

Amendment No. 384

Senate Amendment to Senate Bill No. 498	(BDR 54-484)
Proposed by: Senate Committee on Commerce, Labor and Energy	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

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

AAK/WLK



Date: 4/23/2017

S.B. No. 498—Revises provisions relating to mortgage brokers and mortgage bankers. (BDR 54-484)



SENATE BILL NO. 498—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 27, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to mortgage brokers and mortgage bankers. (BDR 54-484)

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

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

AN ACT relating to mortgage lending; revising provisions ~~which apply to~~ for the examination of mortgage brokers ~~to also apply to~~ and mortgage bankers; ~~repealing provisions relating to~~ authorizing the Commissioner of Mortgage Lending to waive the monthly report of activity of a mortgage broker or mortgage banker; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law prohibits a person from offering or providing any of the services of a mortgage broker or mortgage banker unless the person first obtains a license as a mortgage broker or mortgage banker, as applicable, or is exempt from licensing (NRS 645B.000, 645E.900). This bill repeals the provisions of law that regulate mortgage bankers and revises the provisions of law that currently regulate mortgage brokers to apply to both mortgage brokers and mortgage bankers, both of which are now included in the term "mortgage loan originator." Specifically, section 6 of this bill defines "mortgage loan originator" to include all persons who previously were mortgage brokers or mortgage bankers. Section 11 of this bill revises provisions relating to licensing as a mortgage broker to apply to licensing as a mortgage loan originator. Section 110 of this bill deems any person who holds a license as a mortgage broker or mortgage banker on January 1, 2019, to hold a license as a mortgage loan originator. Section 112 of this bill repeals the provisions of existing law which apply to mortgage bankers as such provisions are made redundant by the provisions of this bill.~~

~~Existing law requires a mortgage broker or mortgage agent to satisfy certain requirements for continuing education (NRS 645B.051, 645B.420). Sections 19 and 59 of this bill eliminate a requirement that certain courses of continuing education for a mortgage loan originator or mortgage agent include at least 2 hours relating to the laws and regulations of this State.~~

Existing law requires the Commissioner of Mortgage Lending to perform annual examinations of mortgage brokers and mortgage bankers. (NRS 645B.060, 645E.300) **Sections 20, 24, 1 and 6** of this bill eliminate the requirement for an annual examination and instead require the Commissioner to conduct, at his or her discretion, standard examinations of a mortgage ~~loan originator~~ broker or mortgage banker.

Existing law requires each mortgage broker or mortgage banker to submit a monthly report of the activity of the mortgage broker or mortgage banker to the Commissioner. (NRS 645B.080, 645E.350) Sections 2 and 7 of this bill allow the

Commissioner to waive this requirement if substantially similar information is available to the Commissioner from another source.

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

Delete existing sections 1 through 113 of this bill and replace with the following new sections 1 through 8:

Section 1. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him or her by law, the Commissioner shall:

(a) Adopt regulations:

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

(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.

(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

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

(d) ~~Except as otherwise provided in subsection 4, conduct an annual examination.~~ Conduct, at his or her discretion, standard examinations of each mortgage broker doing business in this State. ~~The annual examination~~ which must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

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

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

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

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

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapters 363A and 363C of NRS.

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

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

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

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

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

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

~~(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.}~~

Sec. 2. NRS 645B.080 is hereby amended to read as follows:

645B.080 1. Each mortgage broker shall keep and maintain at all times at each location where the mortgage broker conducts business in this state complete and suitable records of all mortgage transactions made by the mortgage broker at that location. Each mortgage broker shall also keep and maintain at all times at each such location all original books, papers and data, or copies thereof, clearly reflecting the financial condition of the business of the mortgage broker.

2. ~~Each~~ **Except as otherwise provided in subsection 3, each** mortgage broker shall submit to the Commissioner each month a report of the mortgage broker's activity for the previous month. The report must:

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

(b) Include any information required pursuant to NRS 645B.260 or pursuant to the regulations adopted by the Commissioner; and

(c) Be submitted to the Commissioner by the 15th day of the month following the month for which the report is made.

3. **The Commissioner may waive the requirement to submit a report pursuant to subsection 2 if substantially similar information is available to the Commissioner from another source.**

4. The Commissioner may adopt regulations prescribing accounting procedures for mortgage brokers handling trust accounts and the requirements for keeping records relating to such accounts.

~~4.1~~ **5.** Each mortgage broker who is required to register or voluntarily registers with the Registry shall submit to the Registry and the Commissioner a report of condition or any other report required by the Registry in the form and at the time required by the Registry.

Sec. 3. NRS 645B.260 is hereby amended to read as follows:

645B.260 1. If a mortgage broker maintains any accounts described in subsection 4 of NRS 645B.175 in which the mortgage broker deposits payments from a debtor on a loan secured by a lien on real property and, on the last day of any month, the debtor has failed to make two or more consecutive payments in accordance with the terms of the loan, the mortgage broker shall:

(a) Include in the report that the mortgage broker submits to the Commissioner pursuant to subsection 2 of NRS 645B.080 if any, the information relating to delinquencies in payments and defaults that is required by the regulations adopted pursuant to subsection 2;

(b) Not later than 15 days after the last day of each such month, mail to the last known address of each investor who owns a beneficial interest in the loan a notice containing the information relating to delinquencies in payments and defaults that is required by the regulations adopted pursuant to subsection 2; and

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

(1) The debtor or the debtor's designee remedies the delinquency in payments and any default; or

(2) The lien securing the loan is extinguished.

2. The Commissioner:

(a) Shall adopt regulations prescribing the information relating to delinquencies in payments and defaults that a mortgage broker must include in his or her report to the Commissioner and in the notice mailed to investors pursuant to subsection 1. Such regulations may provide for variations between the information that a mortgage broker must include in his or her report to the Commissioner and the information that a mortgage broker must include in the notice mailed to investors.

(b) May adopt any other regulations that are necessary to carry out the provisions of this section.

Sec. 4. NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself or herself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time:

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

(b) The person was required to be registered with the Registry and the person was not so registered; or

(c) The person's license was suspended or revoked pursuant to this chapter, the Commissioner shall impose upon the person an administrative fine of not more than \$50,000 for each violation and, if the person has a license, the Commissioner may suspend or revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his or her books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than \$25,000 for each violation;

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

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

3. If a mortgage broker:

(a) Makes or offers for sale in this State any investments in promissory notes secured by liens on real property; and

(b) Receives the lowest possible rating on two consecutive ~~annual or biennial~~ examinations pursuant to NRS 645B.060,

the Commissioner shall suspend or revoke the license of the mortgage broker.

Sec. 5. NRS 645E.030 is hereby amended to read as follows:

645E.030 "Commercial mortgage loan" means a loan primarily for a business, commercial or agricultural purpose that:

1. Directly or indirectly, is secured by a lien on commercial property; and

2. Is created with the consent of the owner of the commercial property.

Sec. 6. NRS 645E.300 is hereby amended to read as follows:

645E.300 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage bankers doing business in this State.

2. In addition to the other duties imposed upon him or her by law, the Commissioner shall:

(a) Adopt regulations establishing reasonable limitations and guidelines on loans made by a mortgage banker to a director, officer or employee of the mortgage banker.

(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan fees.

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

~~(d) Except as otherwise provided in subsection 4, conduct an annual examination.~~ Conduct, at his or her discretion, standard examinations of each mortgage banker doing business in this State.

(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage bankers.

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

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapters 363A and 363C of NRS.

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

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

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

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

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

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

Sec. 7. NRS 645E.350 is hereby amended to read as follows:

645E.350 1. Each mortgage banker shall keep and maintain at all times at each location where the mortgage banker conducts business in this State complete and suitable records of all mortgage transactions made by the mortgage banker at that location. Each mortgage banker shall also keep and maintain at all times at each such location all original books, papers and data, or copies thereof, clearly reflecting the financial condition of the business of the mortgage banker.

2. ~~Each~~ Except as otherwise provided in subsection 3, each mortgage banker shall submit to the Commissioner each month a report of the mortgage banker's activity for the previous month. The report must:

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

(b) Include any information required pursuant to the regulations adopted by the Commissioner; and

(c) Be submitted to the Commissioner by the 15th day of the month following the month for which the report is made.

3. The Commissioner may waive the requirement to submit a report pursuant to subsection 2 if substantially similar information is available to the Commissioner from another source.

4. The Commissioner may adopt regulations prescribing accounting procedures for mortgage bankers handling trust accounts and the requirements for keeping records relating to such accounts.

~~4.5~~ 5. A licensee who operates outside this State an office or other place of business which is licensed pursuant to this chapter shall:

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

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

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

~~5.5~~ 6. Each mortgage banker who is required to register or voluntarily registers with the Registry shall submit to the Registry and the Commissioner a report of condition or any other report required by the Registry in the form and at the time required by the Registry.

Sec. 8. This act becomes effective:

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

2. On January 1, 2018, for all other purposes.