

## Amendment No. 964

Senate Amendment to Senate Bill No. 498 Second Reprint (BDR 54-484)

Proposed by: Senate Committee on Finance

Amends: Summary: Yes Title: No 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/BJE



Date: 5/29/2017

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 , mortgage agents  
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 relating to continuing education for mortgage brokers and mortgage agents; revising provisions for the examination of mortgage brokers and mortgage bankers; 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 requires a mortgage broker or mortgage agent to satisfy certain requirements for continuing education. (NRS 645B.051, 645B.430) **Sections 1 and 3.5** of this bill eliminate a requirement that certain courses of continuing education for a mortgage broker or mortgage agent include at least 3 hours relating to the laws and regulations of this State. **It and reduce the number of hours of continuing education which must be completed annually by a mortgage broker or mortgage agent.**

Existing law requires the Commissioner of Mortgage Lending to perform annual examinations of mortgage brokers and mortgage bankers. (NRS 645B.060, 645E.300) **Sections 1.5 and 6** of this bill eliminate the requirement for an annual examination and instead require the Commissioner to conduct, at his or her discretion, **periodic** standard examinations of a mortgage 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:

**Section 1.** NRS 645B.051 is hereby amended to read as follows:  
645B.051 1. Except as otherwise provided in subsection 2, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

(a) If the licensee is a natural person, the licensee must submit to the Commissioner satisfactory proof that the licensee attended at least ~~10~~ 8 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

(b) If the licensee is not a natural person, the licensee must submit to the Commissioner satisfactory proof that each natural person who supervises the daily business of the licensee attended at least ~~10~~ 8 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires.

2. In lieu of the continuing education requirements set forth in paragraph (a) or (b) of subsection 1, a licensee or any natural person who supervises the daily business of the licensee who, pursuant to subsection 1 of NRS 645F.267, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry must submit to the Commissioner satisfactory proof that he or she attended at least 5 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires. The hours of continuing education required by this subsection must include ~~1~~:

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

~~(b) At~~ at least 2 hours relating to ethics.

3. As used in this section, "certified course of continuing education" means a course of continuing education which relates to the mortgage industry or mortgage transactions and which meets the requirements set forth by the Commissioner by regulation pursuant to NRS 645B.0138.

**Sec. 1.5.** 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, periodic standard examinations of each mortgage broker doing business in this State ~~1. 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 periodic standard examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of ~~the annual~~ a periodic standard examination. The results of ~~the~~

1 ~~annual~~ *a periodic standard* examination may not be opened to public inspection  
2 pursuant to NRS 645B.090 until after a period of time set by the Commissioner to  
3 determine any objections made by the mortgage broker.

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

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

13 (1) The Legislative Auditor; or

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

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

20 3. For each special audit, investigation or examination, a mortgage broker or  
21 mortgage agent shall pay a fee based on the rate established pursuant to NRS  
22 645F.280.

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

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

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

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

32 ~~— (d) Does not maintain any trust accounts pursuant to NRS 645B.170 or~~  
33 ~~645B.175 or arrange loans funded by private investors.~~

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

35 645B.080 1. Each mortgage broker shall keep and maintain at all times at  
36 each location where the mortgage broker conducts business in this state complete  
37 and suitable records of all mortgage transactions made by the mortgage broker at  
38 that location. Each mortgage broker shall also keep and maintain at all times at each  
39 such location all original books, papers and data, or copies thereof, clearly  
40 reflecting the financial condition of the business of the mortgage broker.

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

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

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

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

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

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

4        ~~4+ 5.~~ 5. Each mortgage broker who is required to register or voluntarily  
5 registers with the Registry shall submit to the Registry and the Commissioner a  
6 report of condition or any other report required by the Registry in the form and at  
7 the time required by the Registry.

8        **Sec. 2.5.** NRS 645B.090 is hereby amended to read as follows:

9        645B.090 1. Except as otherwise provided in this section or by specific  
10 statute, all papers, documents, reports and other written instruments filed with the  
11 Commissioner pursuant to this chapter are open to public inspection.

12        2. Except as otherwise provided in subsection 3, the Commissioner may  
13 withhold from public inspection or refuse to disclose to a person, for such time as  
14 the Commissioner considers necessary, any information that, in the  
15 Commissioner's judgment, would:

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

18        (b) Have an undesirable effect on the welfare of the public; or

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

20        3. Except as otherwise provided in NRS 645B.092, the Commissioner shall  
21 disclose the following information concerning a mortgage broker to any person  
22 who requests it:

23        (a) The findings and results of any investigation which has been completed  
24 during the immediately preceding 5 years against the mortgage broker pursuant to  
25 the provisions of this chapter and which has resulted in a finding by the  
26 Commissioner that the mortgage broker committed a violation of a provision of this  
27 chapter, a regulation adopted pursuant to this chapter or an order of the  
28 Commissioner;

29        (b) The nature of any disciplinary action that has been taken during the  
30 immediately preceding 5 years against the mortgage broker pursuant to the  
31 provisions of this chapter; and

32        (c) If the mortgage broker makes or offers for sale in this State any investments  
33 in promissory notes secured by liens on real property:

34        (1) Any information in the possession of the Commissioner regarding the  
35 present and past ownership and management structure of the mortgage broker; and

36        (2) The findings and results of:

37        (I) All examinations or investigations of the mortgage broker  
38 conducted pursuant to NRS 645B.060 during the immediately preceding 5 years,  
39 including, without limitation, ~~annual or biennial examinations~~ *any periodic*  
40 *standard examination* of the mortgage broker conducted pursuant to NRS  
41 645B.060, including, without limitation, the rating for each annual or biennial  
42 examination and an explanation of the standards for determining that rating; and

43        (II) Any other examination or audit, investigation or hearing which has  
44 been completed during the immediately preceding 3 years against the mortgage  
45 broker pursuant to the provisions of this chapter.

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

47        645B.260 1. If a mortgage broker maintains any accounts described in  
48 subsection 4 of NRS 645B.175 in which the mortgage broker deposits payments  
49 from a debtor on a loan secured by a lien on real property and, on the last day of  
50 any month, the debtor has failed to make two or more consecutive payments in  
51 accordance with the terms of the loan, the mortgage broker shall:

52        (a) Include in the report that the mortgage broker submits to the Commissioner  
53 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. 3.5.** NRS 645B.430 is hereby amended to read as follows:

645B.430 1. A license as a mortgage agent issued pursuant to NRS 645B.410 expires each year on December 31, unless it is renewed. To renew a license as a mortgage agent, the holder of the license must continue to meet the requirements of subsection 3 of NRS 645B.410 and 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) Except as otherwise provided in this section, satisfactory proof that the holder of the license as a mortgage agent attended at least ~~10~~ 8 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires; and

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

2. In lieu of the continuing education requirement set forth in paragraph (b) of subsection 1, the holder of a license as a mortgage agent who, pursuant to subsection 1 of NRS 645F.267, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry must submit to the Commissioner satisfactory proof that he or she attended at least 5 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires. The hours of continuing education required by this subsection must include ~~4~~:

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

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

3. If the holder of the license as a mortgage agent fails to submit any item required pursuant to subsection 1 or 2 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 holder of the license 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; and

(c) A reinstatement fee of \$75.

4. To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee in an amount prescribed by regulation of the Commissioner, not to exceed \$50.

5. Money received by the Commissioner pursuant to this section is in addition to any fee that must be paid to the Registry and must be deposited in the Account for Mortgage Lending created by NRS 645F.270.

6. 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.

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

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

**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~~ periodic standard examinations pursuant to NRS 645B.060,

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



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

2       645E.030 “Commercial mortgage loan” means a loan *primarily for a*  
3 *business, commercial or agricultural purpose* that:

- 4       1. Directly or indirectly, is secured by a lien on commercial property; and  
5       2. Is created with the consent of the owner of the commercial property.

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

7       645E.300 1. Subject to the administrative control of the Director of the  
8 Department of Business and Industry, the Commissioner shall exercise general  
9 supervision and control over mortgage bankers doing business in this State.

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

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

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

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

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

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

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

30       (1) The Legislative Auditor; or

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

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

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

38       ~~4. The Commissioner may conduct biennial examinations of a mortgage~~  
39 ~~banker instead of annual examinations, as described in paragraph (d) of subsection~~  
40 ~~2, if the mortgage banker:~~

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

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

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

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

48       645E.350 1. Each mortgage banker shall keep and maintain at all times at  
49 each location where the mortgage banker conducts business in this State complete  
50 and suitable records of all mortgage transactions made by the mortgage banker at  
51 that location. Each mortgage banker shall also keep and maintain at all times at  
52 each such location all original books, papers and data, or copies thereof, clearly  
53 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.

~~4-4~~ 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.

~~5-1~~ 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.