

SENATE BILL NO. 349—SENATORS WOODHOUSE, FORD, SPEARMAN,
DENIS, PARKS; ATKINSON, KIHUEN, MANENDO,
SEGERBLOM AND SMITH (BY REQUEST)

MARCH 16, 2015

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing mortgages.
(BDR 54-99)

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

~

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

AN ACT relating to mortgage loans; revising various examination requirements related to an initial license as a mortgage broker or mortgage agent; revising exceptions to certain requirements for the foreclosure of owner-occupied housing securing a residential mortgage loan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a person who wishes to be licensed as a mortgage broker or mortgage agent to complete an education program on mortgage lending and pass a written examination provided by the Division of Mortgage Lending of the Department of Business and Industry. (NRS 645B.0137) **Section 1** of this bill revises the requirements for an initial license as a mortgage broker or mortgage agent regarding applicable examinations for mortgage brokers and mortgage agents who will not engage in activities as a residential mortgage loan originator.

Existing law provides that a signatory to the consent judgment entered in the case entitled *United States of America et al. v. Bank of America Corporation et al.*, filed in the United States District Court for the District of Columbia, case number 1:12-cv-00361, who complies with the Settlement Term Sheet under that judgment, or any mortgage service, mortgagee or beneficiary of the deed of trust who complies with the Final Servicing Rules issued by the federal Consumer Financial Protection Bureau is deemed to be in compliance with certain requirements of existing law relating to the foreclosure of owner-occupied housing securing a residential mortgage loan. (NRS 107.560) **Section 2** of this bill revises this exception so that any mortgage servicer, mortgagee or beneficiary of a deed of trust who is in compliance with the Final Servicing Rules is deemed to be in compliance with certain requirements of state law relating to the foreclosure of owner-occupied housing.



* S B 3 4 9 *

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

Section 1. NRS 645B.0137 is hereby amended to read as follows:

645B.0137 1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker or mortgage agent must:

(a) Complete education on mortgage lending as required by this chapter and any regulations adopted thereto; and

(b) Successfully pass a written examination as provided for by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the qualified employee of the applicant and meet the requirements of subsection 1.

3. *The Division shall adopt a test for applicants who will not engage in activities as a residential mortgage loan originator such that the examination is germane to commercial mortgage lending.*

4. The Division may hire a testing organization to create, administer and score a written examination.

~~44~~ 5. The Commissioner shall adopt regulations to carry out the provisions of this section, including, without limitation:

(a) Regulations relating to the content of a written examination and the scoring of a written examination; and

(b) Regulations for compliance with the requirements for registration with the Registry and any other applicable federal law.

Sec. 2. NRS 107.560 is hereby amended to read as follows:

107.560 1. If a trustee's deed upon sale has not been recorded, a borrower may bring an action for injunctive relief to enjoin a material violation of NRS 107.400 to 107.560, inclusive. If a sheriff has not recorded the certificate of the sale of the property, a borrower may obtain an injunction to enjoin a material violation of NRS 107.400 to 107.560, inclusive. An injunction issued pursuant to this subsection remains in place and any foreclosure sale must be enjoined until the court determines that the mortgage servicer, mortgagee, beneficiary of the deed of trust or an authorized agent of such a person has corrected and remedied the violation giving rise to the action for injunctive relief. An enjoined person may move to dissolve an injunction based on a showing that the material violation has been corrected and remedied.

2. After a trustee's deed upon sale has been recorded or after a sheriff has recorded the certificate of the sale of the property, a borrower may bring a civil action in the district court in the county in which the property is located to recover his or her actual



* S B 3 4 9 *

1 economic damages resulting from a material violation of NRS
2 107.400 to 107.560, inclusive, by the mortgage servicer, mortgagee,
3 beneficiary of the deed of trust or an authorized agent of such a
4 person, if the material violation was not corrected and remedied
5 before the recording of the trustee's deed upon sale or the recording
6 of the certificate of sale of the property pursuant to NRS 40.430. If
7 the court finds that the material violation was intentional or reckless,
8 or resulted from willful misconduct by a mortgage servicer,
9 mortgagee, beneficiary of the deed of trust or an authorized agent of
10 such a person, the court may award the borrower the greater of
11 treble actual damages or statutory damages of \$50,000.

12 3. A mortgage servicer, mortgagee, beneficiary of the deed of
13 trust or an authorized agent of such a person is not liable for any
14 violation of NRS 107.400 to 107.560, inclusive, that it has corrected
15 and remedied, or that has been corrected and remedied on its behalf
16 by a third party, before the recording of the trustee's deed upon sale
17 or the recording of the certificate of sale of the property pursuant to
18 NRS 40.430.

19 4. A violation of NRS 107.400 to 107.560, inclusive, does not
20 affect the validity of a sale to a bona fide purchaser for value and
21 any of its encumbrancers for value without notice.

22 5. A signatory to a consent judgment entered in the case
23 entitled United States of America et al. v. Bank of America
24 Corporation et al., filed in the United States District Court for the
25 District of Columbia, case number 1:12-cv-00361 RMC, that is in
26 compliance with the relevant terms of the Settlement Term Sheet of
27 that consent judgment with respect to the borrower while the
28 consent judgment is in effect is deemed to be in compliance with
29 NRS 107.400 to 107.560, inclusive, and is not liable for a
30 violation of NRS 107.400 to 107.560, inclusive. If, on or after
31 October 1, 2013, the consent judgment is modified or amended to
32 permit compliance with the relevant provisions of 12 C.F.R. Part
33 1024, commonly known as Regulation X, and 12 C.F.R. Part 1026,
34 commonly known as Regulation Z, as those regulations are
35 amended by the Final Servicing Rules issued by the Consumer
36 Financial Protection Bureau in 78 Federal Register 10,696 *and*
37 *10,902* on February 14, 2013, and any amendments thereto, to
38 supersede some or all of the relevant terms of the Settlement Term
39 Sheet of the consent judgment ~~†~~:

40 ~~—(a) A†~~, a signatory who is in compliance with the modified or
41 amended Settlement Term Sheet of the consent judgment while the
42 consent judgment is in effect is deemed to be in compliance with
43 NRS 107.400 to 107.560, inclusive, and is not liable for a violation
44 of NRS 107.400 to 107.560, inclusive.



1 ~~(6)~~ 6. Any mortgage servicer, mortgagee or beneficiary of
2 the deed of trust or an authorized agent of such a person who
3 complies with the relevant provisions of 12 C.F.R. Part 1024,
4 commonly known as Regulation X, and 12 C.F.R. Part 1026,
5 commonly known as Regulation Z, as those regulations are
6 amended by the Final Servicing Rules issued by the Consumer
7 Financial Protection Bureau in 78 Federal Register 10,696 *and*
8 *10,902* on February 14, 2013, and any amendments thereto, is
9 deemed to be in compliance with NRS 107.400 to 107.560,
10 inclusive, and is not liable for a violation of NRS 107.400 to
11 107.560, inclusive.

12 ~~(6)~~ 7. A court may award a prevailing borrower costs and
13 reasonable attorney's fees in an action brought pursuant to this
14 section.

15 ~~(7)~~ 8. The rights, remedies and procedures provided by this
16 section are in addition to and independent of any other rights,
17 remedies or procedures provided by law.

