus reasonable attorney's fees and costs.

8. As used in this section:

(a) "Bona fide purchaser" means any person who purchases a mortgage in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the lender or any agent of the lender engaged in mortgage lending fraud in violation of this section.

(b) "Mortgage lending transaction" means any transaction between two or more persons for the purpose of making or obtaining, attempting to make or obtain, or assisting another person to make or obtain a loan that is secured by a mortgage or other lien on residential real property. The term includes, without limitation:

- (1) The solicitation of a person to make or obtain the loan;
 - (2) The representation or offer to represent another person to make or obtain the loan;
 - (3) The negotiation of the terms of the loan;
 - (4) The provision of services in connection with the loan;
- and



(5) The execution of any document in connection with making or obtaining the loan.

(c) "Participant in a mortgage lending transaction" includes, without limitation:

(1) A borrower as defined in NRS 598D.020;

(2) An escrow agent as defined in NRS 645A.010;

(3) A foreclosure consultant as defined in NRS 645F.320;

(4) A foreclosure purchaser as defined in NRS 645F.330;

(5) ~~A private money~~ investor as defined in ~~NRS 645B.0121;~~ **section 13 of this act;**

(6) A lender as defined in NRS 598D.050;

(7) A loan modification consultant as defined in NRS 645F.365;

(8) A mortgage ~~agent~~ **loan originator** as defined in ~~NRS 645B.0125;~~ **section 62 of this act;**

(9) A mortgage banker as defined in NRS 645E.100 ~~and~~ **section 61 of this act;** and

(10) A mortgage broker as defined in NRS 645B.0127.

(d) "Pattern of mortgage lending fraud" means one or more violations of a provision of subsection 1 committed in two or more mortgage lending transactions which have the same or similar purposes, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

Sec. 169. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1A.110, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 130.312, 159.044, 172.075, 172.245, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 242.105, 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281A.350,



1 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025,
2 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135,
3 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
4 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
5 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
6 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080,
7 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275,
8 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264,
9 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460,
10 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
11 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320,
12 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175,
13 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
14 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195,
15 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570,
16 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610,
17 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
18 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
19 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536,
20 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040,
21 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964,
22 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
23 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
24 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265,
25 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133,
26 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
27 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185,
28 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089,
29 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400,
30 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
31 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625,
32 645A.050, 645A.082, 645B.060, ~~645B.092,~~ 645B.090, 645C.220,
33 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510,
34 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197,
35 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130,
36 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380,
37 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159,
38 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260,
39 681B.280, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306,
40 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490,
41 692A.117, 692C.190, 692C.420, 693A.480, 693A.615, 696B.550,
42 703.196, 704B.320, 704B.325, 706.1725, 710.159, 711.600,
43 sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and
44 section 2 of chapter 391, Statutes of Nevada 2013 and unless
45 otherwise declared by law to be confidential, all public books and



1 public records of a governmental entity must be open at all times
2 during office hours to inspection by any person, and may be fully
3 copied or an abstract or memorandum may be prepared from those
4 public books and public records. Any such copies, abstracts or
5 memoranda may be used to supply the general public with copies,
6 abstracts or memoranda of the records or may be used in any other
7 way to the advantage of the governmental entity or of the general
8 public. This section does not supersede or in any manner affect the
9 federal laws governing copyrights or enlarge, diminish or affect in
10 any other manner the rights of a person in any written book or
11 record which is copyrighted pursuant to federal law.

12 2. A governmental entity may not reject a book or record
13 which is copyrighted solely because it is copyrighted.

14 3. A governmental entity that has legal custody or control of a
15 public book or record shall not deny a request made pursuant to
16 subsection 1 to inspect or copy or receive a copy of a public book or
17 record on the basis that the requested public book or record contains
18 information that is confidential if the governmental entity can
19 redact, delete, conceal or separate the confidential information from
20 the information included in the public book or record that is not
21 otherwise confidential.

22 4. A person may request a copy of a public record in any
23 medium in which the public record is readily available. An officer,
24 employee or agent of a governmental entity who has legal custody
25 or control of a public record:

26 (a) Shall not refuse to provide a copy of that public record in a
27 readily available medium because the officer, employee or agent has
28 already prepared or would prefer to provide the copy in a different
29 medium.

30 (b) Except as otherwise provided in NRS 239.030, shall, upon
31 request, prepare the copy of the public record and shall not require
32 the person who has requested the copy to prepare the copy himself
33 or herself.

34 **Sec. 170.** NRS 363A.050 is hereby amended to read as
35 follows:

36 363A.050 1. Except as otherwise provided in subsection 2,
37 “financial institution” means:

38 (a) An institution licensed, registered or otherwise authorized to
39 do business in this State pursuant to the provisions of title 55 or 56
40 of NRS or chapter 604A, 645B or 645E of NRS, *or sections 2 to 47,*
41 *inclusive, of this act,* or a similar institution chartered or licensed
42 pursuant to federal law;

43 (b) A person licensed or registered or required to be licensed or
44 registered pursuant to NRS 90.310, 90.330, 90.453, 686A.340 or
45 688C.190;



(c) A person holding or required to hold a solicitation permit or license pursuant to NRS 692B.040, 692B.190 or 692B.260;

(d) A person designated or registered or required to be designated or registered pursuant to the Commodity Exchange Act, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Investment Company Act of 1940 or the Investment Advisers Act of 1940, as amended;

(e) A person licensed pursuant to 7 U.S.C. § 2009cc-3 to operate as a rural business investment company;

(f) A person registered or required to be registered as a savings and loan holding company pursuant to 12 U.S.C. § 1467a;

(g) A person registered or required to be registered as a bank holding company pursuant to 12 U.S.C. § 1844;

(h) An investment bank holding company supervised pursuant to 15 U.S.C. § 78q;

(i) A person electing to be treated as a business development company pursuant to 15 U.S.C. § 80a-53;

(j) A person licensed pursuant to 15 U.S.C. § 681 to operate as a small business investment company;

(k) A person granted final approval pursuant to 15 U.S.C. § 689c to operate as a new markets venture capital company;

(l) A person qualifying as and electing to be considered a real estate investment trust pursuant to 26 U.S.C. § 856;

(m) A bank, as defined in 12 U.S.C. § 1813(a);

(n) A savings association, as defined in 12 U.S.C. § 1813(b);

(o) A savings bank, as defined in 12 U.S.C. § 1813(g);

(p) A thrift institution, as defined in 12 U.S.C. § 1841(i);

(q) A national banking association organized under the National Bank Act;

(r) An entity that is related to any of the entities described in paragraphs (a), (b), (d) to (k), inclusive, and (m) to (q), inclusive, regardless of whether the entity described in any of those paragraphs is doing business in this State; and

(s) An issuer or a service provider,

→ who is conducting a business activity in this State.

2. The term does not include:

(a) A credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act;

(b) A federal land credit association, farm credit bank, agricultural credit association or similar institution organized under the provisions of the Farm Credit Act; and

(c) Any person or other entity that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

3. For the purposes of this section:



(a) "Credit card" has the meaning ascribed to it in NRS 97A.050.

(b) "Entity" includes, without limitation, any corporation, limited-liability company, association, organization, company, firm, partnership, joint venture, trust, business trust, receiver, trustee, syndicate, cooperative or assignee, or any other group or combination acting as a unit.

(c) "Issuer" has the meaning ascribed to it in NRS 97A.100, except that the term does not include a seller of goods or provider of services who issues a credit card for the purpose of providing or extending credit only in connection with the goods he or she sells or the services he or she provides.

(d) Entities are "related" if at least 50 percent of the interest, either by vote or value, in each entity is owned, either directly or indirectly, by the same entity, including either of those entities.

(e) "Service provider" has the meaning ascribed to it in NRS 97A.130, except that the term does not include a service provider who acts in that capacity solely on behalf of a seller of goods or provider of services who issues a credit card for the purpose of providing or extending credit only in connection with the goods he or she sells or the services he or she provides.

Sec. 171. NRS 604A.655 is hereby amended to read as follows:

604A.655 1. Except as otherwise provided in this section, a licensee may not conduct the business of making loans within any office, suite, room or place of business in which any other lending business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans in the same office or place of business as:

(a) A mortgage broker if:

(1) The licensee and the mortgage broker:

(I) Maintain separate accounts, books and records;

(II) Are subsidiaries of the same parent corporation; and

(III) Maintain separate licenses; and

(2) The mortgage broker is licensed by this State pursuant to chapter 645B of NRS and *if the mortgage broker also holds a private money endorsement pursuant to sections 2 to 47, inclusive, of this act*, does not receive money to acquire or repay loans or maintain trust accounts as provided by ~~NRS 645B.175.1~~ *section 35 of this act*.

(b) A mortgage banker if:

(1) The licensee and the mortgage banker:

(I) Maintain separate accounts, books and records;



(II) Are subsidiaries of the same parent corporation; and

(III) Maintain separate licenses; and

(2) The mortgage banker is licensed by this State pursuant to chapter **645B or** 645E of NRS and, if the mortgage banker ~~is~~ also ~~licensed as a mortgage broker pursuant to chapter 645B of NRS,~~ **holds a private money endorsement pursuant to sections 2 to 47, inclusive, of this act,** does not receive money to acquire or repay loans or maintain trust accounts as provided by ~~[NRS 645B.175.]~~ **section 35 of this act.**

3. If a pawnbroker is licensed to operate a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service, the pawnbroker may operate that service at the same office or place of business from which he or she conducts business as a pawnbroker pursuant to chapter 646 of NRS.

Sec. 172. NRS 657.120 is hereby amended to read as follows:

657.120 1. A financial institution may impose and collect a fee or charge, not to exceed an amount specified in or limited by specific statute, for any service it provides to a customer, if the fee or charge is clearly and conspicuously disclosed in writing to the customer before the customer receives the service. A financial institution must provide a customer with written notice of any increase in the fee or charge at least 10 days before the increase becomes effective.

2. A fee or charge for the presentation for payment, on a single business day, of multiple checks drawn by a customer on an account for which there is an insufficient balance to pay all the checks, must be determined as if the checks drawn in a single series or class were presented:

(a) In the order the checks were written;

(b) From the lowest check number to the highest check number;
or

(c) In order of ascending amounts, the check for the smallest sum being presented first.

3. As used in this section, “financial institution” means an institution licensed pursuant to the provisions of this title or title 56 or chapter 645B, 645E or 649 of NRS, **or sections 2 to 47, inclusive, of this act,** or a similar institution chartered or licensed pursuant to federal law.

Sec. 173. NRS 657.130 is hereby amended to read as follows:

657.130 1. As used in this section, unless the context otherwise requires:

(a) “Committee to review compliance” means one or more persons assigned or engaged by a financial institution to test, review or evaluate its conduct, transactions or potential transactions, policies or procedures for the purpose of monitoring and improving



1 or enforcing compliance with state and federal statutes and
2 regulations requiring safe, sound and fair lending practices,
3 including, without limitation, acts concerning equal credit
4 opportunity, fair housing, fair lending, flood zone protection,
5 housing and financial discrimination, truth in lending and financial
6 reporting to federal or state regulatory agencies.

7 (b) "Financial institution" means an institution licensed pursuant
8 to the provisions of this title or title 56 or chapter 645B or 645E of
9 NRS, *or sections 2 to 47, inclusive, of this act*, or a similar
10 institution chartered or licensed pursuant to federal law. The term
11 includes, without limitation, a holding company, affiliate or
12 subsidiary of such an institution.

13 2. Except as otherwise voluntarily authorized by the financial
14 institution:

15 (a) A document prepared for or created by a committee to
16 review compliance is confidential and privileged, and is not subject
17 to discovery or admissible in evidence in a civil action of this State,
18 even if it has been submitted to a governmental or regulatory agency
19 of this State, the United States or a foreign government.

20 (b) A member of a committee to review compliance or a person
21 who acted under the direction of the committee cannot be required
22 to testify in a civil action concerning the contents of a document
23 described in paragraph (a) or concerning the discussions or
24 conclusions of, or the actions taken by, the committee.

25 **Sec. 174.** NRS 657.140 is hereby amended to read as follows:

26 657.140 1. Except as otherwise provided in subsection 2, a
27 financial institution shall not include in any loan agreement a
28 provision that allows the financial institution to recover, take,
29 appropriate or otherwise apply as a setoff against any debt or
30 liability owing to the financial institution under the loan agreement
31 money from an account unrelated to the loan agreement to the extent
32 the money is exempt from execution pursuant to paragraph (y) of
33 subsection 1 of NRS 21.090.

34 2. The provisions of subsection 1 do not apply to a provision in
35 a loan agreement that specifically authorizes automatic withdrawals
36 from an account.

37 3. The provisions of this section may not be varied by
38 agreement, and the rights conferred by this section may not be
39 waived. Any provision included in an agreement that conflicts with
40 this section is void.

41 4. As used in this section:

42 (a) "An account unrelated to the loan agreement" includes,
43 without limitation, an account pledged as security under the loan
44 agreement, unless the specific account pledged as security is
45 conspicuously described in the loan agreement.



(b) "Financial institution" means an institution licensed pursuant to the provisions of this title or title 56 or chapter 645B, 645E or 649 of NRS, *or sections 2 to 47, inclusive, of this act*, or a similar institution chartered or licensed pursuant to federal law.

Sec. 175. NRS 658.190 is hereby amended to read as follows:

658.190 1. The Commissioner of Financial Institutions shall, with the cooperation of the Commissioner of Mortgage Lending, adopt regulations concerning nontraditional mortgage loan products and lending practices of persons and financial institutions that are required to be licensed or registered pursuant to the provisions of titles 55 and 56 and chapters 645B and 645E of NRS *and sections 2 to 47, inclusive, of this act* and which make or offer to make loans that are secured by liens on real property.

2. The regulations required to be adopted by subsection 1 must be substantially similar to the provisions set forth in the "Guidance on Nontraditional Mortgage Product Risks" published by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators on November 14, 2006.

3. If the publication is revised, the Commissioner shall review the revision to determine whether the revision is suitable for this State. If the Commissioner determines that the revision is suitable for this State, he or she shall adopt a regulation that includes the revision.

4. If the Commissioner determines that the revision is not suitable for this State, the Commissioner shall hold a hearing within 60 days after his or her determination and give notice of the hearing. If, after the hearing, the Commissioner does not revise his or her determination, the Commissioner shall give written notice within 30 days after the hearing that the revision is not suitable for this State.

5. As used in this section, "nontraditional mortgage loan product":

(a) Means a residential loan agreement whose terms allow a borrower to defer repayment of principal or payment of interest on the loan for a period.

(b) Includes, without limitation:

(1) An interest-only loan; and

(2) A payment option adjustable-rate mortgage.

(c) Does not include:

(1) A home equity line of credit other than a simultaneous second-lien home equity line of credit; or

(2) A reverse mortgage.

Sec. 176. NRS 658.210 is hereby amended to read as follows:

658.210 1. Except as otherwise provided in NRS 645F.296, any person authorized to engage in activities as a ~~residential~~



1 mortgage loan originator on behalf of a privately insured institution
2 or organization licensed under title 55 or 56 of NRS shall obtain and
3 maintain a license as a mortgage ~~agent.~~ *loan originator.*

4 2. As used in subsection 1 ~~is:~~
5 ~~—(a) “Mortgage agent”~~, *“mortgage loan originator”* has the
6 meaning ascribed to in ~~NRS 645B.0125; and~~
7 ~~—(b) “Residential mortgage loan originator” has the meaning~~
8 ~~ascribed to it in NRS 645B.01325.~~ *section 62 of this act.*

9 **Sec. 177.** NRS 675.230 is hereby amended to read as follows:

10 675.230 1. Except as otherwise provided in subsection 2, a
11 licensee may not conduct the business of making loans under this
12 chapter within any office, suite, room or place of business in which
13 any other business is solicited or engaged in, except an insurance
14 agency or notary public, or in association or conjunction with any
15 other business, unless authority to do so is given by the
16 Commissioner.

17 2. A licensee may conduct the business of making loans
18 pursuant to this chapter in the same office or place of business as:

19 (a) A mortgage broker if:

20 (1) The licensee and the mortgage broker:

- 21 (I) Operate as separate legal entities;
22 (II) Maintain separate accounts, books and records;
23 (III) Are subsidiaries of the same parent corporation; and
24 (IV) Maintain separate licenses; and

25 (2) The mortgage broker is licensed by this state pursuant to
26 chapter 645B of NRS and *, if the mortgage broker also holds a*
27 *private money endorsement pursuant to sections 2 to 47, inclusive,*
28 *of this act*, does not receive money to acquire or repay loans or
29 maintain trust accounts as provided by ~~NRS 645B.175.~~ *section 35*
30 *of this act.*

31 (b) A mortgage banker if:

32 (1) The licensee and the mortgage banker:

- 33 (I) Operate as separate legal entities;
34 (II) Maintain separate accounts, books and records;
35 (III) Are subsidiaries of the same parent corporation; and
36 (IV) Maintain separate licenses; and

37 (2) The mortgage banker is licensed by this state pursuant to
38 chapter ~~645B or~~ 645E of NRS and, if the mortgage banker ~~is~~ also
39 ~~licensed as a mortgage broker pursuant to chapter 645B of NRS,~~
40 *holds a private money endorsement pursuant to sections 2 to 47,*
41 *inclusive, of this act*, does not receive money to acquire or repay
42 loans or maintain trust accounts as provided by ~~NRS 645B.175.~~ *section 35 of this act.*
43



Sec. 178. NRS 690B.180 is hereby amended to read as follows:

690B.180 An insurer who issues policies of insurance for home protection, other than casualty insurance, shall not:

1. Engage in any other business of insurance or real estate pursuant to chapters 645 to 645E, inclusive, of NRS ~~H~~ and sections 2 to 47, inclusive, of this act.

2. Assume reinsurance from any other insurer.

Sec. 179. 1. Any orders issued before the effective date of this act pursuant to the provisions of chapter 645B or 645E of NRS, as those provisions existed on the effective date of this act, remain in effect on and after the effective date of this act unless rescinded by the Commissioner for good cause shown, or vacated by a court of competent jurisdiction.

2. Any matters pending before the effective date of this act pursuant to the provisions of chapter 645B or 645E of NRS, as those provisions existed on the effective date of this act, remain pending on and after the effective date of this act unless dismissed by the Commissioner for good cause shown or vacated by a court of competent jurisdiction.

3. As used in this section, "Commissioner" means the Commissioner of Mortgage Lending.

Sec. 180. NRS 645B.0107, 645B.0113, 645B.0115, 645B.0117, 645B.0121, 645B.01245, 645B.0125, 645B.0129, 645B.01305, 645B.0131, 645B.01325, 645B.0133, 645B.0135, 645B.0137, 645B.0138, 645B.015, 645B.016, 645B.018, 645B.020, 645B.021, 645B.0243, 645B.0245, 645B.0247, 645B.025, 645B.051, 645B.075, 645B.092, 645B.093, 645B.095, 645B.115, 645B.175, 645B.185, 645B.186, 645B.187, 645B.189, 645B.250, 645B.260, 645B.300, 645B.305, 645B.307, 645B.310, 645B.320, 645B.330, 645B.340, 645B.350, 645B.351, 645B.352, 645B.353, 645B.354, 645B.355, 645B.356, 645B.357, 645B.400, 645B.405, 645B.410, 645B.420, 645B.430, 645B.450, 645B.620, 645B.670, 645B.690, 645B.700, 645B.710, 645B.720, 645B.750, 645B.760, 645B.900, 645B.910, 645B.920, 645B.955, 645E.290 and 645F.277 are hereby repealed.

Sec. 181. 1. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2016, for all other purposes.

2. Section 140 of this act expires by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:



- 1 (a) Have failed to comply with a subpoena or warrant relating to
2 a proceeding to determine the paternity of a child or to establish or
3 enforce an obligation for the support of a child; or
4 (b) Are in arrears in the payment for the support of one or more
5 children,
6 ➡ are repealed by the Congress of the United States.

LEADLINES OF REPEALED SECTIONS

- 645B.0107 “Construction control” defined.
645B.0113 “Escrow agency” defined.
645B.0115 “Escrow agent” defined.
645B.0117 “Escrow officer” defined.
645B.0121 “Investor” defined.
645B.01245 “Majority of the investors” defined.
645B.0125 “Mortgage agent” defined.
645B.0129 “Policy of title insurance” defined.
645B.01305 “Private investor” defined.
645B.0131 “Relative” defined.
645B.01325 “Residential mortgage loan originator”
defined.
645B.0133 “Title agent” defined.
645B.0135 “Title insurer” defined.
645B.0137 Requirements for initial licensing as mortgage
broker or mortgage agent; regulations.
645B.0138 Courses of continuing education: Adoption of
regulations by Commissioner.
645B.015 Exemptions for certain persons and entities.
645B.016 Certificate of exemption required for certain
persons and entities; application; fee; automatic expiration;
prohibitions; administrative fine; certificate of exemption for
purposes of complying with requirements of Registry;
applicability of chapter to persons filing application for purpose
of complying with requirements of Registry.
645B.018 Exemptions for certain loans; application;
grounds for granting exemption; powers and duties of
Commissioner.
645B.020 Application for license; application for branch
offices; requirements for issuance of license; license for office
outside Nevada which conducts business in Nevada.
645B.021 Mortgage broker who is not natural person to
designate natural person as qualified employee; regulations.



645B.0243 Grounds for denial of license: Employing or associating with certain persons who are ineligible to be mortgage agents.

645B.0245 Grounds for denial of license: Control by relative who would be ineligible to be licensed; act or omission of partner, officer or director.

645B.0247 Grounds for denial of license: Authority of Commissioner not limited.

645B.025 Posting of license; restrictions on transfer or assignment of license.

645B.051 Continuing education required for renewal of license.

645B.075 Payment of statutory assessment by mortgage broker; duty of mortgage broker and agents to cooperate fully with audits and examinations.

645B.092 Records of Commissioner: Certain records relating to investigation deemed confidential; certain records relating to disciplinary action and orders imposing discipline deemed public records; disclosure by Commissioner.

645B.093 Commingling certain money prohibited.

645B.095 Notification of certain transfers required; application to Commissioner for approval of change of control; investigation; waiver.

645B.115 Minimum net worth required for certain mortgage brokers; initial and annual determination of net worth; examination by Commissioner; regulations.

645B.175 Trust or escrow account required for money received from investor to fund loan; trust or escrow account required for money received from debtor to repay loan; release of money; accounting to investor, debtor and Commissioner; additional conditions, limitations and prohibitions; duties of mortgage broker not delegable or transferable; immunity from liability.

645B.185 Use of disclosure forms required; release of financial statements; duties of mortgage broker and agents; prohibitions; powers of Commissioner; regulations.

645B.186 Disclosure of certain business and personal relationships required.

645B.187 Prohibition on making certain guarantees in advertisements and solicitations; limitations on payment of premium interest; penalty.

645B.189 Statements of disclosure required in certain advertisements; review of advertisements by Commissioner; advertisements must comply with state and federal laws



concerning deceptive trade practices and deceptive advertising; regulations.

645B.250 Prohibition on advancing payments to investor on behalf of debtor in default; exceptions.

645B.260 Monthly report to Commissioner on delinquencies in payments and defaults; monthly notice to investors; regulations.

645B.300 Written appraisal of real property required; persons authorized to perform appraisal; retention and inspection of appraisal; exceptions.

645B.305 Requirement that loan include disclosure concerning fees.

645B.307 Mortgage broker required to include his or her license number or identifying number with loan.

645B.310 Requirements for mortgage broker to assign interest in loan.

645B.320 Copy of recorded deed of trust must be mailed to each investor.

645B.330 Limitations on use of power of attorney.

645B.340 Multiple holders of beneficial interest in loan: Holders of majority of outstanding principal balance may act on behalf of all holders for certain matters; notice; exception.

645B.350 Mortgage broker required to provide investors certain options before acquiring ownership or beneficial interest in loan.

645B.351 Mortgage broker prohibited from including in loan document provision which requires participation in binding arbitration in event of dispute.

645B.352 Written servicing agreement required before servicing loan.

645B.353 Mortgage broker prohibited from releasing borrower or guarantor from personal liability without certain approval.

645B.354 Restrictions on withholding money from certain investors; loan servicing agreement may contain provision which provides written consent to withhold money.

645B.355 Mortgage broker prohibited from acting as construction control.

645B.356 Restrictions on placing private investor into certain entities before foreclosure of real property securing loan.

645B.357 Restriction on collection of fees by mortgage broker; application of fees.

645B.400 Requirements to provide services of or engage in activities of mortgage agent.



645B.405 License as mortgage agent required for mortgage broker or qualified employee who engages in or supervises a mortgage agent who engages in activities as residential mortgage loan originator.

645B.410 Qualifications and procedure for issuance of license; fees.

645B.420 Payment of child support: Submission of certain information by applicant; grounds for denial of license; duty of Commissioner.

645B.430 Annual expiration of license; procedure for renewal; continuing education; fees.

645B.450 Conditions and limitations regarding employment of or association with mortgage agent; duties of mortgage broker, mortgage banker or certain exempt persons upon termination of mortgage agent.

645B.620 Duties of Commissioner when violation is suspected; referral of violations to Attorney General for criminal prosecution; civil action for injunctive relief.

645B.670 Authorized disciplinary action; grounds for disciplinary action.

645B.690 Duty of Commissioner to take disciplinary action for certain violations.

645B.700 Categorization of major and minor violations; regulations.

645B.710 Act or omission of partner, officer or director deemed act or omission of partnership, corporation or unincorporated association.

645B.720 Authority of Commissioner to order summary suspension of license and take other action to protect public before conducting hearing.

645B.750 Duty of Commissioner to provide written notice of disciplinary action or denial of license; right to administrative hearing; entry of final order; appeals.

645B.760 Effect of failure to appear at hearing; penalty.

645B.900 Unlawful to conduct business of mortgage broker or mortgage agent without being licensed or exempt from licensing.

645B.910 Unlawful for foreign corporation, association or business trust to conduct business of mortgage broker without meeting certain requirements.

645B.920 Contracts for mortgage transaction voidable for certain violations.

645B.955 Commissioner may require licensee to pay restitution.



645E.290 Licensure as mortgage agent required for certain persons who engage in activities as loan originator or who supervise mortgage agents who engage in such activities.

645F.277 Adoption of regulations establishing guidelines and limitations for servicing or arranging certain loans.

