

ASSEMBLY BILL NO. 480—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MARCH 23, 2015

Referred to Committee on Ways and Means

SUMMARY—Provides for the licensing and regulation of mortgage loan servicers and revises provisions governing the administration of the Division of Mortgage Lending of the Department of Business and Industry. (BDR 54-1174)

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; revising provisions governing the licensing and regulation of escrow agents, escrow agencies, mortgage brokers, mortgage agents and mortgage bankers; increasing certain fees relating to escrow agents, escrow agencies, mortgage brokers, mortgage agents and mortgage bankers; providing for the licensing and regulation of mortgage servicers; establishing certain fees relating to mortgage servicers; revising provisions governing the administration of the Division of Mortgage Lending of the Department of Business and Industry; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law creates the Division of Mortgage Lending within the Department
2 of Business and Industry and authorizes the Division to license and regulate escrow
3 agents, escrow agencies, mortgage brokers, mortgage agents, mortgage bankers,
4 foreclosure consultants and loan modification consultants. (Chapters 645A, 645B,
5 645E and 645F of NRS) Existing law establishes the Commissioner of Mortgage
6 Lending, and makes the Commissioner the chief of the Division. (NRS 232.520,
7 645A.010)



* A B 4 8 0 *

Sections 3-10 of this bill revise various provisions governing the licensing and regulation of escrow agents and escrow agencies. **Section 11** of this bill increases certain fees required to be paid by escrow agents and escrow agencies.

Section 15 of this bill prohibits a mortgage broker from engaging in the servicing of mortgages unless the mortgage broker holds a license as a mortgage servicer. **Sections 16 and 17** of this bill increase certain fees related to mortgage brokers.

Section 18 of this bill prohibits a mortgage banker from engaging in the servicing of mortgages unless the mortgage banker holds a license as a mortgage servicer. **Section 19** of this bill increases certain fees related to mortgage bankers.

Sections 23-86 of this bill authorize the Commissioner of Mortgage Lending to license and regulate mortgage servicers who service loans on residential property located in this State. **Sections 40-55** provide the requirements for obtaining a license as a mortgage servicer which include, among other things, having a minimum net worth of \$250,000, posting a surety bond, submitting financial statements to the Commissioner and having a qualified employee located at each branch office of the mortgage servicer. **Sections 56 and 57** provide for the powers and duties of the Commissioner to regulate mortgage servicers. **Sections 58-68** set forth certain requirements that mortgage servicers must adhere to in the conduct of their business and certain prohibitions related to the practice of mortgage servicing in this State. **Sections 69 and 70** enact certain requirements related to the preservation of certain records and the filing of certain reports by mortgage servicers. **Section 71** provides the procedure for claims made against the surety bond of a licensed mortgage servicer. **Sections 72 and 73** provide the process for the filing and investigation of complaints against a mortgage servicer. **Sections 74-80** provide for the discipline of licensed mortgage servicers who violate the provisions of this bill. **Sections 81-86** provide various remedies and impose certain civil and criminal liability upon mortgage servicers and other persons for violations of the provisions of this bill.

Sections 89-91 of this bill revise certain provisions related to the powers and duties of the Commissioner of Mortgage Lending generally. **Section 102** of this bill repeals two sections of existing law that are made redundant by other provisions of this bill.

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

Section 1. NRS 645.8725 is hereby amended to read as follows:

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

Sec. 2. NRS 645.8731 is hereby amended to read as follows:

645.8731 "Escrow agent" has the meaning ascribed to it in ~~subsection 6 of~~ NRS 645A.010.

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

Sec. 4. 1. The Commissioner may require that any application, fee, fine, form or filing required pursuant to this chapter be submitted to the Commissioner through the Registry



1 *and that the applicant or licensee pay any costs associated with the*
2 *use of the Registry.*

3 *2. All fees, assessments or penalties received by the*
4 *Commissioner pursuant to this chapter are in addition to any costs*
5 *or fees that may be required by the Registry and are*
6 *nonrefundable. All fees, assessments and penalties received by the*
7 *Commissioner pursuant to this chapter must be deposited in the*
8 *Account for Mortgage Lending created by NRS 645F.270.*

9 **Sec. 5. 1.** *An escrow agent may not act as or provide the*
10 *services of an escrow agent on behalf of any escrow agency other*
11 *than an escrow agency that has notified the Commissioner*
12 *pursuant to subsection 2 that the escrow agent is employed by and*
13 *associated with that escrow agency.*

14 *2. Before employing or associating with an escrow agent to*
15 *administer escrows on its behalf, an escrow agent must:*

16 *(a) File with the Commissioner, on a form and in a manner*
17 *prescribed by the Commissioner, a request to associate with the*
18 *escrow agent; and*

19 *(b) Pay the fee required by NRS 645A.040.*

20 *3. An escrow agent may not associate or begin employment*
21 *with an escrow agency until the Commissioner has provided notice*
22 *to the escrow agency of acceptance of the request to associate with*
23 *the escrow agent.*

24 *4. An escrow agent may not directly or indirectly receive any*
25 *compensation, remuneration or fees related to the business of*
26 *administering escrows from any escrow agency that the escrow*
27 *agent is not associated with or employed by pursuant to this*
28 *section.*

29 **Sec. 6.** NRS 645A.010 is hereby amended to read as follows:
30 645A.010 As used in this chapter, unless the context otherwise
31 requires:

32 *1. “Business of administering escrows” or “administering*
33 *escrows” means the process of managing, conducting or*
34 *supervising an escrow or escrow-related transaction as an escrow*
35 *agent or escrow agency.*

36 *2. “Client” means a person that has engaged an escrow agent*
37 *or escrow agency to administer an escrow related to a transaction.*

38 *3. “Commissioner” means the Commissioner of Mortgage*
39 *Lending.*

40 ~~121~~ *4. “Construction control” has the meaning ascribed to it in*
41 *NRS 627.050.*

42 ~~131~~ *5. “Control person” means an executive officer, director,*
43 *general partner, trustee, member or shareholder of an applicant or*
44 *a licensee, or a person, who has the authority to participate in the*



direction, directly or indirectly through one or more other persons, of the management or policies of an applicant or a licensee.

6. "Division" means the Division of Mortgage Lending of the Department of Business and Industry.

~~[4.]~~ 7. "Escrow" means any transaction wherein one person, for the purpose of effecting *or closing* the sale, *purchase, exchange,* transfer, encumbering or leasing of real or personal property to another person ~~[.]~~ *or persons,* delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person *to be held by such third person* until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by such third person , *in compliance with instructions under which he or she is to act,* to a grantee, grantor, promisee, promisor, obligee, obligor, *lessee, lessor,* bailee, bailor or any agent or employee ~~[of any of the latter.] thereof.~~ The term includes ~~[the collection of payments and the performance of related services by a third person in connection with a loan secured by a lien on real property and]~~ the performance of the services of a construction control.

~~[5.]~~ 8. "Escrow agency" means:

- (a) Any person who employs one or more escrow agents; or
- (b) An escrow agent who administers escrows on his or her own behalf.

~~[6.]~~ 9. "Escrow agent" means any *natural* person *employed by and associated with an escrow agency* engaged in the business of administering escrows for compensation.

10. "Registry" has the meaning ascribed to it in NRS 645B.0128.

Sec. 7. NRS 645A.015 is hereby amended to read as follows:

645A.015 ~~[The provisions of this chapter do not apply to:]~~

1. *Except as otherwise provided in subsection 2, it shall be unlawful for any person to engage in or carry on, or hold himself or herself out as engaging in or carrying on, the business of administering escrows or to act in the capacity of an escrow agent or escrow agency within this State or with respect to any transaction involving real or personal property located in this State without first obtaining a license as an escrow agent or escrow agency issued by the Commissioner pursuant to the requirements of this chapter.*

2. *The licensing requirements of this chapter do not apply to:*

(a) Any person ~~[.]~~

~~—(a) Doing]~~ *doing* business under the laws of this State or the United States relating to banks, mutual savings banks, trust companies, savings and loan associations, common and consumer finance companies or industrial loan companies; ~~[or]~~



(b) ~~Licensed~~ *Any person licensed* pursuant to chapter 692A of NRS ~~1~~

~~2. An attorney at law rendering services in the performance of his or her duties as attorney at law, except an attorney actively engaged in conducting an escrow agency.~~

~~3.1 ;~~

(c) *Any person licensed to practice law in this State if:*

(1) *The escrow transaction is performed by the attorney while engaged in the practice of law, or by employees of the law firm under the direct supervision of the attorney while engaged in the practice of law;*

(2) *The escrow transaction is performed under the name of a person or entity identified and operated as a law firm; and*

(3) *Any money provided to the attorney related to the escrow, other than money designated for attorney's fees and costs, is deposited into, maintained within and disbursed from a client trust account that complies with rules of this State governing the conduct of attorneys;*

(d) Any firm or corporation which lends money on real or personal property and is subject to licensing, supervision or auditing by an agency of the United States or of this State ~~1~~

~~4.1 ; or~~

(e) Any person doing any act under order of any court.

3. *As used in this section, "law firm" has the meaning ascribed to it in NRS 38.435.*

Sec. 8. NRS 645A.020 is hereby amended to read as follows:

645A.020 1. ~~[A person who wishes to be licensed as an escrow agent or agency must file a written application in the Office of the Commissioner.] An application for, or renewal of, a license as an escrow agency or escrow agent shall be made in writing to the Commissioner on a form and in a manner prescribed by the Commissioner.~~

2. ~~[The application must:~~

~~(a) Be verified.~~

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

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

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

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

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



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

3 ~~—(h) Require a financial statement of the applicant.~~

4 ~~—(i) Require such other information as the Commissioner~~
5 ~~determines necessary.~~

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

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

16 ~~—(l) Include all information required to complete the application.}]~~
17 *An applicant shall include in an application for an initial license:*

18 *(a) Any application fee required pursuant to NRS 645A.040;*

19 *(b) All content required to be included in the application by the*
20 *Commissioner;*

21 *(c) Written consent authorizing the Commissioner to conduct a*
22 *background investigation of the applicant and, if applicable, each*
23 *control person of the applicant, including, without limitation,*
24 *authorization to obtain:*

25 *(1) An independent credit report from a consumer*
26 *reporting agency described in section 603(f) of the Fair Credit*
27 *Reporting Act, 15 U.S.C. § 1681a(f);*

28 *(2) A criminal history report from the Federal Bureau of*
29 *Investigation or any criminal history repository of any state,*
30 *national or international governmental agency or entity; and*

31 *(3) Information related to any administrative, civil or*
32 *criminal proceedings in any jurisdiction in which the applicant, or*
33 *a control person of the applicant, is or has been a party;*

34 *(d) A complete set of fingerprints of the applicant or, if the*
35 *applicant is not a natural person, a complete set of fingerprints of*
36 *each control person of the applicant to forward to the Central*
37 *Repository for Nevada Records of Criminal History for submission*
38 *to the Federal Bureau of Investigation for its report; and*

39 *(e) Any other information required by this chapter, the*
40 *Commissioner, an order of the Commissioner or requested in*
41 *connection with the evaluation and investigation of the*
42 *qualifications and suitability of the applicant for licensure.*

43 *3. The applicant shall include in an application for renewal*
44 *of an existing license:*

45 *(a) Any renewal fee required pursuant to NRS 645A.040;*



(b) All content required by the Commissioner in the application form; and

(c) Any other information required by this chapter, the Commissioner, an order of the Commissioner or requested in connection with the evaluation and investigation of the qualifications and suitability of the applicant for licensure.

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

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

5. An ~~escrow agent or agency shall immediately notify~~ *applicant for a license, and a licensee upon the issuance or renewal of a license, shall have a continuing obligation to provide written notification to* the Division of any material change in the information contained in the application ~~for an initial license or renewal of an existing license.~~

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

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

Sec. 9. NRS 645A.032 is hereby amended to read as follows:

645A.032 1. The Division shall issue to each licensee a license which:

(a) Shows the name and address of the licensee, and in the case of an escrow agent, the name of the *licensed* escrow agency with whom the escrow agent ~~will be~~ *is employed or* associated ~~;~~ *and*



(b) ~~Has imprinted thereon the seal of the Division.~~
—(c) Contains any additional ~~matter~~ **information** prescribed by
the ~~Division.~~ **Commissioner.**

2. No escrow agent may be associated with or employed by more than one escrow agency at the same time.

Sec. 10. NRS 645A.036 is hereby amended to read as follows:

645A.036 1. Every escrow agency shall maintain a definite place of business, ~~{within the State,}~~ which must be a room or rooms used for the transaction of escrows, or such business and any allied businesses, and which must serve as the office for the transaction of business pursuant to the authority granted in the license.

2. The place of business must be specified in the application for the license and so designated on the license.

3. A license does not authorize the licensee to transact business from any office other than that designated in the license.

Sec. 11. NRS 645A.040 is hereby amended to read as follows:

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

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

(a) For filing an application for an initial license, \$500 for the principal office and ~~{ \$100 }~~ **\$300** for each branch office.

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

(c) For filing an application for renewal, ~~{ \$200 }~~ **\$700** for the principal office and ~~{ \$100 }~~ **\$400** for each branch office.

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

(a) For filing an application for an initial license or for the renewal of a license, ~~{ \$100. }~~ **\$225.**

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

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



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

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

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

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

~~16. Except as otherwise provided in this chapter, all fees received pursuant to this chapter must be deposited in the Account for Mortgage Lending created by NRS 645F.270.]~~

Sec. 12. NRS 645A.221 is hereby amended to read as follows:

645A.221 If a person, or any general partner, director, officer, agent or employee of a person, violates the provisions of NRS ~~645A.210~~ **645A.015** or 645A.220:

1. Any contracts entered into by that person for the escrow transaction are voidable by the other party to the contract; and

2. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$50,000.

Sec. 13. NRS 645A.222 is hereby amended to read as follows:

645A.222 In addition to any other remedy or penalty, if a person violates the provisions of NRS ~~645A.210~~ **645A.015** or 645A.220, the respective parties to the escrow transaction 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. 14. NRS 645A.230 is hereby amended to read as follows:

645A.230 Any person who violates:

1. NRS **645A.015**, 645A.160 ~~645A.210~~ or 645A.220 is guilty of a gross misdemeanor.

2. Any other provision of this chapter is guilty of a misdemeanor.

Sec. 15. Chapter 645B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A mortgage broker shall not service or offer to service a residential mortgage loan, unless the mortgage broker holds a license as a mortgage servicer issued by the Commissioner pursuant to section 42 of this act.

2. As used in this section:

(a) "Residential mortgage loan" has the meaning ascribed to it in section 37 of this act.



(b) *“Service” has the meaning ascribed to it in section 38 of this act.*

Sec. 16. NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or after November 1 and on or before December 31 of each year, or on a date otherwise specified by the Commissioner by regulation:

(a) An application for renewal;

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

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

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

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or after November 1 and on or before 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 fails to submit any item required pursuant to subsection 3 to the Commissioner on or after November 1 and on or before December 31 of any year, unless a different date is specified by the Commissioner by regulation, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a



1 cancelled certificate of exemption if the person submits to the
2 Commissioner on or before February 28 of the following year:

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

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

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

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

12 (a) To file an original application for a license, not more than
13 \$1,500 for the principal office and not more than ~~[\$40]~~ \$400 for
14 each branch office. The person must also pay such additional
15 expenses incurred in the process of investigation as the
16 Commissioner deems necessary.

17 (b) To be issued a license, not more than \$1,000 for the principal
18 office and not more than ~~[\$60]~~ \$100 for each branch office.

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

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

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

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

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

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

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

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



1 **Sec. 17.** NRS 645B.430 is hereby amended to read as follows:
2 645B.430 1. A license as a mortgage agent issued pursuant to
3 NRS 645B.410 expires each year on December 31, unless it is
4 renewed. To renew a license as a mortgage agent, the holder of the
5 license must continue to meet the requirements of subsection 3 of
6 NRS 645B.410 and must submit to the Commissioner on or after
7 November 1 and on or before December 31 of each year, or on a
8 date otherwise specified by the Commissioner by regulation:

9 (a) An application for renewal;

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

15 (c) A renewal fee set by the Commissioner of not more than
16 \$170.

17 2. In lieu of the continuing education requirement set forth in
18 paragraph (b) of subsection 1, the holder of a license as a mortgage
19 agent who, pursuant to subsection 1 of NRS 645F.267, is not
20 required to register or renew with the Registry and who has not
21 voluntarily registered or renewed with the Registry must submit to
22 the Commissioner satisfactory proof that he or she attended at least
23 5 hours of certified courses of continuing education during the 12
24 months immediately preceding the date on which the license
25 expires. The hours of continuing education required by this
26 subsection must include:

27 (a) At least 3 hours relating to the laws and regulations of this
28 State; and

29 (b) At least 2 hours relating to ethics.

30 3. If the holder of the license as a mortgage agent fails to
31 submit any item required pursuant to subsection 1 or 2 to the
32 Commissioner on or after November 1 and on or before
33 December 31 of any year, unless a different date is specified by the
34 Commissioner by regulation, the license is cancelled as of
35 December 31 of that year. The Commissioner may reinstate a
36 cancelled license if the holder of the license submits to the
37 Commissioner on or before February 28 of the following year:

38 (a) An application for renewal;

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

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

42 4. To change the mortgage broker with whom the mortgage
43 agent is associated, a person must pay a fee of ~~10~~ \$50.

44 5. Money received by the Commissioner pursuant to this
45 section is in addition to any fee that must be paid to the Registry and



1 must be deposited in the Account for Mortgage Lending created by
2 NRS 645F.270.

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

7 7. Nothing in this section shall be construed as preventing the
8 Commissioner from renewing the license of a mortgage agent who
9 does not satisfy the criteria set forth in paragraph (e) of subsection 1
10 of NRS 645B.410 at the time of the application for renewal.

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

13 **Sec. 18.** Chapter 645E of NRS is hereby amended by adding
14 thereto a new section to read as follows:

15 *1. A mortgage banker shall not service or offer to service a*
16 *residential mortgage loan, unless the mortgage banker holds a*
17 *license as a mortgage servicer issued by the Commissioner*
18 *pursuant to section 42 of this act.*

19 *2. As used in this section:*

20 *(a) “Residential mortgage loan” has the meaning ascribed to it*
21 *in section 37 of this act.*

22 *(b) “Service” has the meaning ascribed to it in section 38 of*
23 *this act.*

24 **Sec. 19.** NRS 645E.280 is hereby amended to read as follows:

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

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

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

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

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

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



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

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

(d) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or after November 1 and on or before December 31 of each year, or on a date otherwise specified by the Commissioner by regulation:

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

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

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or after November 1 and on or before December 31 of any year, unless a different date is specified by the Commissioner by regulation, the certificate of exemption is cancelled. Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner on or before February 28 of the following year:

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

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

(c) 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 banker pursuant to this chapter:

(a) To file an original application for a license, not more than \$1,500 for the principal office and not more than ~~[\$40]~~ \$400 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]~~ \$100 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 set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his or her duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his or her duties pursuant to this chapter.

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

Sec. 20. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 21 to 86, inclusive, of this act.

Sec. 21. *“Mortgage servicer” has the meaning ascribed to it in section 35 of this act.*

Sec. 22. *This section and NRS 645F.300 to 645F.450, inclusive, may be cited as the “Nevada Loan Modification Regulatory Act.”*

Sec. 23. *Sections 23 to 86, inclusive, of this act may be cited as the “Nevada Residential Mortgage Servicer Licensing and Regulatory Act.”*

Sec. 24. *As used in sections 23 to 86, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 25 to 39, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 25. *“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 that is engaged in a business or a transaction regulated by sections 23 to 86, inclusive, of this act.*

Sec. 26. *“Applicant” means a person that has made application for a license pursuant to sections 23 to 86, inclusive, of this act.*

Sec. 27. *“Borrower” means a person that is a debtor on a residential mortgage loan.*

Sec. 28. *“Branch office” means a location, other than the principal office of a person, from which the person provides*



mortgage servicer activities related to a residential mortgage loan secured by a dwelling located in this State.

Sec. 29. *“Control person” means an executive officer, director, general partner, trustee, member or shareholder of a licensee, or a person, who has the authority to participate in the direction, directly or indirectly, through one or more other persons, of the management or policies of a licensee.*

Sec. 30. *“Depository financial institution” has the meaning ascribed to it in NRS 645.335 and includes, without limitation, any bank, savings and loan association, thrift or credit union whose share and deposit accounts are federally insured.*

Sec. 31. *“Dwelling” means a residential structure that contains between one and four units, each of which is planned, designed or used as a residence for a single family, whether or not that structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home or trailer, if it is used as a residence.*

Sec. 32. *“Executive officer” means an officer, manager, partner or managing member of a licensee. The term includes, without limitation, a chief executive officer, president, vice president, chief financial officer, chief operating officer, chief legal officer, controller or compliance officer, or a natural person in any similar position.*

Sec. 33. *“License” means a license or other authority granted by the Commissioner pursuant to sections 23 to 86, inclusive, of this act.*

Sec. 34. *“Licensee” means a person who is licensed or required to be licensed pursuant to sections 23 to 86, inclusive, of this act.*

Sec. 35. *“Mortgage servicer” means a person that directly or indirectly services residential mortgage loans.*

Sec. 36. *“Principal office” means the office where the corporate or executive offices of a business entity or other person are located, whether or not the office is located in this State.*

Sec. 37. *“Residential mortgage loan” means any loan that is secured by a mortgage, deed of trust or other similar consensual security interest on a dwelling located within this State or on real property located within this State upon which is constructed or intended to be constructed a dwelling.*

Sec. 38. *“Service” means:*

1. *The collection of six or more payments of principal, interest or an amount to be placed into escrow for the payment of hazard insurance or taxes, or any combination thereof, related to a residential mortgage loan owned, in whole or in part, by a licensee or for which a licensee is a primary beneficiary; or*



2. The collection or remittance, or the right to collect or remit, for any lender, mortgagee, noteowner, noteholder, trustee or primary beneficiary of a residential mortgage loan any payment of principal, interest or an amount to be placed into escrow for the payment of hazard insurance or taxes, or any combination thereof, related to a residential mortgage loan, in accordance with the terms of a residential mortgage loan, a mortgage servicing agreement or an agreement with a mortgagee, trustee or primary beneficiary of a residential mortgage loan.

Sec. 39. "Shareholder" means:

1. Any person that has beneficial ownership of, or the power to vote directly or indirectly on behalf of, any percentage of a class of voting securities or voting interests of an applicant or licensee if the applicant or licensee has 20 or fewer shareholders or beneficial owners.

2. Any person that has the beneficial ownership of, or the power to vote directly or indirectly on behalf of, 10 percent or more of a class of voting securities or voting interests of an applicant or licensee if the applicant or licensee has more than 20 shareholders or beneficial owners.

Sec. 40. No person shall directly or indirectly provide or offer to provide, or hold himself or herself out as providing or offering to provide, the services of a mortgage servicer in this State without first obtaining and maintaining the applicable license pursuant to sections 23 to 86, inclusive, of this act, unless the person is exempt from the licensing provisions of this chapter under section 55 of this act and complies with the requirements of that exemption.

Sec. 41. 1. An application for a license as a mortgage servicer must be made in writing to the Commissioner, on a form and in a manner prescribed by the Commissioner.

2. The applicant shall include in the application:

(a) The applicable fee required pursuant to section 53 of this act;

(b) All content and information required by the Commissioner in the application;

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

(1) An independent credit report from a consumer reporting agency described in section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f);



(2) A criminal history report from the Federal Bureau of Investigation or any criminal history repository of any state, national or international governmental agency or entity; and

(3) Information related to any administrative, civil or criminal proceedings in any jurisdiction in which the applicant, or a control person of the applicant, is or has been a party;

(d) A complete set of fingerprints of the applicant or, if the applicant is not a natural person, a complete set of fingerprints of each control person of the applicant to forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(e) Any other information required by this chapter, the Commissioner, an order of the Commissioner or requested in connection with the evaluation and investigation of the qualifications and suitability of the applicant for licensure.

Sec. 42. The Commissioner shall not issue a license to an applicant for a license as a mortgage servicer unless, after investigation, the Commissioner finds that the applicant or any control person of the applicant:

1. Meets all the requirements of sections 23 to 86, inclusive, of this act.

2. Has demonstrated experience, financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant and any control person of the applicant will operate honestly, fairly and efficiently for the purposes of sections 23 to 86, inclusive, of this act.

3. Has never had a license or registration as mortgage servicer revoked in this State or any other jurisdiction or had any financial services license revoked within the immediately preceding 10 years. For purposes of this subsection, a license or registration shall not be considered revoked if the revocation was subsequently vacated.

4. 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 application, or at any time if any such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering. For the purposes of this subsection, a person shall not be considered to have been convicted, or entered or agreed to enter a plea of guilty or nolo contendere, if the conviction or plea has been pardoned or vacated.

5. Has designated a qualified employee for each principal and branch office making application for a license in accordance



with section 46 of this act and the qualified employee has been approved by the Commissioner.

6. Has provided a surety bond that meets the requirements of section 49 of this act.

7. Has provided a financial statement that meets the requirements of section 47 of this act.

Sec. 43. 1. An applicant for a license as a mortgage servicer shall obtain a license for its principal office and for each branch office from which it will conduct mortgage servicer activity related to any dwelling located in this State.

2. An applicant for a license as a mortgage servicer that will conduct mortgage servicer activity related to any dwelling located in this State under one or more fictitious or assumed names must apply for and obtain a separate license for each fictitious or assumed name.

3. A licensee may not conduct business from any location, or in any name or fictitious or assumed name, other than the location and name that appears on the license of the licensee issued pursuant to sections 23 to 86, inclusive, of this act.

Sec. 44. 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 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 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. The Commissioner shall not issue or renew a license as a mortgage servicer 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. 45. 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 licensee, 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 licensee by the district attorney or other public agency pursuant to NRS 425.550 stating that the licensee has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate a license 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. 46. 1. A mortgage servicer shall designate an individual to serve as a qualified employee for each principal or branch office licensed pursuant to sections 23 to 86, inclusive, of this act. An individual must not be designated to serve as a qualified employee unless such individual:

(a) Is licensed as a mortgage agent under chapter 645B of NRS;

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

(c) Is designated by a mortgage servicer to act on behalf of the mortgage servicer and to supervise and control the conduct of the business of the mortgage servicer at that location;

(d) Will be present at the location a majority of the time that the office is open;

(e) Is designated to serve as the qualified employee for only one location; and



(f) Is approved by the Commissioner to act as the qualified employee for the licensee at the location.

2. If a qualified employee is not approved by the Commissioner, or is subsequently ineligible because he or she does not meet the above requirements, within 30 days after the disapproval or ineligibility, the mortgage servicer shall:

(a) Provide written notification to the Commissioner; and

(b) Designate a new qualified employee and request the approval of the Commissioner for that individual to serve as the qualified employee.

Sec. 47. 1. At the time of application and not later than 90 days after the last day of each fiscal year of a mortgage servicer, an applicant or licensee must submit to the Commissioner an independently audited financial statement that:

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

(b) Demonstrates that the applicant or licensee meets the minimum net worth requirement set forth in section 48 of this act.

2. The Commissioner may grant a reasonable extension for the submission of a financial statement required by this section if a mortgage servicer requests such an extension before the date on which the financial statement is due.

Sec. 48. An applicant for a license shall demonstrate that it has, and a licensee shall continuously maintain, a minimum net worth of \$250,000.

Sec. 49. 1. As a condition of doing business in this State, at the time of filing an application for a license or renewal of a license, each mortgage servicer must 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 3, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the mortgage servicer and employees or agents of the mortgage servicer.

2. The bond must be in a form prescribed by the Commissioner.

3. Each mortgage servicer shall deposit a corporate surety bond that complies with the provisions of this section in the following amounts:

(a) If the mortgage servicer has an annual servicing volume of less than \$20,000,000, \$100,000.

(b) If the mortgage servicer has an annual servicing volume of \$20,000,000 or more, \$250,000.

4. The annual servicing volume will be determined from the quarterly reports filed with the Commissioner by the mortgage servicer pursuant to section 70 of this act.



1 **Sec. 50.** 1. The surety may cancel a bond upon giving 60
2 days' notice, by certified mail, to the Commissioner and to the
3 licensee who is the principal on the bond. Upon receipt by the
4 Commissioner of such a notice, the Commissioner shall
5 immediately notify the licensee who is the principal on the bond of
6 the effective date of cancellation of the bond, and that his or her
7 license will be summarily suspended on that date and thereafter
8 revoked unless the licensee furnishes an equivalent bond before
9 the effective date of the cancellation. The notice must be sent to
10 the licensee by certified mail to his or her last address of record
11 filed in the office of the Division.

12 2. If the licensee does not comply with the requirements set
13 out in the notice from the Commissioner, the license must be
14 revoked in accordance with sections 23 to 86, inclusive, of this act
15 and the requirements of chapter 233B of NRS. During the
16 pendency of the revocation proceedings, the license must be
17 summarily suspended in accordance with chapter 233B of NRS.

18 **Sec. 51.** 1. A license issued pursuant to sections 23 to 86,
19 inclusive, of this act must not be transferred or assigned without
20 the prior written consent and approval of the Commissioner.

21 2. If a transfer, sale or conveyance of the outstanding voting
22 stock or ownership interest of a licensee will result in the
23 cumulative transfer of 25 percent or more of the outstanding
24 voting stock or ownership interest of the licensee from the date
25 upon which the original license was issued, the licensee shall
26 make prior written application to the Commissioner for the
27 approval of such transfer, sale or conveyance. The applications
28 must include:

29 (a) The transfer fee required pursuant to section 53 of this act.

30 (b) The name and percentage of ownership of each person
31 who has obtained or is obtaining ownership resulting in a
32 cumulative transfer of 25 percent or more of the outstanding
33 voting stock or ownership interest of the licensee.

34 (c) A personal interrogatory and a complete set of fingerprints
35 of each person referred to in paragraph (b), in a form prescribed
36 by the Commissioner, and written consent authorizing the
37 Commissioner to conduct an investigation of the person's
38 background in the same manner as provided for in paragraph (c)
39 of subsection 2 of section 41 of this act.

40 3. The Commissioner shall conduct an investigation of the
41 applicant to determine that all the requirements necessary for
42 licensure pursuant to sections 23 to 86, inclusive, of this act are
43 met.

44 **Sec. 52.** 1. Any licensee that wishes to amend its name,
45 address or license qualifications shall make written application to



1 the Commissioner, in a form and manner prescribed by the
2 Commissioner, to amend the license.

3 2. Such application must:

4 (a) Be submitted to the Commissioner, in a form and manner
5 prescribed by the Commissioner, not less than 30 days before the
6 anticipated effective date of the proposed amendment to the name
7 or license qualification of the licensee, or not more than 10 days
8 after a change of the address of the licensee.

9 (b) Include all information required by the Commissioner.

10 (c) Include the fee required pursuant to section 53 of this act.

11 3. An amendment to the name or qualifications of a licensee
12 is not effective until approved by the Commissioner.

13 **Sec. 53.** 1. A license issued pursuant to sections 23 to 86,
14 inclusive, of this act shall expire on December 31 of each year,
15 unless it is renewed. To renew a license, a licensee must submit a
16 renewal application in a form and manner prescribed by the
17 Commissioner before December 31 of each year and pay the
18 annual supervision fee.

19 2. The Commissioner shall annually establish a schedule of
20 fees that are sufficient to pay, but not to exceed, the Division's
21 reasonably anticipated costs of administering and enforcing the
22 provisions of sections 23 to 86, inclusive, of this act as follows:

23 (a) To file an initial application for a license, a fee of not more
24 than \$2,500 for the principal office and not more than \$500 for
25 each branch office.

26 (b) To obtain a duplicate original or to amend the address of a
27 mortgage servicer, a fee of not more than \$50.

28 (c) To transfer the ownership or control of a licensee, a fee of
29 not more than \$500.

30 (d) To renew a license, an operating fee of not more than
31 \$1,000 and an annual supervision fee that is based upon the dollar
32 volume of residential mortgage loans serviced by the licensee
33 during the 12-month period beginning on October 1 of the year
34 preceding the expiration of the current license and ending on
35 September 31 of the year of the expiration of the current license.
36 The Commissioner shall adopt regulations necessary to implement
37 and to establish the annual supervision fee required under this
38 subsection.

39 3. A licensee that fails to submit a complete renewal
40 application by December 31 of any given year, may reinstate the
41 license if, before February 28 of the next year, the licensee files its
42 complete renewal application, pays the fee for renewal and pays a
43 reinstatement fee of not more than \$200.

44 4. A mortgage servicer shall pay the actual travel, lodging
45 and meal expenses incurred by employees or contractors of the



1 *Division who are required to travel out of state to conduct an*
2 *examination or investigation of the mortgage servicer.*

3 5. *Each licensee shall pay an annual assessment as*
4 *established by the Commissioner pursuant to NRS 645F.180 and*
5 *645F.290.*

6 6. *A licensee that fails timely to submit a financial statement*
7 *as required under section 47 of this act, a report as required under*
8 *section 70 of this act or a special report as required by the*
9 *Commissioner under section 56 of this act shall pay a late penalty*
10 *of not more than \$25 per day that such statement or report is late*
11 *up to a maximum of \$1,000, and may be subject to other discipline*
12 *provided for pursuant to sections 23 to 86, inclusive, of this act.*

13 7. *The Commissioner may require that any fee, assessment or*
14 *late penalty required under this section be paid directly to the*
15 *Division or to the Division through the Registry.*

16 8. *All fees, assessments or penalties received pursuant to*
17 *sections 23 to 86, inclusive, of this act are in addition to any fees*
18 *that may be required by the Registry and are nonrefundable. All*
19 *fees, assessments and penalties received pursuant to sections 23 to*
20 *86, inclusive, of this act must be deposited in the Account for*
21 *Mortgage Lending created by NRS 645F.270.*

22 **Sec. 54.** 1. *A license granted pursuant to sections 23 to 86,*
23 *inclusive, of this act entitles a licensee to engage only in the*
24 *activities for which they are licensed and authorized by sections 23*
25 *to 86, inclusive, of this act.*

26 2. *The provisions of sections 23 to 86, inclusive, of this act do*
27 *not prohibit a licensee from holding a license issued pursuant to*
28 *chapter 645A, 645B or 645E of NRS.*

29 **Sec. 55.** *Sections 23 to 86, inclusive, of this act do not apply*
30 *to:*

31 1. *A depository financial institution;*

32 2. *A subsidiary or a holding company of a depository*
33 *financial institution, if that depository financial institution*
34 *maintains its main office or a branch office in this State;*

35 3. *A real estate investment trust, as defined in 26 U.S.C. §*
36 *856, unless the business conducted by the real estate investment*
37 *trust in this State is not subject to supervision by the regulatory*
38 *authority of another jurisdiction, in which case licensing pursuant*
39 *to sections 23 to 86, inclusive, of this act is required;*

40 4. *An employee benefit plan, as defined in 29 U.S.C. §*
41 *1002(3), if the residential mortgage loan is made directly from*
42 *money in the plan by the plan's trustee;*

43 5. *An individual who is an attorney licensed in this State who*
44 *does not engage in the business, or otherwise hold himself or*
45 *herself out as being able to provide the services, of a mortgage*



servicer, and who is rendering services as an ancillary matter to his or her representation of a client;

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

7. Agencies of the United States and of this State and its political subdivisions or corporate instrumentalities, including, without limitation, the Public Employees' Retirement System;

8. A bona fide nonprofit agency or organization which maintains tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, 26 U.S.C. §501(c)(3), as amended; and

9. A mortgage servicer that, in the aggregate with any affiliates, services 10 or fewer residential mortgage loans in this State during any 12-month period beginning on January 1 of the year to December 31 of the same year.

Sec. 56. 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 general supervision and control over all mortgage servicers governed under sections 23 to 86, inclusive, of this act.

2. In addition to any other duty or authority assigned or granted pursuant to sections 23 to 86, inclusive, of this act, the Commissioner may:

(a) Adopt any regulation that is necessary to efficiently and effectively carry out the provisions of sections 23 to 86, inclusive, of this act.

(b) Require that any application for an initial license or the renewal of a license pursuant to sections 23 to 86, inclusive, of this act be submitted directly to the Division or to the Division through the Registry.

(c) Require that any fee or administrative fine due or assessment levied pursuant to sections 23 to 86, inclusive, of this act be submitted directly to the Division or to the Division through the Registry.

(d) Issue or refuse to issue a license, amendment to a license or transfer of a license as provided in sections 23 to 86, inclusive, of this act.

(e) Revoke, suspend or condition a license as provided in sections 23 to 86, inclusive, of this act.

(f) Impose an administrative fine and assess administrative fees or assessments or attorney fees as provided in sections 23 to 86, inclusive, of this act or under applicable law.

(g) Impose any other administrative discipline as provided in sections 23 to 86, inclusive, of this act.



(h) Bring an action in any county in this State to enforce an order or subpoena issued pursuant to sections 23 to 86, inclusive, of this act.

(i) Advise the Attorney General or the prosecuting attorney of any county of this State that a mortgage servicer is conducting business or engaging in any activity that violates sections 23 to 86, inclusive, of this act.

(j) Conduct such investigations as may be necessary to determine if any person is violating sections 23 to 86, inclusive, of this act or any regulations adopted pursuant thereto, and to efficiently enforce the provisions of sections 23 to 86, inclusive, of this act and any regulations adopted pursuant thereto.

(k) Conduct an annual examination of each mortgage servicer doing business pursuant to sections 23 to 86, inclusive, of this act. Notwithstanding the foregoing, the Commissioner may also conduct more frequent examinations of a licensee if the Commissioner, in his or her sole discretion, determines that such an examination is warranted.

(l) In the conduct of an examination or investigation pursuant to sections 23 to 86, inclusive, of this act, the Commissioner may:

(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 645F.291;

(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;

(3) Assess a fee upon any mortgage servicer or other person, based upon the rate established pursuant to NRS 645F.280, for each special audit, investigation or examination conducted of that mortgage servicer or other person pursuant to sections 23 to 86, inclusive, of this act; or

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

(I) Those records or information are obtained from a governmental agency upon the express condition that those records or information remain confidential;

(II) Those records or information contain private or personal information related to a natural person, the release of which would result in an unwarranted invasion of privacy;

(m) Notwithstanding subparagraph (4) of paragraph (l), all records of the Commissioner may be examined by the Legislative



Auditor or the Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

(n) For the purposes of conducting any examination or investigation under sections 23 to 86, inclusive, of this act, the Commissioner may:

(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 government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information or evidence obtained under this section;

(3) Use, hire, contract or employ public or privately available analytical systems, methods or software to examine or investigate a licensee or other person subject to sections 23 to 86, inclusive, of this act;

(4) Accept and rely on examination or investigation reports made by another state or federal government agency or officials; or

(5) Accept audit reports prepared by an independent certified public accountant for the licensee or other person subject to sections 23 to 86, inclusive, of this act 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, report of investigation or other writing of the Commissioner.

Sec. 57. 1. Except as otherwise provided in sections 23 to 86, inclusive, of this act, or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to sections 23 to 86, inclusive, of this act are public records and open to public inspection. Notwithstanding the foregoing, the Commissioner may withhold from public inspection or refuse to disclose to a person, for such time as the Commissioner considers necessary, any information that, in the Commissioner's judgment, would:

(a) Impede or otherwise interfere with an investigation or examination that is currently pending against a mortgage servicer;

(b) Have an undesirable effect on the welfare of the public or result in an unfair competitive advantage in the mortgage industry; or

(c) Reveal personal information in violation of NRS 239B.030.

2. Information obtained during an examination or investigation conducted pursuant to sections 23 to 86, inclusive, of



1 *this act must be confidential and must not be available for public*
2 *inspection or copying, or divulged to any person, except as*
3 *provided in this section. The information may be disclosed as*
4 *follows:*

5 *(a) To the Attorney General;*

6 *(b) To any regulatory agency;*

7 *(c) In connection with an enforcement action brought*
8 *pursuant to sections 23 to 86, inclusive, of this act or another*
9 *applicable chapter of NRS;*

10 *(d) To law enforcement officials; or*

11 *(e) To persons authorized by a court of competent jurisdiction*
12 *to receive the information.*

13 *3. Except as otherwise provided in this section and NRS*
14 *239.0115, a complaint filed with the Commissioner, all documents*
15 *and other information filed with the complaint and all documents*
16 *and other information compiled as a result of an investigation*
17 *conducted to determine whether to initiate disciplinary action are*
18 *confidential.*

19 *4. An order that imposes discipline and the findings of fact*
20 *and conclusions of law supporting that order, including all*
21 *documents, records, information, and testimony relied upon in the*
22 *order, unless otherwise entered under protective order or*
23 *confidential pursuant to sections 23 to 86, inclusive, of this act are*
24 *public records.*

25 *5. Notwithstanding subsections 2 and 3, and except as*
26 *otherwise provided by applicable law, the Commissioner may*
27 *disclose any information, documents or records in his or her*
28 *possession or control to the public if, in the sole discretion of the*
29 *Commissioner, the Commissioner determines that disclosure of*
30 *such information is in the public interest.*

31 **Sec. 58.** *1. A mortgage servicer shall exercise reasonable*
32 *supervision and control over the activities, and be responsible for*
33 *the actions or inactions, of his or her employees or agents.*

34 *2. The Commissioner may adopt regulations prescribing*
35 *standards for determining whether a mortgage servicer has*
36 *exercised reasonable supervision and control over the activities of*
37 *his or her employees or agents pursuant to this section.*

38 **Sec. 59.** *1. The unique identifier assigned to a mortgage*
39 *servicer, if any, must be clearly shown on all residential mortgage*
40 *loan communications, correspondence, forms, solicitations and*
41 *advertisements of a mortgage servicer.*

42 *2. As used in this section, “unique identifier” means a*
43 *number or other identifier assigned by protocols established by the*
44 *Registry.*



Sec. 60. 1. A mortgage servicer may not charge a borrower a late fee, an additional amount of interest or any other penalty in connection with a payment if the payment is delivered to the mortgage servicer before 5 p.m. Pacific Standard Time on:

(a) The day on which the payment is due pursuant to the terms of the loan, if an office of the mortgage broker is open to customers until 5 p.m. Pacific Standard Time on that day; or

(b) The next day that an office of the mortgage broker is open to customers until 5 p.m. Pacific Standard Time, if the provisions of paragraph (a) do not otherwise apply.

2. A person and a mortgage servicer may not agree to alter or waive the provisions of this section by contract or other agreement, and any provision altering or waiving the provisions of this section in such contract or agreement is void.

Sec. 61. A mortgage servicer, in addition to duties imposed by other statutes or at common law, shall:

1. Safeguard and account for any money handled for the borrower and lender;

2. Follow reasonable and lawful instructions from the borrower and lender;

3. Act with reasonable skill, care and diligence;

4. File with the Commissioner a complete and current schedule of the ranges of costs and fees the mortgage servicer charges a borrower for its servicing-related activities with its application for a license or renewal of a license and with its supplemental filings made from time to time;

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 mortgage loans the mortgage servicer is servicing in this State;

(b) The type and characteristics of the loans the mortgage servicer is servicing in this State;

(c) The number of serviced loans in this State that are in default, along with a breakdown of the number of those loans that are 30-, 60- and 90-days' delinquent; and

(d) Information on foreclosures commenced in this State;

6. At the time a mortgage servicer accepts assignment of servicing rights for a 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., as amended, or by any regulations adopted thereunder;



(b) A schedule of the ranges and categories of its costs and fees for its servicing-related activities, which must comply with the laws of this State and which must not exceed those reported to the Commissioner pursuant to subsection 4; 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 mortgage 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, the mortgage servicer shall 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, to negotiate with the borrower, subject to the mortgage servicer's duties and obligations under the mortgage servicing contract, if any, to attempt a resolution or workout to the delinquency.

Sec. 62. A person shall not transfer servicing rights or obligations to another person unless that person holds a mortgage servicing license or is a person otherwise exempt pursuant to sections 23 to 86, inclusive, of this act.

Sec. 63. 1. A mortgage servicer shall deliver to the borrower annually a statement of the account of the borrower showing the unpaid principal balance of the mortgage loan at the end of the immediately preceding 12-month period, the interest paid during the period, the amounts deposited into escrow and disbursed from escrow during the period and an itemization of each payment made or credited to the account of the borrower during the period. The itemization must include, without limitation, the date and amount of all payments received, how payments were applied to principal, interest, escrows, late fees and other charges, and be easily understandable to the borrower. The mortgage servicer shall provide the statement required by this subsection within 30 days after the end of the 12-month period.

2. A mortgage servicer shall not charge a fee to a borrower for an annual statement pursuant to subsection 1 that is furnished to the borrower. A mortgage servicer is not obligated to furnish to the borrower more than one annual statement at no cost during any 12-month period.

3. Within 7 days after receipt of a request from the borrower or his or her authorized representative, a mortgage servicer shall deliver to the borrower, or other designated person, a payoff statement for the mortgage loan that includes a breakdown of charges. The payoff statement must include all information necessary to effect the payoff of the mortgage loan, including where to remit the payment. Except as otherwise provided in this



subsection, a mortgage servicer shall not charge the borrower a fee for preparing or delivering a payoff statement. A mortgage servicer may charge a reasonable fee for any payoff statement requested by a borrower in excess of two payoff statements during any given 12-month period.

4. Within 30 days after a mortgage loan is paid off, the mortgage servicer must refund to the borrower any funds representing an overpayment, including, but not limited to, funds received in excess of the payoff amount and funds held in escrow.

Sec. 64. A licensee that acts as a mortgage servicer for another party, or a licensee that contracts with another party to service mortgage loans on the licensee's behalf, shall have a written agreement with the other party specifying the terms of the mortgage servicing agreement.

Sec. 65. 1. All money paid to a mortgage servicer for payment of taxes or insurance premiums on real property securing a residential mortgage loan being serviced by the mortgage servicer must be deposited in an insured depository financial institution and kept separate, distinct and apart from money belonging to the mortgage servicer. Such money, when deposited, is to be designated as an "impound trust account" or under some other appropriate name indicating that the accounts are not the money of the mortgage servicer.

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

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

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

5. A mortgage servicer shall:

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

(b) Undertake an annual review of an impound trust account; and

(c) Within 30 days after the completion of the annual review of an impound trust account, notify the 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 borrower may specify the disposition of the excess money within 20 days after receipt of the notice. If the borrower fails to specify such a disposition within that time, the mortgage servicer shall maintain the excess money in the account.

↳ This subsection does not prohibit a mortgage 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 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. 66. In addition to any other activity prohibited under provisions of sections 23 to 86, inclusive, of this act, it is a violation for any applicant or licensee to:

1. Fail to conduct his or her business in accordance with any law or to violate any provision of sections 23 to 86, inclusive, of this act, a regulation adopted thereto or an order of the Commissioner issued pursuant to sections 23 to 86, inclusive, of this act;

2. Fail to maintain the minimum net worth required pursuant to section 48 of this act;

3. Suppress or withhold from the Commissioner any information which the applicant or licensee possesses and which, if submitted by the applicant or licensee, would have rendered the applicant or licensee ineligible to be licensed pursuant to the provisions of sections 23 to 86, inclusive, of this act;

4. Suppress or withhold from any borrower any material facts, data or other information relating to any transaction governed by the provisions of sections 23 to 86, inclusive, of this act which the licensee knew or, by the exercise of reasonable diligence, should have known;

5. To be grossly negligent or incompetent in performing any act for which a license is required under sections 23 to 86, inclusive, of this act;

6. Fail to exercise reasonable supervision over the activities of the employees or agents of the licensee;

7. Engage in any conduct constituting fraud, deceit or material misrepresentation in connection with any transaction governed by sections 23 to 86, inclusive, of this act;

8. Engage in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

9. Repeatedly violate the policies and procedures of a licensee or intentionally or negligently repeatedly fail to provide borrowers material disclosures of information required under law;



10. Refuse to permit an examination or investigation by the Commissioner of the books and affairs of a licensee, or refuse or fail, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner as required by sections 23 to 86, inclusive, of this act or a regulation adopted pursuant thereto;

11. Refuse or fail to pay, within a reasonable time, any fees, assessments, costs, expenses or fines that the licensee is required to pay by sections 23 to 86, inclusive, of this act or a regulation adopted pursuant thereto;

12. Fail to satisfy a claim, related to activity conducted pursuant to sections 23 to 86, inclusive, of this act, which has been reduced to a judgment;

13. Fail to place in a trust or escrow account held by a depository financial institution all money that is received by the licensee from the borrower or fail to account for all money received or disbursed for a trust or escrow account;

14. Fail to account for or to remit any money to a borrower within a reasonable time after a request for accounting or remittal;

15. Commingle the money or property of a borrower with the money or property of the licensee or convert the money or property of others to the use of the licensee;

16. Have 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;

17. Employ or sponsor a person at a time when the licensee knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

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

(b) Had a license or registration as a mortgage agent, mortgage broker, mortgage banker or mortgage servicer revoked in this State or any other jurisdiction or had a financial services license or registration revoked within the immediately preceding 10 years;

18. Fail to pay a tax as required pursuant to the provisions of chapter 363A of NRS;



19. Fail to comply with chapter 40 or 107 of NRS;

20. Instruct, encourage or aid another licensee or person in the commission of an act that is a violation of sections 23 to 86, inclusive, of this act, whether or not the licensee or person commits the act;

21. Fail to amend its address with the Commissioner; or

22. Engage in or offer to engage in or otherwise hold himself or herself as being able to provide or conduct the activity of a mortgage broker, mortgage banker or mortgage agent, unless properly licensed under chapter 645B or 645E of NRS, as applicable.

Sec. 67. 1. A licensee shall 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 shall file a report with the Commissioner within 10 days after the action, in a form and manner prescribed by the Commissioner.

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

Sec. 68. 1. Except as otherwise provided in subsection 2, a licensee may surrender a license by delivering to the Commissioner the license with a written notice that the licensee surrenders the license.

2. A licensee whose license has been destroyed or lost may comply with this section by submitting to the Commissioner a notarized affidavit of the loss accompanied by written notice that the licensee surrenders the license.

3. A licensee may not close his or her principal office or a branch office until:

(a) The licensee has returned his or her original license or licenses; and

(b) The Commissioner has approved the closure.

4. The request for approval of the closure of the principal or branch office of the licensee must be in the form and contain the information prescribed by the Commissioner.

Sec. 69. 1. Each mortgage servicer shall keep and maintain, and make available for examination by the Commissioner, at all times at the principal place of business of the mortgage servicer:

(a) Complete and suitable records of all business conducted by the mortgage servicer to enable the Commissioner to determine whether the business of the mortgage servicer is conducted in



1 compliance with sections 23 to 86, inclusive, of this act and any
2 regulations adopted thereto; and

3 (b) If the mortgage servicer does not maintain the records
4 required by paragraph (a) in this State, the mortgage servicer shall
5 provide such records to the Commissioner within 24 hours after a
6 request or the mortgage servicer shall pay the actual travel,
7 lodging and meal expenses of the examiner as provided in section
8 53 of this act.

9 2. Each mortgage servicer shall preserve and keep available
10 for examination by the Commissioner complete and suitable
11 records related to all his or her residential mortgage servicing
12 activity for a period of at least 4 years after the date of the last
13 activity relating to the transaction.

14 **Sec. 70.** 1. Each mortgage servicer shall submit to the
15 Commissioner on a quarterly basis, in a form and manner
16 prescribed by the Commissioner, a report of the activity of the
17 mortgage servicer for the previous quarter. The report must:

18 (a) Specify the volume of loans serviced by the mortgage
19 servicer for the quarter or state that no loans were serviced in that
20 quarter;

21 (b) Include any other information prescribed by the
22 Commissioner by instruction or order or any regulation adopted
23 pursuant to sections 23 to 86, inclusive, of this act; and

24 (c) Be submitted to the Commissioner on or before a date
25 prescribed by the Commissioner.

26 2. The Commissioner may require a mortgage servicer to
27 submit one or more special reports related to the business
28 conducted by the licensee.

29 **Sec. 71.** 1. Subject to the requirements of this section, any
30 person claiming against a bond may file a claim with the
31 Commissioner for damages to the extent covered by the bond.

32 2. The Commissioner shall prioritize and pay claims on a
33 bond filed with the Commissioner pursuant to sections 23 to 86,
34 inclusive, of this act in a manner that, in his or her discretion, best
35 protects the public interest.

36 3. A claim may only be filed against the bond of a licensee by
37 the loan servicing customers of the licensee or the Commissioner.

38 4. Claims filed against a bond by a loan servicing customer
39 shall involve only residential mortgage loans secured by real
40 property located in this State. The amount of the claim must not
41 exceed the actual fees paid by the loan servicing customer,
42 overcharges or misapplication of principal and interest, and
43 excess escrow collections charged by the licensee and paid by the
44 claimant to the licensee or the agent of the licensee.



5. A claim on a bond must not be commenced after the expiration of 3 years following the commission or omission of the act upon which the claim is based.

6. Upon receipt of a bond claim, the Commissioner shall commence an investigation in accordance with the provisions of sections 23 to 86, inclusive, of this act to determine if a violation has occurred and the validity of the bond claim. If the Commissioner determines that a claim is valid and is covered by the bond, the Commissioner shall cause written notification of such determination to be served upon the licensee and provide the licensee with 30 days to pay the claim without a bond claim. If the licensee fails to pay the claim, the Commissioner shall file a claim with the surety in the amount of the valid claim or, if the amount of the valid claims exceeds the amount of the bond, the full amount of the bond.

7. If the Commissioner has received more claims against the bond than bond proceeds are available, each claimant is entitled only to a pro rata amount of his or her valid claim. Partial payment of a claim is not full payment, and any claimant may bring an action against the licensee for the unpaid balance.

8. The Commissioner may file a claim against a bond for payment of fines or fees due and payable to the Commissioner and reimbursement of expenses incurred in investigating the licensee and expenses incurred in distributing the proceeds of the bond. A claim filed by the Commissioner is subordinate to any claim filed by the loan servicing customers of the licensee.

9. As used in this section, “loan servicing customer” means a borrower of a residential mortgage loan serviced by a licensee and does not include any lender, mortgagee, noteowner, noteholder, trustee or primary beneficiary of a residential mortgage loan with which the licensee has a mortgage servicing agreement.

Sec. 72. 1. The Commissioner, Attorney General or any other person may file with the Commissioner a complaint alleging that another person has violated a provision of sections 23 to 86, inclusive, of this act, a regulation adopted pursuant to this chapter or an order of the Commissioner. If the complaint is made by the Commissioner, he or she shall designate one or more employees of the Division to act as the person filing the complaint.

2. A complaint filed pursuant to this section must:

(a) Be in writing;

(b) Be signed by the person filing the complaint or the designee of the person filing the complaint;

(c) Contain an address and a telephone number for the person filing the complaint or the designee of the person filing the complaint;



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

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

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

3. Upon receipt of a properly filed complaint, the Commissioner shall investigate each violation alleged in the complaint, unless the Commissioner has already investigated the alleged violation.

4. Notwithstanding subsections 2 and 3, nothing in this section shall preclude the Commissioner from conducting an examination or investigation of any person if the Commissioner reasonably believes the person may have violated or may be in violation of sections 23 to 86, inclusive, of this act or any regulation adopted pursuant thereto.

Sec. 73. 1. If the Commissioner conducts an investigation of a complaint filed pursuant to section 72 of this act, the Commissioner shall determine from the investigation whether there is reasonable cause to believe that the person committed the alleged violation.

2. 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.

3. Except as otherwise provided in subsection 4, if, after investigation, the Commissioner determines that there is reasonable cause to believe that the person committed the alleged violation, the Commissioner may prepare a formal complaint and notice of hearing to be served on the person against which the allegations are made and shall provide a copy of the formal complaint and notice of hearing to the complainant by mail to the complainant's last known address.

4. A formal complaint and notice of hearing pursuant to subsection 3 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 sections of sections 23 to 86, inclusive, of this act involved and any regulations adopted pursuant thereto;

(d) A short and plain statement of the matters asserted and to be heard;

(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 informing the person that if the person fails to appear, without reasonable cause, at the hearing:

(1) The person is guilty of a misdemeanor; and

(2) 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.

5. An informal conference may result in a settlement, consent order, waiver, dismissal, default or other method of settlement agreed upon by the person complained against and the Commissioner. A settlement, consent order, default or other method of settlement may include a license revocation or suspension, restitution or any penalty provided for under sections 23 to 86, inclusive, of this act.

6. 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.

7. 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. 74. If the Commissioner finds that an applicant or licensee has violated, or directly or indirectly counseled, aided or abetted in a violation, of sections 23 to 86, inclusive, of this act or any regulation adopted pursuant thereto, the Commissioner may take any of the following actions, either singly or in any combination:

1. Refuse to issue or renew an applicant's application for a license or renewal of a license pursuant to sections 23 to 86, inclusive, of this act.

2. Assess an administrative fine against the applicant of not more than \$25,000 for each violation, whether or not the applicant is issued a license.



3. Assess an administrative fine against a licensee or a control person of a licensee of not more than \$25,000 for each violation.

4. Place conditions upon or suspend or revoke a license.

5. Require a licensee or control person of a licensee to make restitution to each individual injured, if the Commissioner finds that the violation of sections 23 to 86, inclusive, of this act or the regulations adopted pursuant thereto resulted in an injury to one or more individuals. Notwithstanding the provisions of paragraph (m) of subsection 1 of NRS 622A.120, payment of restitution must be done in a manner consistent with the provision of chapter 622A of NRS.

6. An order issued or administrative fine assessed pursuant to sections 23 to 86, inclusive, of this act, 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.

7. In determining the amount of an administrative fine pursuant to sections 23 to 86, inclusive, of this act, whether to suspend or revoke a license, the amount of restitution, or to deny an application for or renewal of 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 sections 23 to 86, inclusive, of this act; and

(e) Any other factor the Commissioner considers relevant.

Sec. 75. 1. If a person engages in an activity in violation of the provisions of sections 23 to 86, inclusive, of this act 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 as required by sections 23 to 86, inclusive, of this act; or

(b) In a manner that violates the provisions of sections 23 to 86, inclusive, of this act or any regulation adopted pursuant thereto.



3. Not later than 30 calendar days after receiving an order pursuant to this section, the person who received 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 must hold the hearing on a date not later than 30 calendar days after the date the petition is filed unless the Commissioner and the person agree to another date. The order to cease and desist is 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 agreed to by the Commissioner and the person; or

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

4. A hearing must be conducted under 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 under subsection 5 or the decision of the Commissioner after a hearing is a final decision of the Division for the purposes of judicial review.

Sec. 76. 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 a refusal to issue a license, or notice to a licensee or applicant of intention to assess an administrative fine, in writing and served personally or sent by certified mail to the licensee or applicant or by other means reasonably calculated to obtain service.

2. Within 20 days after the notice of the intention to enter an order suspending or revoking a license, or a refusal to issue a license, or intention to assess an administrative fine, pursuant to subsection 1, the licensee or applicant may request a hearing to contest the order or refusal. If a hearing regarding suspension, revocation, refusal or fine is not requested, the Commissioner shall enter a final order regarding the suspension, revocation, refusal or fine. A hearing must be conducted in accordance with the provisions of chapter 233B of NRS and other applicable provisions of law.

Sec. 77. The expiration or revocation or suspension of a license by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:



1 1. Prohibit the Commissioner from initiating or continuing
2 an investigation of, or action or disciplinary proceeding against,
3 the licensee as authorized by sections 23 to 86, inclusive, of this
4 act or any regulations adopted pursuant thereto;

5 2. Prevent the Commissioner from revoking the license or
6 imposing or collecting any fine or penalty authorized pursuant to
7 sections 23 to 86, inclusive, of this act or any regulations adopted
8 pursuant thereto against the licensee;

9 3. Affect the licensee's administrative, civil or criminal
10 liability for acts committed before the surrender, revocation,
11 expiration or suspension; or

12 4. Impair or affect the obligation of a preexisting contract
13 between the licensee and another person, except as otherwise
14 provided by law.

15 **Sec. 78.** 1. After an investigation has been conducted
16 pursuant to section 73 of this act and before conducting a hearing,
17 the Commissioner may issue an order summarily suspending a
18 license pursuant to subsection 3 of NRS 233B.127, based upon an
19 affidavit by a person familiar with the facts set forth in the
20 affidavit or, if appropriate, based upon an affidavit, on
21 information and belief, that an imminent threat of financial loss
22 or imminent threat to the public welfare exists.

23 2. Pursuant to a proceeding commenced under subsection 3
24 of NRS 233B.127, an administrative law hearings examiner shall
25 grant a request to dissolve a summary suspension order unless the
26 examiner finds that an imminent threat of financial loss or
27 imminent threat to the public welfare exists which requires
28 emergency action and continuation of the summary suspension
29 order.

30 3. The record created at the hearing of the summary
31 suspension must become part of the record on the complaint at a
32 subsequent hearing in a contested case.

33 **Sec. 79.** 1. In addition to any other action that is required
34 or permitted pursuant to sections 23 to 86, inclusive, of this act, if
35 the Commissioner has reasonable cause to believe that:

36 (a) The assets or capital of a licensee are impaired; or

37 (b) A licensee is conducting business in an unsafe and
38 injurious manner that may result in danger to the public,

39 ↪ the Commissioner shall immediately take possession of all the
40 property, business and assets of the licensee that are located in this
41 State and shall retain possession of them pending further
42 proceedings provided for in sections 23 to 86, inclusive, of this act.

43 2. If the licensee or any control person refuses to permit the
44 Commissioner to take possession of the property of the licensee
45 pursuant to subsection 1:



1 (a) The Commissioner shall notify the Attorney General; and
2 (b) The Attorney General shall immediately bring such
3 proceedings as may be necessary to place the Commissioner in
4 immediate possession of the property of the licensee.

5 3. If the Commissioner takes possession of the property of the
6 licensee, the Commissioner shall:

7 (a) Make or have made an inventory of the assets and known
8 liabilities of the licensee;

9 (b) File one copy of the inventory in the office of the
10 Commissioner and one copy in the office of the clerk of the district
11 court of the county in which the principal office of the licensee is
12 located and shall mail one copy to each control person of the
13 licensee at his or her last known address; and

14 (c) If the licensee maintains any accounts described in section
15 65 of this act, not later than 5 business days after the date on
16 which the Commissioner takes possession of the property of the
17 licensee, mail notice of the possession to the last known address of
18 each person whose money is deposited in such an account or
19 whose money was or should have been deposited in such an
20 account during the preceding 12 months.

21 4. The clerk of the court with which the copy of the inventory
22 is filed shall file it as any other case or proceeding pending in the
23 court and shall give it a docket number.

24 **Sec. 80. 1.** If the Commissioner takes possession of the
25 property of a licensee pursuant to section 79 of this act, the
26 licensee, or any control person of the licensee may, within 60 days
27 after the date on which the Commissioner takes possession of the
28 property, make good any deficit in the assets or capital of the
29 licensee or remedy any unsafe and injurious conditions or
30 practices of the licensee.

31 2. At the expiration of the 60-day period, if the deficiency in
32 assets or capital has not been made good or the unsafe and
33 injurious conditions or practices remedied, the Commissioner may
34 apply to the court to appoint a receiver who may proceed to
35 liquidate the assets of the licensee which are located in this State
36 in the same manner as now provided by law for liquidation of a
37 private corporation in receivership.

38 3. No person may be appointed receiver by any court without
39 first giving the Commissioner prior notice of his or her
40 application.

41 4. The inventory made by the Commissioner and all claims
42 filed by creditors are open at all reasonable times for inspection,
43 and any action taken by the receiver upon any of the claims is
44 subject to the approval of the court before which the cause is
45 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 the hands of the receiver.

Sec. 81. A summary suspension order, cease and desist order, or injunctive relief issued or granted in relation to a license must be in addition to and not in place of an informal conference, criminal prosecution or proceeding to deny, revoke or suspend a license, or any other legal action.

Sec. 82. The provisions of sections 23 to 86, inclusive, of this act do not:

1. Limit any statutory or common-law right of a person to bring a civil action against a licensee for any act or omission involved in the transaction of business by or on behalf of the licensee;

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 sections 23 to 86, inclusive, of this act, including, without limitation, any act or omission relating to the disclosure of information or the failure to disclose information pursuant to the provisions of sections 23 to 86, inclusive, of this act.

Sec. 83. 1. A control person, employee, agent, broker or other person, or a representative acting on the authority of such a person, who willfully or intentionally does any of the following is guilty of a misdemeanor punishable by a fine of not more than \$50,000 or imprisonment of not more than 1 year, or both:

(a) Engages in this State in the business of a mortgage servicer without a license required pursuant to sections 23 to 86, inclusive, of this act; or

(b) Aids or abets any other person to engage in this State in the business of a mortgage servicer without a license required pursuant to sections 23 to 86, inclusive, of this act.

2. If the Attorney General prevails in any civil action brought pursuant to sections 23 to 86, inclusive, of this act, the court shall order the person against whom the civil action was brought to pay:

(a) Court costs; and

(b) Reasonable costs of the investigation and prosecution of the civil action.

3. Whether or not the Attorney General brings a civil action against a person pursuant to sections 23 to 86, inclusive, of this



act, the Attorney General may prosecute the person for a criminal violation pursuant to sections 23 to 86, inclusive, of this act.

Sec. 84. 1. A court of this State may exercise jurisdiction over a party to a civil action arising under the provisions of sections 23 to 86, inclusive, of this act on any basis not inconsistent with the United States Constitution or the Nevada Constitution.

2. Personal service of summons upon a party outside this State is sufficient to confer upon a court of this State jurisdiction over the party so served if the service is made by delivering a copy of the summons, together with a copy of the complaint, to the party served in the manner provided by statute or rule of court for service upon a person of like kind within this State.

3. In all cases of such service, the defendant has 40 days, exclusive of the day of service, within which to answer or plead.

4. This section provides an additional manner of serving process and does not invalidate any other service.

Sec. 85. 1. A control person, agent or employee of a licensee, who violates any provision of sections 23 to 86, inclusive, of this act, a regulation adopted pursuant thereto or an order of the Commissioner is guilty of a misdemeanor.

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.

Sec. 86. 1. A person, control person or an agent or employee of such a person, who violates any provision of sections 23 to 86, inclusive, 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.

Sec. 87. NRS 645F.010 is hereby amended to read as follows:

645F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645F.020 to



645F.065, inclusive, *and section 21 of this act* have the meanings ascribed to them in those sections.

Sec. 88. NRS 645F.160 is hereby amended to read as follows:

645F.160 The Commissioner shall not, either directly or indirectly, be interested in any *mortgage servicer*, escrow agency, mortgage broker or mortgage banker to which *this chapter and* chapters 645A, 645B and 645E of NRS apply, nor engage in business as a personal loan broker.

Sec. 89. NRS 645F.180 is hereby amended to read as follows:

645F.180 1. The Commissioner may appoint deputy commissioners of mortgage lending, examiners, assistants, clerks, stenographers and other employees necessary to assist the Commissioner in the performance of his or her duties pursuant to this chapter, chapters 645A, 645B and 645E of NRS or any other law. These employees shall perform such duties as are assigned to them by the Commissioner.

2. The Commissioner may employ or contract with a certified public accountant to review and conduct independent audits and examinations of escrow agencies, mortgage brokers, *mortgage servicers* and mortgage bankers. The Commissioner shall levy an assessment upon each licensed escrow agency, mortgage broker, *mortgage servicer* and mortgage banker to cover all the costs related to the employment of or the contract with the certified public accountant and the performance of the audits and examinations.

3. Assessments collected by the Commissioner pursuant to subsection 2 must be deposited in the State Treasury for deposit to the Account for Mortgage Lending created by NRS 645F.270 and accounted for separately. The Commissioner shall use the money for the purposes specified in subsection 2.

Sec. 90. NRS 645F.255 is hereby amended to read as follows:

645F.255 In addition to the other duties imposed upon him or her by law, the Commissioner shall ~~adopt any regulations that are necessary to carry out the provisions of this chapter.~~ *have broad administrative authority to administer, interpret and enforce this chapter and chapters 645A, 645B and 645E of NRS and any other chapter for which the Commissioner is statutorily responsible for implementing and administering, and to promulgate and adopt rules or regulations to implement this chapter and chapters 645A, 645B and 645E of NRS and any other chapter for which the Commissioner is statutorily responsible for implementing and administering, in order to carry out the intent of the Legislature.*

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

645F.280 1. The Commissioner shall establish by regulation rates to be paid by all persons licensed by the Commissioner ~~for the~~



~~Division~~ for supervision and examinations by the Commissioner or the Division.

2. In establishing a rate *for examinations* pursuant to subsection 1, the Commissioner shall consider:

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

(b) The skill required to conduct the examinations;

(c) The expenses associated with conducting the examination and preparing a report; and

(d) Any other factors the Commissioner deems relevant.

Sec. 92. NRS 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, 281A.440, 281A.550, 284.4068, 286.110, 287.0438, 289.025, 289.080, 289.387, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008, 386.655, 387.626, 387.631, 388.5275, 388.528, 388.5315, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.652, 392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885, 408.3886, 412.153, 416.070, 422.290, 422.305, 422A.320, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,



1 433A.360, 439.270, 439.840, 439B.420, 440.170, 441A.195,
2 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570,
3 449.209, 449.245, 449.720, 453.1545, 453.720, 453A.610,
4 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
5 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
6 463.3407, 463.790, 467.1005, 467.137, 481.063, 482.170, 482.5536,
7 483.340, 483.363, 483.800, 484E.070, 485.316, 503.452, 522.040,
8 534A.031, 561.285, 571.160, 584.583, 584.655, 598.0964,
9 598.0979, 598.098, 598A.110, 599B.090, 603.070, 603A.210,
10 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
11 618.341, 618.425, 622.310, 623.131, 623A.353, 624.110, 624.265,
12 624.327, 625.425, 625A.185, 628.418, 629.069, 630.133,
13 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
14 632.405, 633.283, 633.301, 633.524, 634.212, 634.214, 634A.185,
15 635.158, 636.107, 637.085, 637A.315, 637B.288, 638.087, 638.089,
16 639.2485, 639.570, 640.075, 640A.220, 640B.730, 640C.400,
17 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191,
18 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625,
19 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225,
20 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320,
21 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065,
22 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133,
23 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340,
24 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190,
25 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.280,
26 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
27 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117,
28 692C.190, 692C.420, 693A.480, 693A.615, 696B.550, 703.196,
29 704B.320, 704B.325, 706.1725, 710.159, 711.600, *and sections 56*
30 *and 57 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of
31 Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013
32 and unless otherwise declared by law to be confidential, all public
33 books and public records of a governmental entity must be open at
34 all times during office hours to inspection by any person, and may
35 be fully copied or an abstract or memorandum may be prepared
36 from those public books and public records. Any such copies,
37 abstracts or memoranda may be used to supply the general public
38 with copies, abstracts or memoranda of the records or may be used
39 in any other way to the advantage of the governmental entity or of
40 the general public. This section does not supersede or in any manner
41 affect the federal laws governing copyrights or enlarge, diminish or
42 affect in any other manner the rights of a person in any written book
43 or record which is copyrighted pursuant to federal law.

44 2. A governmental entity may not reject a book or record
45 which is copyrighted solely because it is copyrighted.



3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 93. Section 44 of this act is hereby amended to read as follows:

Sec. 44. 1. In addition to any other requirements set forth in this chapter ~~1:~~

~~—(a) A natural person who applies for the issuance of a license as a mortgage servicer shall include the social security number of the applicant in the application submitted to the Commissioner.~~

~~—(b) A~~, a natural person who applies for the issuance or renewal of a license as a 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. The Commissioner shall not issue or renew a license as a mortgage servicer 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. 94. NRS 645F.267 is hereby amended to read as follows:

645F.267 1. A mortgage agent, mortgage banker, ~~for~~ mortgage broker *or mortgage servicer* or an employee of a mortgage banker, ~~for~~ mortgage broker *or mortgage servicer* is not required to register or renew with the Registry, or provide reports of financial condition to the Registry, if the mortgage agent, mortgage banker, mortgage broker *or mortgage servicer* or employee:

(a) Is not a residential mortgage loan originator or the supervisor of a residential mortgage loan originator; and

(b) Is not required to register pursuant to the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. A mortgage agent, mortgage banker, ~~for~~ mortgage broker *or mortgage servicer* or an employee of a mortgage banker, ~~for~~ mortgage broker *or mortgage servicer* who, pursuant to subsection 1, is not required to register or renew with the Registry and who voluntarily registers or renews with the Registry shall comply with all requirements of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and any regulations adopted pursuant thereto.

3. As used in this section, “residential mortgage loan originator” has the meaning ascribed to it in NRS 645B.01325.

Sec. 95. 645F.293 is hereby amended to read as follows:

645F.293 1. The Commissioner shall adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of the relevant provisions of chapter 645B or 645E of



1 NRS, enforcement actions and other relevant information to the
2 Registry; and

3 (b) A process whereby a person may challenge information
4 reported to the Registry by the Commissioner.

5 3. The regulations must not require a mortgage agent,
6 mortgage banker, ~~for~~ mortgage broker *or mortgage servicer* or an
7 employee of a mortgage banker, ~~for~~ mortgage broker *or mortgage*
8 *servicer* to register with the Registry if the mortgage agent,
9 mortgage banker, mortgage broker, *mortgage servicer* or employee
10 is exempt from registration pursuant to subsection 1 of
11 NRS 645F.267.

12 **Sec. 96.** NRS 645H.040 is hereby amended to read as follows:

13 645H.040 “Asset management company” means a person,
14 limited-liability company, partnership, association or corporation
15 which, for compensation and pursuant to a contractual agreement,
16 power of attorney or other legal authorization, engages in asset
17 management on behalf of:

18 1. A bank, mortgage broker, mortgage banker, *mortgage*
19 *servicer as that term is defined in section 35 of this act*, credit
20 union, thrift company or savings and loan association, or any
21 subsidiary thereof which is authorized to transact business in this
22 State;

23 2. A mortgage holding entity chartered by Congress; or

24 3. A federal, state or local governmental entity.

25 **Sec. 97.** NRS 645H.060 is hereby amended to read as follows:

26 645H.060 “Client” means:

27 1. A bank, mortgage broker, mortgage banker, *mortgage*
28 *servicer as that term is defined in section 35 of this act*, credit
29 union, thrift company or savings and loan association, or any
30 subsidiary thereof that is authorized to transact business in this
31 State;

32 2. A mortgage holding entity chartered by Congress; or

33 3. A federal, state or local governmental entity,

34 ➔ for whom an asset management company provides asset
35 management.

36 **Sec. 98.** NRS 645H.160 is hereby amended to read as follows:

37 645H.160 The provisions of this chapter do not apply to:

38 1. A person who is a regular, full-time employee of a bank,
39 mortgage broker, mortgage banker, *mortgage servicer as that term*
40 *is defined in section 35 of this act*, credit union, thrift company or
41 savings and loan association, or any subsidiary thereof.

42 2. A person who takes possession of property from a defendant
43 in connection with a judicial proceeding for eminent domain
44 brought pursuant to chapter 37 of NRS.



Sec. 99. NRS 40.750 is hereby amended to read as follows:

40.750 1. As used in this section, "financial institution" means a bank, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 35 of this act*, credit union, thrift company or savings and loan association, or any subsidiary or affiliate of a bank, mortgage broker, mortgage banker, *mortgage servicer*, credit union, thrift company or savings and loan association, which is authorized to transact business in this State and which makes or acquires, in whole or in part, any loan of the kind described in subsection 2.

2. Except as otherwise provided in subsection 5, a person who, for the purpose of obtaining a loan secured by a lien on real property, knowingly conceals a material fact, or makes a false statement concerning a material fact knowing that the statement is false, is liable to any financial institution or other lender which relied upon the absence of that concealed fact or on that false statement for any damages it sustains because of the fraud.

3. In addition to its actual damages, a financial institution or other lender may recover exemplary or punitive damages in an amount not to exceed 50 percent of the actual damages awarded.

4. The cause of action provided by this section:

(a) Is not, for the purposes of NRS 40.430, an action for the recovery of any debt or an action for the enforcement of any right secured by mortgage or lien upon real estate.

(b) Is in addition to and not in substitution for any right of foreclosure existing in favor of the financial institution or other lender. Any recovery pursuant to this section does not limit the amount of a judgment awarded pursuant to NRS 40.459, but the financial institution or other lender is not entitled to recover actual damages more than once for the same loss.

5. The provisions of this section do not apply to any loan which is secured by a lien on real property used for residential purposes if:

(a) The residence is a single-family dwelling occupied by the person obtaining the loan, as represented by the person in connection with the person's application for the loan; and

(b) The loan is for the principal amount of \$150,000 or less.

Sec. 100. 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) An investor as defined in NRS 645B.0121;

(6) A lender as defined in NRS 598D.050;

(7) A loan modification consultant as defined in NRS 645F.365;

(8) A mortgage agent as defined in NRS 645B.0125;

(9) A mortgage banker as defined in NRS 645E.100; ~~and~~

(10) A mortgage broker as defined in NRS 645B.0127 ~~and~~ ;

and

(11) A mortgage servicer as defined in section 35 of this act.

(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. 101. NRS 675.035 is hereby amended to read as follows:

675.035 The provisions of this chapter apply to any person who:

1. Makes installment loans that are not subject to regulation pursuant to chapter 604A of NRS;

2. Is an affiliate, subsidiary or holding company of a bank, national banking association, savings bank, trust company, savings and loan association, credit union, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 35 of this act*, thrift company or insurance company; and

3. Seeks to evade its application by any device, subterfuge or pretense, including, without limitation:

(a) Calling a loan by any other name;

(b) Using any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter; or

(c) Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter pursuant to subsection 1 of NRS 675.040, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan while purporting to be the agent of such an exempt entity where the purported agent holds, acquires or maintains a material economic interest in the revenues generated by the loan.

Sec. 102. NRS 645A.210 and 645F.265 are hereby repealed.

Sec. 103. 1. This section and sections 1 to 92, inclusive, and 94 to 102 of this act, inclusive, become effective:

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

(b) On January 1, 2016, for all other purposes.

2. Section 93 of this act becomes effective on 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:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

are repealed by the Congress of the United States.

3. Sections 45 and 46 of this act expire by limitation 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.

TEXT OF REPEALED SECTIONS

645A.210 Unlawful to engage in escrow business without license. It is unlawful for any person, unless exempted under NRS 645A.015, to engage in or carry on, or hold himself or herself out as engaging in or carrying on, the escrow business or act in the capacity of an escrow agent or agency without first obtaining a license as an escrow agent or agency.

645F.265 Registration of certain persons and institutions engaged in business of servicing mortgage loans required. A person or institution engaged in the business of servicing mortgage loans that intends to conduct business in this State for the purpose of servicing mortgage loans secured by a lien on real property located in this State shall register with the Commissioner on a form prescribed by the Commissioner. The form must:

1. Identify the state in which the institution is domiciled;
2. Identify the principal place of business of the institution; and
3. Provide such other information as the Commissioner may require.

