

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 mortgage brokers to also apply to mortgage bankers; repealing provisions relating to mortgage bankers; 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.900, 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, 2018, 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.430) **Sections 19 and 58** of this bill eliminate a requirement that certain courses of continuing education for a mortgage loan originator or mortgage agent include at least 3 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 and 68** of this bill eliminate the requirement for an



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24 annual examination and instead require the Commissioner to conduct, at his or her
25 discretion, standard examinations of a mortgage loan originator.

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

1 **Section 1.** NRS 645A.173 is hereby amended to read as
2 follows:

3 645A.173 1. If an escrow for the sale of real property is
4 established, the holder of the escrow shall, on the date of
5 establishment of the escrow, record in writing the number and the
6 date of expiration of the:

7 (a) License issued pursuant to chapter 645 of NRS; or
8 (b) Certificate of cooperation issued pursuant to NRS 645.605,
9 ↳ of any real estate broker, broker-salesperson or salesperson who
10 will be paid compensation from money held in the escrow for
11 performing the services of a real estate broker, broker-salesperson or
12 salesperson in the transaction that is the subject of the escrow. The
13 holder of the escrow is not required to verify independently the
14 validity of the number of the license or certificate.

15 2. If an escrow for the sale of real property is established and
16 the real property is or will be secured by a mortgage or deed of trust,
17 the holder of the escrow shall, on the date of establishment of the
18 escrow, record in writing the number and the date of expiration of
19 the license issued pursuant to chapter 645B ~~for 645E~~ of NRS of any
20 mortgage ~~broker or mortgage banker~~ *loan originator* associated
21 with the mortgage or deed of trust. The holder of the escrow is not
22 required to verify independently the validity of the number of the
23 license.

24 **Sec. 2.** NRS 645A.215 is hereby amended to read as follows:

25 645A.215 1. Except as otherwise provided in subsection 2, a
26 licensee may not conduct the business of administering escrows for
27 compensation within any office, suite, room or place of business in
28 which any other business is solicited or engaged in, except a notary
29 public, or in association or conjunction with any other business,
30 unless authority to do so is given by the Commissioner.

31 2. A licensee may conduct the business of administering
32 escrows pursuant to this chapter in the same office or place of
33 business as a mortgage ~~banker~~ *loan originator* if:

34 (a) The licensee and the mortgage ~~banker~~ *loan originator*:
35 (1) Operate as separate legal entities;
36 (2) Maintain separate accounts, books and records;
37 (3) Are subsidiaries of the same parent corporation; and
38 (4) Maintain separate licenses; and



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

Sec. 3. NRS 645B.0119 is hereby amended to read as follows:

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

Sec. 4. NRS 645B.0123 is hereby amended to read as follows:

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

Sec. 5. NRS 645B.0125 is hereby amended to read as follows:

645B.0125 1. "Mortgage agent" means:

(a) A natural person who:

(1) Is an employee of a mortgage ~~broker or mortgage banker~~ *loan originator* who is required to be licensed pursuant to this chapter ; ~~for chapter 645E of NRS;~~ and

(2) Is authorized by the mortgage ~~broker or mortgage banker~~ *loan originator* to engage in, on behalf of the mortgage ~~broker or mortgage banker,~~ *loan originator*, any activity that would require the person, if the person were not an employee of the mortgage ~~broker or mortgage banker,~~ *loan originator*, to be licensed as a mortgage ~~broker or mortgage banker~~ *loan originator* pursuant to this chapter ; ~~for chapter 645E of NRS;~~

(b) A mortgage ~~broker,~~ *loan originator or* qualified employee ~~for mortgage banker~~ who is required by NRS 645B.405 ~~for 645E.290~~ to be licensed as a mortgage agent; or

(c) A loan processor who is an independent contractor and who is associated with a mortgage ~~broker, mortgage banker~~ *loan originator* or person who holds a certificate of exemption pursuant to NRS 645B.016.

2. The term includes, but is not limited to, a residential mortgage loan originator.

3. The term does not include a person who:

(a) Except as otherwise provided in paragraph (b) of subsection 1, is licensed as a mortgage ~~broker or mortgage banker,~~ *loan originator;*



(b) Is an owner, general partner, officer or director of a mortgage ~~broker or mortgage banker;~~ *loan originator* who does not engage in any activity that would otherwise require a license as a mortgage ~~broker or mortgage banker;~~ *loan originator*;

(c) Except as otherwise provided in paragraph (c) of subsection 1, performs only clerical or ministerial tasks for a mortgage ~~broker or mortgage banker;~~ *loan originator*; or

(d) Collects payments and performs related services, including, without limitation, the modification of an existing loan, in connection with a loan secured by a lien on real property and who does not undertake any other activity that would otherwise require a license pursuant to this chapter or chapter ~~645E or~~ 645F of NRS.

Sec. 6. NRS 645B.0127 is hereby amended to read as follows:

645B.0127 1. "Mortgage ~~broker~~ *loan originator*" means a person who, directly or indirectly:

(a) Holds himself or herself out for hire to serve as an agent for any person in an attempt to obtain a loan which will be secured by a lien on real property;

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

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

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

(e) Offers for sale in this State any security which is exempt from registration under state or federal law and purports to make investments in promissory notes secured by liens on real property.

2. The term includes a wholesale lender.

~~3. The term does not include a person who is licensed as a mortgage banker, as defined in NRS 645E.100, unless the person is also licensed as a mortgage broker pursuant to this chapter.~~

Sec. 7. 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~~ *loan originator* 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~~ *loan originator* 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 may hire a testing organization to create, administer and score a written examination.

4. 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. 8. NRS 645B.0138 is hereby amended to read as follows:

645B.0138 1. A course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

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

3. The regulations adopted by the Commissioner pursuant to subsection 2 must not require a mortgage agent ~~or mortgage banker or mortgage broker~~ *loan originator* or an employee of a mortgage ~~banker or mortgage broker~~ *loan originator* 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 to complete any continuing education relating to residential mortgage loans.

Sec. 9. NRS 645B.0145 is hereby amended to read as follows:

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

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

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

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



1 information or the failure to disclose information pursuant to the
2 provisions of this chapter.

3 **Sec. 10.** NRS 645B.016 is hereby amended to read as follows:

4 645B.016 Except as otherwise provided in subsection 2 and
5 NRS 645B.690:

6 1. A person who claims an exemption from the provisions of
7 this chapter pursuant to subsection 1 of NRS 645B.015 must:

8 (a) File a written application for a certificate of exemption with
9 the Office of the Commissioner;

10 (b) Pay the fee required pursuant to NRS 645B.017;

11 (c) Include with the written application satisfactory proof that
12 the person meets the requirements of subsection 1 of NRS
13 645B.015; and

14 (d) Provide evidence to the Commissioner that the person is
15 duly licensed to conduct his or her business, including, if applicable,
16 the right to transact mortgage loans, and such license is in good
17 standing pursuant to the laws of this State, any other state or the
18 United States.

19 2. The provisions of subsection 1 do not apply to the extent
20 preempted by federal law.

21 3. The Commissioner may require a person who claims an
22 exemption from the provisions of this chapter pursuant to
23 subsections 2 to 12, inclusive, of NRS 645B.015 to:

24 (a) File a written application for a certificate of exemption with
25 the Office of the Commissioner;

26 (b) Pay the fee required pursuant to NRS 645B.017; and

27 (c) Include with the written application satisfactory proof that
28 the person meets the requirements of at least one of those
29 exemptions.

30 4. A certificate of exemption expires automatically if, at any
31 time, the person who claims the exemption no longer meets the
32 requirements of at least one exemption set forth in the provisions of
33 NRS 645B.015.

34 5. If a certificate of exemption expires automatically pursuant
35 to this section, the person shall not provide any of the services of a
36 mortgage ~~broker~~ *loan originator* or mortgage agent or otherwise
37 engage in, carry on or hold himself or herself out as engaging in or
38 carrying on the business of a mortgage ~~broker~~ *loan originator* or
39 mortgage agent unless the person applies for and is issued:

40 (a) A license as a mortgage ~~broker~~ *loan originator* or
41 mortgage agent, as applicable, pursuant to this chapter; or

42 (b) Another certificate of exemption.

43 6. The Commissioner may impose upon a person who is
44 required to apply for a certificate of exemption or who holds a



1 certificate of exemption an administrative fine of not more than
2 \$10,000 for each violation that the person commits, if the person:

3 (a) Has knowingly made or caused to be made to the
4 Commissioner any false representation of material fact;

5 (b) Has suppressed or withheld from the Commissioner any
6 information which the person possesses and which, if submitted by
7 the person, would have rendered the person ineligible to hold a
8 certificate of exemption; or

9 (c) Has violated any provision of this chapter, a regulation
10 adopted pursuant to this chapter or an order of the Commissioner
11 that applies to a person who is required to apply for a certificate of
12 exemption or who holds a certificate of exemption.

13 7. A person who is exempt from the requirements of this
14 chapter may file a written application for a certificate of exemption
15 with the Office of the Commissioner for the purposes of complying
16 with the requirements of the Registry or enabling a mortgage agent
17 to comply with the requirements of the Registry.

18 8. The Commissioner may require an applicant or person
19 described in subsection 7 to submit the information or pay the fee
20 directly to the Division or, if the applicant or person is required to
21 register or voluntarily registers with the Registry, to the Division
22 through the Registry.

23 9. An application filed pursuant to subsection 7 does not affect
24 the applicability of this chapter to such an applicant or person.

25 **Sec. 11.** NRS 645B.020 is hereby amended to read as follows:

26 645B.020 1. A person who wishes to be licensed as a
27 mortgage ~~broker~~ *loan originator* must file a written application for
28 a license with the Office of the Commissioner and pay the fee
29 required pursuant to NRS 645B.050. The Commissioner may
30 require the applicant or person to submit the information or pay the
31 fee directly to the Division or, if the applicant or person is required
32 to register or voluntarily registers with the Registry, to the Division
33 through the Registry. An application for a license as a mortgage
34 ~~broker~~ *loan originator* must:

35 (a) State the name, residence address and business address of the
36 applicant and, if the applicant is a mortgage ~~broker~~ *loan originator*
37 other than a wholesale lender, the location of each principal office
38 and branch office at which the mortgage ~~broker~~ *loan originator*
39 will conduct business within this State.

40 (b) State the location of any principal office, office or other
41 place of business located outside this State from which the mortgage
42 ~~broker~~ *loan originator* will conduct business in this State and any
43 office or other place of business which the applicant maintains as a
44 corporate or home office.



(c) State the name under which the applicant will conduct business as a mortgage ~~broker~~ *loan originator*.

(d) List the name, residence address and business address of each person who will:

(1) If the applicant is not a natural person, have an interest in the mortgage ~~broker~~ *loan originator* as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

(2) Be associated with or employed by the mortgage ~~broker~~ *loan originator* as a mortgage agent.

(e) Include a general business plan and a description of the policies and procedures that the mortgage ~~broker~~ *loan originator* and his or her mortgage agents will follow to arrange and service loans and to conduct business pursuant to this chapter.

(f) State the length of time the applicant has been engaged in the business of a mortgage ~~broker~~ *loan originator*.

(g) Include a financial statement of the applicant and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the net worth required pursuant to NRS 645B.115.

(h) Include all information required to complete the application.

(i) Unless fingerprints were submitted to the Registry for the person, include a complete set of fingerprints for each natural person who is a principal, partner, officer, director or trustee of the applicant which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(j) Include any other information required pursuant to the regulations adopted by the Commissioner or an order of the Commissioner.

2. If a mortgage ~~broker~~ *loan originator* will conduct business in this State at one or more branch offices, the mortgage ~~broker~~ *loan originator* must apply for a license for each such branch office.

3. Except as otherwise provided by law, the Commissioner shall issue a license to an applicant as a mortgage ~~broker~~ *loan originator* if:

(a) The application is verified by the Commissioner and complies with the requirements of this chapter; and

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

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



1 *purposes of this subparagraph, the factors considered in*
2 *determining whether a person has demonstrated financial*
3 *responsibility include, without limitation:*

4 (I) *Whether the person's personal credit history*
5 *indicates any adverse material items, including, without limitation,*
6 *liens, judgments, disciplinary action, bankruptcies, foreclosures or*
7 *failures to comply with court-approved payment plans;*

8 (II) *The circumstances surrounding any adverse*
9 *material items in the person's personal credit history; and*

10 (III) *Any instance of fraud, misrepresentation, dishonest*
11 *business practices, the mishandling of trust funds or other types of*
12 *comparable behavior.*

13 (2) Has not been convicted of, or entered or agreed to enter a
14 plea of guilty or nolo contendere to, a felony in a domestic, foreign
15 or military court within the 7 years immediately preceding the date
16 of the application, or at any time if such felony involved an act of
17 fraud, dishonesty or a breach of trust, moral turpitude or money
18 laundering.

19 (3) Has not made a false statement of material fact on the
20 application.

21 (4) Has never had a license or registration as a mortgage
22 agent, mortgage banker, mortgage broker , *mortgage loan*
23 *originator* or residential mortgage loan originator revoked in this
24 State or any other jurisdiction or had a financial services license
25 revoked within the immediately preceding 10 years.

26 (5) Has not violated any provision of this chapter , ~~for~~
27 ~~chapter 645E of NRS,~~ a regulation adopted pursuant thereto or an
28 order of the Commissioner.

29 4. A person may apply for a license for an office or other place
30 of business located outside this State from which the applicant will
31 conduct business in this State if the applicant has a license issued
32 pursuant to this chapter for an office or other place of business
33 located in this State or if the applicant will conduct business in this
34 State only as a wholesale lender, and the applicant submits with the
35 application for a license a statement signed by the applicant which
36 states that the applicant agrees to:

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

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



1 ➤ The applicant must be allowed to choose between paragraph (a)
2 or (b) in complying with the provisions of this subsection.

3 **Sec. 12.** NRS 645B.021 is hereby amended to read as follows:

4 645B.021 1. If a mortgage ~~broker~~ *loan originator* is not a
5 natural person, the mortgage ~~broker~~ *loan originator* must
6 designate a natural person as a qualified employee to act on behalf
7 of the mortgage ~~broker~~ *loan originator*.

8 2. The Division shall adopt regulations regarding a qualified
9 employee, including, without limitation, regulations that establish:

10 (a) A definition for the term “qualified employee”;

11 (b) Any duties of a qualified employee; and

12 (c) Any requirements regarding a qualified employee.

13 **Sec. 13.** NRS 645B.023 is hereby amended to read as follows:

14 645B.023 1. In addition to any other requirements set forth in
15 this chapter:

16 (a) A natural person who applies for the issuance of a license as
17 a mortgage ~~broker~~ *loan originator* shall include the social security
18 number of the applicant in the application submitted to the
19 Commissioner.

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

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

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

30 (b) A separate form prescribed by the Commissioner.

31 3. A license as a mortgage ~~broker~~ *loan originator* may not be
32 issued or renewed by the Commissioner if the applicant is a natural
33 person who:

34 (a) Fails to submit the statement required pursuant to subsection
35 1; or

36 (b) Indicates on the statement submitted pursuant to subsection
37 1 that the applicant is subject to a court order for the support of a
38 child and is not in compliance with the order or a plan approved by
39 the district attorney or other public agency enforcing the order for
40 the repayment of the amount owed pursuant to the order.

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



1 order, the Commissioner shall advise the applicant to contact the
2 district attorney or other public agency enforcing the order to
3 determine the actions that the applicant may take to satisfy the
4 arrearage.

5 **Sec. 14.** NRS 645B.0243 is hereby amended to read as
6 follows:

7 645B.0243 The Commissioner may refuse to issue a license to
8 an applicant if the Commissioner has reasonable cause to believe
9 that the applicant or any general partner, officer or director of the
10 applicant has, after October 1, 1999, employed or proposed to
11 employ a person as a mortgage agent or authorized or proposed to
12 authorize a person to be associated with a mortgage ~~broker~~ *loan*
13 *originator* as a mortgage agent at a time when the applicant or the
14 general partner, officer or director knew or, in light of all the
15 surrounding facts and circumstances, reasonably should have known
16 that the person has committed any act or omission that would be
17 cause for refusing to issue a license to a mortgage agent.

18 **Sec. 15.** NRS 645B.025 is hereby amended to read as follows:

19 645B.025 1. A mortgage ~~broker~~ *loan originator* shall post
20 each license in a conspicuous place in the office to which it pertains.

21 2. A mortgage ~~broker~~ *loan originator* may not transfer or
22 assign a license to another person, unless the Commissioner gives
23 written approval.

24 **Sec. 16.** NRS 645B.042 is hereby amended to read as follows:

25 645B.042 1. As a condition to doing business in this State,
26 each mortgage ~~broker~~ *loan originator* shall deposit with the
27 Commissioner and keep in full force and effect a corporate surety
28 bond payable to the State of Nevada, in the amount set forth in
29 subsection 4, which is executed by a corporate surety satisfactory to
30 the Commissioner and which names as principals the mortgage
31 ~~broker~~ *loan originator* and all mortgage agents employed by or
32 associated with the mortgage ~~broker~~ *loan originator*.

33 2. At the time of filing an application for a license as a
34 mortgage agent and at the time of filing an application for the
35 renewal of a license as a mortgage agent, the applicant shall file
36 with the Commissioner proof that the applicant is named as a
37 principal on the corporate surety bond deposited with the
38 Commissioner by the mortgage ~~broker~~ *loan originator* with whom
39 the applicant is associated or employed.

40 3. The bond must be in substantially the following form:

41
42 Know All Persons by These Presents, that, as
43 principal, and, as surety, are held and firmly
44 bound unto the State of Nevada for the use and benefit of any
45 person who suffers damages because of a violation of any of



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the provisions of chapter 645B of NRS, in the sum of , lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

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

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

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

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

.....(Seal)

Principal

.....(Seal)

Surety

By.....

Attorney-in-fact

.....

Nevada Licensed Insurance Agent

4. Each mortgage ~~broker~~ *loan originator* shall deposit a corporate surety bond that complies with the provisions of this section in the following amounts:



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(a) For an annual loan production of \$20,000,000 or less, \$50,000.

(b) For an annual loan production of more than \$20,000,000, \$75,000.

5. Except as otherwise required by federal law or regulation, for the purposes of subsection 4, the Commissioner shall determine the appropriate amount of the surety bond that must be deposited initially by a mortgage ~~broker~~ *loan originator* based upon the expected annual loan production amount and shall determine the appropriate amount of the surety bond annually based upon the actual annual loan production.

Sec. 17. NRS 645B.048 is hereby amended to read as follows:

645B.048 1. Any person claiming against a bond may bring an action in a court of competent jurisdiction on the bond for damages to the extent covered by the bond. A person who brings an action on a bond shall notify the Commissioner in writing upon filing the action. An action may not be commenced after the expiration of 3 years following the commission of the act on which the action is based.

2. Upon receiving a request from a person for whose benefit a bond is required, the Commissioner shall notify the person:

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

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

3. If a surety wishes to make payment without awaiting action by a court, the amount of the bond must be reduced to the extent of any payment made by the surety in good faith under the bond. Any payment must be based on written claims received by the surety before any action is taken by a court.

4. The surety may bring an action for interpleader against all claimants upon the bond. If it does so, it shall publish notice of the action at least once each week for 2 weeks in every issue of a newspaper of general circulation in the county where the mortgage ~~broker~~ *loan originator* has its principal place of business. The surety may deduct its costs of the action, including attorney's fees and publication, from its liability under the bond.

5. Claims against a bond have equal priority, and if the bond is insufficient to pay all claims in full, they must be paid on a pro rata basis. Partial payment of claims is not full payment, and any claimant may bring an action against the mortgage ~~broker~~ *loan originator* for the unpaid balance.

Sec. 18. NRS 645B.050 is hereby amended to read as follows:

645B.050 1. A license as a mortgage ~~broker~~ *loan originator* issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew such a license, the



1 licensee must submit to the Commissioner on or after November 1
2 and on or before December 31 of each year, or on a date otherwise
3 specified by the Commissioner by regulation:

4 (a) An application for renewal;

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

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

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

10 2. If the licensee fails to submit any item required pursuant to
11 subsection 1 to the Commissioner on or after November 1 and on or
12 before December 31 of any year, unless a different date is specified
13 by the Commissioner by regulation, the license is cancelled as of
14 December 31 of that year. The Commissioner may reinstate a
15 cancelled license if the licensee submits to the Commissioner on or
16 before February 28 of the following year:

17 (a) An application for renewal;

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

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

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

23 (e) All information required to complete the reinstatement.

24 3. Except as otherwise provided in this section, a person must
25 pay the following fees to apply for, to be issued or to renew a
26 license as a mortgage ~~broker~~ *loan originator* pursuant to this
27 chapter:

28 (a) To file an original application for a license, not more than
29 \$1,500 for the principal office and not more than \$400 for each
30 branch office. The person must also pay such additional expenses
31 incurred in the process of investigation as the Commissioner deems
32 necessary.

33 (b) To be issued a license, not more than \$1,000 for the principal
34 office and not more than \$100 for each branch office.

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

37 4. To be issued a duplicate copy of any license, a person must
38 make a satisfactory showing of its loss and pay a fee of not more
39 than \$10.

40 5. Except as otherwise provided in this chapter, all fees
41 received pursuant to this chapter are in addition to any fee required
42 to be paid to the Registry and must be deposited in the Account for
43 Mortgage Lending created by NRS 645F.270.

44 6. The Commissioner may, by regulation, adjust any fee or
45 date set forth in this section if the Commissioner determines that



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

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

10 **Sec. 19.** NRS 645B.051 is hereby amended to read as follows:
11 645B.051 1. Except as otherwise provided in subsection 2, in
12 addition to the requirements set forth in NRS 645B.050, to renew a
13 license as a mortgage ~~broker~~ *loan originator*;

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

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

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

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

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

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

43 **Sec. 20.** NRS 645B.060 is hereby amended to read as follows:

44 645B.060 1. Subject to the administrative control of the
45 Director of the Department of Business and Industry, the



1 Commissioner shall exercise general supervision and control over
2 mortgage ~~brokers~~ *loan originators* and mortgage agents doing
3 business in this State.

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

6 (a) Adopt regulations:

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

12 (2) Establishing reasonable limitations and guidelines on
13 loans made by a mortgage ~~broker~~ *loan originator* to a director,
14 officer, mortgage agent or employee of the mortgage ~~broker~~ *loan*
15 *originator*.

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

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

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

29 (1) Standards for determining the rating of each mortgage
30 ~~broker~~ *loan originator* based upon the results of ~~the annual~~ *a*
31 *standard* examination; and

32 (2) Procedures for resolving any objections made by the
33 mortgage ~~broker~~ *loan originator* to the results of ~~the annual~~ *a*
34 *standard* examination. The results of ~~the annual~~ *a standard*
35 examination may not be opened to public inspection pursuant to
36 NRS 645B.090 until after a period of time set by the Commissioner
37 to determine any objections made by the mortgage ~~broker~~ *loan*
38 *originator*.

39 (e) Conduct such other examinations, periodic or special audits,
40 investigations and hearings as may be necessary for the efficient
41 administration of the laws of this State regarding mortgage ~~brokers~~
42 *loan originators* and mortgage agents. The Commissioner shall
43 adopt regulations specifying the general guidelines that will be
44 followed when a periodic or special audit of a mortgage ~~broker~~
45 *loan originator* 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 ~~broker~~ *loan originators* 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~~ *loan originator* 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. 21. NRS 645B.075 is hereby amended to read as follows:

645B.075 Each mortgage ~~broker~~ *loan originator* shall pay the assessment levied pursuant to NRS 645F.180. Each mortgage ~~broker~~ *loan originator* and mortgage agent shall cooperate fully with the audits and examinations performed pursuant thereto.

Sec. 22. NRS 645B.080 is hereby amended to read as follows:

645B.080 1. Each mortgage ~~broker~~ *loan originator* shall keep and maintain at all times at each location where the mortgage ~~broker~~ *loan originator* conducts business in this state complete and suitable records of all mortgage transactions made by the mortgage ~~broker~~ *loan originator* at that location. Each mortgage ~~broker~~ *loan originator* 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~~ *loan originator*.



2. Each mortgage ~~broker~~ *loan originator* shall submit to the Commissioner each month a report of the mortgage ~~broker's~~ *loan originator's* activity for the previous month. The report must:

(a) Specify the volume of loans arranged *and loans made* by the mortgage ~~broker~~ *loan originator* for the month or state that no loans were arranged in that month;

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

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

3. The Commissioner may adopt regulations prescribing accounting procedures for mortgage ~~brokers~~ *loan originators* handling trust accounts and the requirements for keeping records relating to such accounts.

4. Each mortgage ~~broker~~ *loan originator* 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.

5. A mortgage loan originator 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 mortgage loan originator must be allowed to choose between paragraph (a) or (b) in complying with the provisions of this subsection.

Sec. 23. NRS 645B.085 is hereby amended to read as follows:

645B.085 1. Except as otherwise provided in this section, not later than 90 days after the last day of each fiscal year for a mortgage ~~broker~~ *loan originator*, the mortgage ~~broker~~ *loan originator* shall submit to the Commissioner a financial statement that:

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

(b) Has been prepared from the books and records of the mortgage ~~broker~~ *loan originator* by an independent certified public accountant who holds a license to practice in this State or in any other state that has not been revoked or suspended.



2. Unless otherwise prohibited by the Registry, the Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage ~~broker~~ *loan originator* requests such an extension before the date on which the financial statement is due.

3. If a mortgage ~~broker~~ *loan originator* maintains any accounts described in subsection 1 of NRS 645B.175, the financial statement submitted pursuant to this section must be audited. If a mortgage ~~broker~~ *loan originator* maintains any accounts described in subsection 1 or 4 of NRS 645B.175, those accounts must be audited.

4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

Sec. 24. NRS 645B.090 is hereby amended to read as follows:

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

2. Except as otherwise provided in subsection 3, 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 ~~broker~~ *loan originator*;

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

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

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

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

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

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



(1) Any information in the possession of the Commissioner regarding the present and past ownership and management structure of the mortgage ~~broker;~~ *loan originator*; and

(2) The findings and results of:

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

(II) Any other examination or audit, investigation or hearing which has been completed during the immediately preceding 3 years against the mortgage ~~broker;~~ *loan originator* pursuant to the provisions of this chapter.

Sec. 25. NRS 645B.093 is hereby amended to read as follows:

645B.093 1. A mortgage ~~broker;~~ *loan originator* who is a broker-dealer or a sales representative licensed pursuant to NRS 90.310 or who is exempt from licensure pursuant to NRS 90.320:

(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and

(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.

2. A mortgage ~~broker;~~ *loan originator* who is an investment adviser or a representative of an investment adviser licensed pursuant to NRS 90.330 or exempt from licensure pursuant to NRS 90.340:

(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and

(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.

Sec. 26. NRS 645B.095 is hereby amended to read as follows:

645B.095 1. As used in this section, "change of control" means:

(a) A transfer of voting stock which results in giving a person, directly or indirectly, the power to direct the management and policy of a mortgage ~~broker;~~ *loan originator*; or

(b) A transfer of at least 25 percent of the outstanding voting stock of a mortgage ~~broker;~~ *loan originator*.

2. The Commissioner must be notified in writing of a transfer of 10 percent or more of the outstanding voting stock of a mortgage ~~broker;~~ *loan originator* at least 15 days before such a transfer and



1 must approve a transfer of voting stock of a mortgage ~~broker~~ loan
2 originator which constitutes a change of control.

3 3. The person who acquires stock resulting in a change of
4 control of the mortgage ~~broker~~ loan originator shall apply to the
5 Commissioner for approval of the transfer. The application must
6 contain information which shows that the requirements of this
7 chapter and the Registry, if applicable, for obtaining a license will
8 be satisfied after the change of control. Except as otherwise
9 provided in subsection 4, the Commissioner shall conduct an
10 investigation to determine whether those requirements will be
11 satisfied. If, after the investigation, the Commissioner denies the
12 application, the Commissioner may forbid the applicant from
13 participating in the business of the mortgage ~~broker~~ loan
14 originator.

15 4. A mortgage ~~broker~~ loan originator may submit a written
16 request to the Commissioner to waive an investigation pursuant to
17 subsection 3. The Commissioner may grant a waiver if the applicant
18 has undergone a similar investigation by a state or federal agency in
19 connection with the licensing of or his or her employment with a
20 financial institution.

21 Sec. 27. NRS 645B.115 is hereby amended to read as follows:

22 645B.115 1. If a mortgage ~~broker~~ loan originator
23 maintains any accounts described in NRS 645B.175, the mortgage
24 ~~broker~~ loan originator and his or her mortgage agents shall not
25 engage in any activity that is authorized pursuant to this chapter,
26 unless the mortgage ~~broker~~ loan originator maintains
27 continuously a minimum net worth in the following amount based
28 upon the average monthly balance of the accounts maintained by the
29 mortgage ~~broker~~ loan originator pursuant to NRS 645B.175:

AVERAGE MONTHLY BALANCE	MINIMUM NET WORTH REQUIRED
\$100,000 or less.....	\$25,000
More than \$100,000 but not more than \$250,000	50,000
More than \$250,000 but not more than \$500,000	100,000
More than \$500,000 but not more than \$1,000,000.....	200,000
More than \$1,000,000	250,000

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40 The Commissioner shall determine the appropriate initial minimum
41 net worth that must be maintained by the mortgage ~~broker~~ loan
42 originator pursuant to this section based upon the expected average
43 monthly balance of the accounts maintained by the mortgage
44 ~~broker~~ loan originator pursuant to NRS 645B.175. After
45 determining the initial minimum net worth that must be maintained



1 by the mortgage ~~broker~~ *loan originator*, the Commissioner shall,
2 on an annual basis, determine the appropriate minimum net worth
3 that must be maintained by the mortgage ~~broker~~ *loan originator*
4 pursuant to this section based upon the average monthly balance of
5 the accounts maintained by the mortgage ~~broker~~ *loan originator*
6 pursuant to NRS 645B.175.

7 2. If requested by the Commissioner, a mortgage ~~broker~~ *loan*
8 *originator* who is subject to the provisions of this section and his or
9 her mortgage agents shall submit to the Commissioner or allow the
10 Commissioner to examine any documentation or other evidence that
11 is related to determining the net worth of the mortgage ~~broker~~ *loan*
12 *originator*.

13 3. The Commissioner:

14 (a) Shall adopt regulations prescribing standards for determining
15 the net worth of a mortgage ~~broker~~ *loan originator*; and

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

18 **Sec. 28.** NRS 645B.165 is hereby amended to read as follows:

19 645B.165 1. Except as otherwise permitted by law and as
20 otherwise provided in subsection 3, the amount of any advance fee,
21 salary, deposit or money paid to a mortgage ~~broker~~ *loan*
22 *originator* and his or her mortgage agents or any other person to
23 obtain a loan which will be secured by a lien on real property must
24 be placed in escrow pending completion of the loan or a
25 commitment for the loan.

26 2. The amount held in escrow pursuant to subsection 1 must be
27 released:

28 (a) Upon completion of the loan or commitment for the loan, to
29 the mortgage ~~broker~~ *loan originator* or other person to whom the
30 advance fee, salary, deposit or money was paid.

31 (b) If the loan or commitment for the loan fails, to the person
32 who made the payment.

33 3. Advance payments to cover reasonably estimated costs paid
34 to third persons are excluded from the provisions of subsections 1
35 and 2 if the person making them first signs a written agreement
36 which specifies the estimated costs by item and the estimated
37 aggregate cost, and which recites that money advanced for costs will
38 not be refunded. If an itemized service is not performed and the
39 estimated cost thereof is not refunded, the recipient of the advance
40 payment is subject to the penalties provided in NRS 645B.960.

41 **Sec. 29.** NRS 645B.170 is hereby amended to read as follows:

42 645B.170 1. All money paid to a mortgage ~~broker~~ *loan*
43 *originator* and his or her mortgage agents for payment of taxes or
44 insurance premiums on real property which secures any loan
45 arranged *or loan made* by the mortgage ~~broker~~ *loan originator*



1 must be deposited in an insured depository financial institution and
2 kept separate, distinct and apart from money belonging to the
3 mortgage ~~broker~~ *loan originator*. Such money, when deposited, is
4 to be designated as an “impound trust account” or under some other
5 appropriate name indicating that the accounts are not the money of
6 the mortgage ~~broker~~ *loan originator*.

7 2. The mortgage ~~broker~~ *loan originator* has a fiduciary duty
8 to each debtor with respect to the money in an impound trust
9 account.

10 3. The mortgage ~~broker~~ *loan originator* shall, upon
11 reasonable notice, account to any debtor whose real property secures
12 a loan arranged *or loan made* by the mortgage ~~broker~~ *loan*
13 *originator* for any money which that person has paid to the
14 mortgage ~~broker~~ *loan originator* for the payment of taxes or
15 insurance premiums on the real property.

16 4. The mortgage ~~broker~~ *loan originator* shall, upon
17 reasonable notice, account to the Commissioner for all money in an
18 impound trust account.

19 5. A mortgage ~~broker~~ *loan originator* shall:

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

23 (b) Undertake an annual review of an impound trust account.

24 (c) Within 30 days after the completion of the annual review of
25 an impound trust account, notify the debtor:

26 (1) Of the amount by which the contributions exceed the
27 amount reasonably necessary to pay the annual obligations due from
28 the account; and

29 (2) That the debtor may specify the disposition of the excess
30 money within 20 days after receipt of the notice. If the debtor fails
31 to specify such a disposition within that time, the mortgage ~~broker~~
32 *loan originator* shall maintain the excess money in the account.

33 ➔ This subsection does not prohibit a mortgage ~~broker~~ *loan*
34 *originator* from requiring additional amounts to be paid into an
35 impound trust account to recover a deficiency that exists in the
36 account.

37 6. A mortgage ~~broker~~ *loan originator* shall not make
38 payments from an impound trust account in a manner that causes a
39 policy of insurance to be cancelled or causes property taxes or
40 similar payments to become delinquent.

41 **Sec. 30.** NRS 645B.175 is hereby amended to read as follows:

42 645B.175 1. Except as otherwise provided in this section, all
43 money received by a mortgage ~~broker~~ *loan originator* and his or
44 her mortgage agents from an investor to acquire ownership of or a
45 beneficial interest in a loan secured by a lien on real property must:



(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage ~~broker~~ *loan originator* in an account appropriately named to indicate that the money does not belong to the mortgage ~~broker~~ *loan originator*.

(2) Received pursuant to subsection 4.

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

(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or the debtor's designee less the amount due the mortgage ~~broker~~ *loan originator* for the payment of any fee or service charge;

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

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

3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or the debtor's designee unless:

(a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage ~~broker~~ *loan originator* for the payment of any fee or service charge; and

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

4. Except as otherwise provided in this section, all money paid to a mortgage ~~broker~~ *loan originator* and his or her mortgage agents by a person in full or in partial payment of a loan secured by a lien on real property, must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage ~~broker~~ *loan originator* in an account appropriately named to indicate that it does not belong to the mortgage ~~broker~~ *loan originator*.

(2) Received pursuant to subsection 1.



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1 5. Except as otherwise provided in this section, the amount
2 held in trust pursuant to subsection 4:

3 (a) Must be released, upon the deduction and payment of any fee
4 or service charge due the mortgage ~~broker,~~ *loan originator*, to
5 each investor who owns a beneficial interest in the loan in exact
6 proportion to the beneficial interest that the investor owns in the
7 loan; and

8 (b) Must not be released, in any proportion, to an investor who
9 owns a beneficial interest in the loan, unless the amount described in
10 paragraph (a) is also released to every other investor who owns a
11 beneficial interest in the loan.

12 6. An investor may waive, in writing, the right to receive one
13 or more payments, or portions thereof, that are released to other
14 investors in the manner set forth in subsection 5. A mortgage
15 ~~broker~~ *loan originator* or mortgage agent shall not act as the
16 attorney-in-fact or the agent of an investor with respect to the giving
17 of a written waiver pursuant to this subsection. Any such written
18 waiver applies only to the payment or payments, or portions thereof,
19 that are included in the written waiver and does not affect the right
20 of the investor to:

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

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

25 7. Upon reasonable notice, any mortgage ~~broker~~ *loan*
26 *originator* described in this section shall:

27 (a) Account to any investor or debtor who has paid to the
28 mortgage ~~broker~~ *loan originator* or his or her mortgage agents
29 money that is required to be deposited in a trust account pursuant to
30 this section; and

31 (b) Account to the Commissioner for all money which the
32 mortgage ~~broker~~ *loan originator* and his or her mortgage agents
33 have received from each investor or debtor and which the mortgage
34 ~~broker~~ *loan originator* is required to deposit in a trust account
35 pursuant to this section.

36 8. Money received by a mortgage ~~broker~~ *loan originator* and
37 his or her mortgage agents pursuant to this section from a person
38 who is not associated with the mortgage ~~broker~~ *loan originator*
39 may be held in trust for not more than 45 days before an escrow
40 account must be opened in connection with the loan. If, within this
41 45-day period, the loan or the transfer therefor is not consummated,
42 the money must be returned within 24 hours. If the money is so
43 returned, it may not be reinvested with the mortgage ~~broker~~ *loan*
44 *originator* for at least 15 days.



9. If a mortgage ~~broker~~ *loan originator* or a mortgage agent receives any money pursuant to this section, the mortgage ~~broker~~ *loan originator* or mortgage agent, after the deduction and payment of any fee or service charge due the mortgage ~~broker~~ *loan originator*, shall not release the money to:

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

(b) Any person who has a contractual right to receive the money if the mortgage ~~broker~~ *loan originator* or mortgage agent knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.

10. If a mortgage ~~broker~~ *loan originator* maintains any accounts described in subsection 1 or 4, the mortgage ~~broker~~ *loan originator* shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to the Commissioner each 6 calendar months a financial statement concerning those trust accounts.

11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.

12. Any duty, responsibility or obligation of a mortgage ~~broker~~ *loan originator* pursuant to this chapter is not delegable or transferable to an investor, and, if an investor only provides money to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, no criminal or civil liability may be imposed on the investor for any act or omission of a mortgage ~~broker~~ *loan originator*.

Sec. 31. NRS 645B.180 is hereby amended to read as follows:

645B.180 1. Money in an impound trust account is not subject to execution or attachment on any claim against the mortgage ~~broker~~ *loan originator* or his or her mortgage agents.

2. It is unlawful for a mortgage ~~broker~~ *loan originator* or his or her mortgage agents knowingly to keep or cause to be kept any money in a depository financial institution under the heading of "impound trust account" or any other name designating such money as belonging to the investors or debtors of the mortgage ~~broker~~ *loan originator*, unless the money has been paid to the mortgage ~~broker~~ *loan originator* or his or her mortgage agents by an investor or debtor and is being held in trust by the mortgage ~~broker~~ *loan originator* pursuant to NRS 645B.170 or 645B.175.

Sec. 32. NRS 645B.185 is hereby amended to read as follows:

645B.185 1. A mortgage ~~broker~~ *loan originator* or mortgage agent shall not accept money from a private investor to



1 acquire ownership of or a beneficial interest in a loan secured by a
2 lien on real property unless:

3 (a) The private investor and the mortgage ~~broker~~ *loan*
4 *originator* or mortgage agent sign and date a disclosure form that
5 complies with the provisions of this section; and

6 (b) The mortgage ~~broker~~ *loan originator* or mortgage agent
7 gives the private investor the original disclosure form that has been
8 signed and dated.

9 2. A private investor and a mortgage ~~broker~~ *loan originator*
10 or mortgage agent must sign and date a separate disclosure form
11 pursuant to subsection 1 for each loan in which the private investor
12 invests his or her money. A mortgage ~~broker~~ *loan originator* or
13 mortgage agent shall not act as the attorney-in-fact or the agent of a
14 private investor with respect to the signing or dating of any
15 disclosure form.

16 3. In addition to the requirements of subsections 1 and 2, a
17 mortgage ~~broker~~ *loan originator* or mortgage agent shall not
18 accept money from a private investor to acquire ownership of or a
19 beneficial interest in a loan secured by a lien on real property, unless
20 the mortgage ~~broker~~ *loan originator* or mortgage agent gives the
21 private investor a written form by which the private investor may
22 request that the mortgage ~~broker~~ *loan originator* authorize the
23 Commissioner to release the mortgage ~~broker's~~ *loan originator's*
24 financial statement to the private investor. Such a form must be
25 given to the private investor for each loan. If the private investor,
26 before giving money to the mortgage ~~broker~~ *loan originator* for
27 the loan, requests that the mortgage ~~broker~~ *loan originator*
28 authorize the release of a financial statement pursuant to this
29 subsection, the mortgage ~~broker~~ *loan originator* and his or her
30 mortgage agents shall not accept money from the private investor
31 for that loan until the mortgage ~~broker~~ *loan originator* receives
32 notice from the Commissioner that the financial statement has been
33 released to the private investor.

34 4. A private investor and a mortgage ~~broker~~ *loan originator*
35 or mortgage agent may not agree to alter or waive the provisions of
36 this section by contract or other agreement. Any such contract or
37 agreement is void and must not be given effect to the extent that it
38 violates the provisions of this section.

39 5. A mortgage ~~broker~~ *loan originator* shall retain a copy of
40 each disclosure form that is signed and dated pursuant to subsection
41 1 for the period that is prescribed in the regulations adopted by the
42 Commissioner.

43 6. The standard provisions for each such disclosure form must
44 include, without limitation, statements:



(a) Explaining the risks of investing through the mortgage ~~broker~~ *loan originator*, including, without limitation:

(1) The possibility that the debtor may default on the loan;

(2) The nature of the losses that may result through foreclosure;

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

(4) The fact that the mortgage ~~broker~~ *loan originator* is not a depository financial institution and that the investment is not insured by any depository insurance and is not otherwise insured or guaranteed by the Federal or State Government; and

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

(b) Disclosing to the private investor the following information if the information is known or, in light of all the surrounding facts and circumstances, reasonably should be known to the mortgage ~~broker~~ *loan originator*:

(1) Whether the real property that will secure the loan is encumbered by any other liens and, if so, the priority of each such lien, the amount of debt secured by each such lien and the current status of that debt, including, without limitation, whether the debt is being paid or is in default;

(2) Whether the mortgage ~~broker~~ *loan originator* or any general partner, officer, director or mortgage agent of the mortgage ~~broker~~ *loan originator* has any direct or indirect interest in the debtor;

(3) Whether any disciplinary action has been taken by the Commissioner against the mortgage ~~broker~~ *loan originator* or any general partner, officer or director of the mortgage ~~broker~~ *loan originator* within the immediately preceding 12 months, and the nature of any such disciplinary action;

(4) Whether the mortgage ~~broker~~ *loan originator* or any general partner, officer or director of the mortgage ~~broker~~ *loan originator* has been convicted within the immediately preceding 12 months for violating any law, ordinance or regulation that involves fraud, misrepresentation or a deceitful, fraudulent or dishonest business practice; and

(5) Any other information required pursuant to the regulations adopted by the Commissioner.

7. Whether or not a mortgage ~~broker~~ *loan originator* is required to disclose any information to private investors through a disclosure form that complies with the provisions of this section, the Commissioner may order the mortgage ~~broker~~ *loan originator* to disclose to private investors and other investors or to the general



1 public any information concerning the mortgage ~~broker~~ *loan*
2 *originator*, any general partner, officer, director or mortgage agent
3 of the mortgage ~~broker~~ *loan originator* or any loan in which the
4 mortgage ~~broker~~ *loan originator* is or has been involved, if the
5 Commissioner, in his or her judgment, believes that the information:

6 (a) Would be of material interest to a reasonable investor who is
7 deciding whether to invest money with the mortgage ~~broker~~ *loan*
8 *originator*; or

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

10 8. In carrying out the provisions of subsection 7, the
11 Commissioner may, without limitation, order a mortgage ~~broker~~
12 *loan originator* to include statements of disclosure prescribed by the
13 Commissioner:

14 (a) In the disclosure form that must be given to private investors
15 pursuant to subsection 1;

16 (b) In additional disclosure forms that must be given to private
17 investors and other investors before or after they have invested
18 money through the mortgage ~~broker~~ *loan originator*; or

19 (c) In any advertisement that the mortgage ~~broker~~ *loan*
20 *originator* uses in carrying on his or her business.

21 9. The Commissioner:

22 (a) Shall adopt regulations prescribing the period for which a
23 mortgage ~~broker~~ *loan originator* must retain a copy of each
24 disclosure form that is given to private investors; and

25 (b) May adopt any other regulations that are necessary to carry
26 out the provisions of this section, including, without limitation,
27 regulations specifying the size of print and any required formatting
28 or typesetting that a mortgage ~~broker~~ *loan originator* must use in
29 any form that is given to private investors.

30 **Sec. 33.** NRS 645B.186 is hereby amended to read as follows:

31 645B.186 1. If a licensee or a relative of the licensee is
32 licensed as, conducts business as or holds a controlling interest or
33 position in:

34 (a) A construction control;

35 (b) An escrow agency or escrow agent; or

36 (c) A title agent, a title insurer or an escrow officer of a title
37 agent or title insurer,

38 the licensee shall fully disclose his or her status as, connection to
39 or relationship with the construction control, escrow agency, escrow
40 agent, title agent, title insurer or escrow officer to each investor, and
41 the licensee shall not require, as a condition to an investor acquiring
42 ownership of or a beneficial interest in a loan secured by a lien on
43 real property, that the investor transact business with or use the
44 services of the construction control, escrow agency, escrow agent,
45 title agent, title insurer or escrow officer or that the investor



1 authorize the licensee to transact business with or use the services of
2 the construction control, escrow agency, escrow agent, title agent,
3 title insurer or escrow officer on behalf of the investor.

4 2. For the purposes of this section, a person shall be deemed to
5 hold a controlling interest or position if the person:

6 (a) Owns or controls a majority of the voting stock or holds any
7 other controlling interest, directly or indirectly, that gives the person
8 the power to direct management or determine policy; or

9 (b) Is a partner, officer, director or trustee.

10 3. As used in this section, "licensee" means:

11 (a) A person who is licensed as a mortgage ~~broker~~ *loan*
12 *originator* or mortgage agent pursuant to this chapter; and

13 (b) Any general partner, officer or director of such a person.

14 **Sec. 34.** NRS 645B.187 is hereby amended to read as follows:

15 645B.187 1. If a mortgage ~~broker~~ *loan originator* or
16 mortgage agent solicits or receives money from an investor, the
17 mortgage ~~broker~~ *loan originator* or mortgage agent shall not:

18 (a) In any advertisement; or

19 (b) Before, during or after solicitation or receipt of money from
20 the investor,

21 ➔ make, or cause or encourage to be made, any explicit or implicit
22 statement, representation or promise, oral or written, which a
23 reasonable person would construe as a guarantee that the investor
24 will be repaid the principal amount of money he or she invests or
25 will earn a specific rate of return or a specific rate of interest on the
26 principal amount of money he or she invests.

27 2. If a mortgage ~~broker~~ *loan originator* offers to pay or pays
28 premium interest on money that the mortgage ~~broker~~ *loan*
29 *originator* receives from a person to acquire ownership of or a
30 beneficial interest in a loan secured by a lien on real property or in
31 full or partial payment of such a loan:

32 (a) The premium interest must be paid from the assets or income
33 of the mortgage ~~broker~~ *loan originator*; and

34 (b) The mortgage ~~broker~~ *loan originator* or a mortgage agent
35 shall not:

36 (1) In any advertisement; or

37 (2) Before, during or after receipt of money from such a
38 person,

39 ➔ make, or cause or encourage to be made, any explicit or implicit
40 statement, representation or promise, oral or written, which a
41 reasonable person would construe as a guarantee that the mortgage
42 ~~broker~~ *loan originator* will pay the premium interest.

43 3. A person who violates any provision of this section is guilty
44 of a misdemeanor and shall be punished as provided in
45 NRS 645B.950.



4. As used in this section, "premium interest" means that amount of interest a mortgage ~~broker~~ *loan originator* pays to a person which exceeds the amount which is being obtained from the insured depository financial institution.

Sec. 35. NRS 645B.189 is hereby amended to read as follows:

645B.189 1. If, in carrying on his or her business, a mortgage ~~broker~~ *loan originator* uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage ~~broker~~ *loan originator* shall include in each such advertisement a statement of disclosure in substantially the following form:

Money invested through a mortgage ~~broker~~ *loan originator* is not guaranteed to earn any interest or return and is not insured.

2. A mortgage ~~broker~~ *loan originator* shall include in each advertisement that the mortgage ~~broker~~ *loan originator* uses in carrying on his or her business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage ~~broker~~ *loan originator* who has received an initial license within the past 12 months shall submit any proposed advertisement that the mortgage ~~broker~~ *loan originator* intends to use in carrying on his or her business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage ~~broker~~ *loan originator* uses in carrying on his or her business must comply with the requirements of:

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

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

5. If a mortgage ~~broker~~ *loan originator* violates any provision of NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage ~~broker~~ *loan originator* for the violation, the Commissioner may take any disciplinary action set forth in paragraph (b) of subsection 1 of NRS 645B.670 against the mortgage ~~broker~~ *loan originator*.



6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 36. NRS 645B.196 is hereby amended to read as follows:

645B.196 1. An advertising spokesperson for a mortgage ~~broker~~ *loan originator* is jointly and severally liable with the mortgage ~~broker~~ *loan originator* for damages caused by the mortgage ~~broker~~ *loan originator* by fraud, embezzlement, misappropriation of property, a violation of the provisions of this chapter or the regulations adopted pursuant thereto, or an action of the mortgage ~~broker~~ *loan originator* that is grounds for disciplinary action, if:

(a) The advertising spokesperson knew or should have known of the fraud, embezzlement, misappropriation of property, violation of the provisions of this chapter or the regulations adopted pursuant thereto, or action of the mortgage ~~broker~~ *loan originator* that is grounds for disciplinary action; or

(b) In advertising for the mortgage ~~broker~~ *loan originator*, the advertising spokesperson knew or should have known that:

(1) The conduct of the advertising spokesperson was likely to deceive, defraud or harm the public or any person who engaged in business with the mortgage ~~broker~~ *loan originator*; or

(2) The advertising spokesperson was disseminating material information concerning the mortgage ~~broker~~ *loan originator* or the business, products or services of the mortgage ~~broker~~ *loan originator* which was false or misleading.

2. As used in this section:

(a) "Advertising for a mortgage ~~broker~~ *loan originator*" means advertising or otherwise promoting a mortgage ~~broker~~ *loan originator* or the business, products or services of the mortgage ~~broker~~ *loan originator* using any medium of communication.

(b) "Advertising spokesperson for a mortgage ~~broker~~ *loan originator*" or "advertising spokesperson" means a person who consents to and receives compensation for using his or her name or likeness in advertising for a mortgage ~~broker~~ *loan originator*.

Sec. 37. NRS 645B.240 is hereby amended to read as follows:

645B.240 1. If a person is required to make a payment to a mortgage ~~broker~~ *loan originator* pursuant to the terms of a loan secured by a lien on real property, the mortgage ~~broker~~ *loan originator* may not charge the person a late fee, an additional amount of interest or any other penalty in connection with that payment if the payment is delivered to the mortgage ~~broker~~ *loan originator* before 5 p.m. on:

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



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

2. A person and a mortgage ~~broker~~ loan originator or mortgage agent may not agree to alter or waive the provisions of this section by contract or other agreement, and any such contract or agreement is void and must not be given effect to the extent that it violates the provisions of this section.

Sec. 38. NRS 645B.250 is hereby amended to read as follows:

645B.250 Except pursuant to a contract for the collection or servicing of a loan which is governed by the requirements established by the Government National Mortgage Association, Federal Home Loan Mortgage Corporation or Federal National Mortgage Association, a mortgage ~~broker~~ loan originator or mortgage agent shall not advance payments to an investor on behalf of a person who has obtained a loan secured by a lien on real property and who has defaulted in his or her payments.

Sec. 39. NRS 645B.260 is hereby amended to read as follows:

645B.260 1. If a mortgage ~~broker~~ loan originator maintains any accounts described in subsection 4 of NRS 645B.175 in which the mortgage ~~broker~~ loan originator 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~~ loan originator shall:

(a) Include in the report that the mortgage ~~broker~~ loan originator submits to the Commissioner pursuant to subsection 2 of NRS 645B.080 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~~ loan originator must include in his or her report to the Commissioner and in the notice mailed to investors pursuant to



1 subsection 1. Such regulations may provide for variations between
2 the information that a mortgage ~~broker~~ *loan originator* must
3 include in his or her report to the Commissioner and the information
4 that a mortgage ~~broker~~ *loan originator* must include in the notice
5 mailed to investors.

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

8 **Sec. 40.** NRS 645B.300 is hereby amended to read as follows:

9 645B.300 1. Except as otherwise provided in subsection 4, a
10 mortgage ~~broker~~ *loan originator* or mortgage agent shall not
11 accept money from an investor to acquire ownership of or a
12 beneficial interest in a loan secured by a lien on real property, unless
13 the mortgage ~~broker~~ *loan originator* has obtained a written
14 appraisal of the real property securing the loan.

15 2. The written appraisal of the real property:

16 (a) Must be completed not more than 6 months before the
17 mortgage ~~broker's~~ *loan originator's* first solicitation for the loan;

18 (b) Must meet the standards set forth in the Uniform Standards
19 of Professional Appraisal Practice as adopted by the Appraisal
20 Standards Board of The Appraisal Foundation;

21 (c) Must be performed by an appraiser who is authorized to
22 perform appraisals in this State or in the state where the real
23 property securing the loan is located; and

24 (d) Must not be performed by the mortgage ~~broker~~ *loan*
25 *originator* or a mortgage agent, unless the mortgage ~~broker~~ *loan*
26 *originator* or mortgage agent is certified or licensed to perform such
27 an appraisal pursuant to chapter 645C of NRS.

28 3. A copy of the written appraisal of the real property must be:

29 (a) Maintained at each office of the mortgage ~~broker~~ *loan*
30 *originator* where money is accepted from an investor to acquire
31 ownership of or a beneficial interest in a loan secured by a lien on
32 the real property; and

33 (b) Made available during normal business hours for inspection
34 by each such investor and the Commissioner.

35 4. A mortgage ~~broker~~ *loan originator* is not required to
36 obtain a written appraisal of the real property pursuant to this
37 section if the mortgage ~~broker~~ *loan originator* obtains a written
38 waiver of the appraisal from each investor who acquires ownership
39 of or a beneficial interest in a loan secured by a lien on the real
40 property. A mortgage ~~broker~~ *loan originator* or mortgage agent
41 shall not act as the attorney-in-fact or the agent of an investor with
42 respect to the giving of a written waiver pursuant to this subsection.

43 5. If the mortgage ~~broker~~ *loan originator* obtains a written
44 waiver of the appraisal as provided in subsection 4, the mortgage
45 ~~broker~~ *loan originator* shall provide to each investor before



1 accepting any money from the investor a separate written disclosure
2 which contains the information analyzed, the valuation methods and
3 techniques employed and the reasoning for any opinion regarding
4 value provided by or on behalf of the mortgage ~~broker~~ *loan*
5 *originator*.

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

8 **Sec. 41.** NRS 645B.305 is hereby amended to read as follows:

9 645B.305 A mortgage ~~broker~~ *loan originator* shall ensure
10 that each loan secured by a lien on real property for which he or she
11 engages in activity as a mortgage ~~broker~~ *loan originator* includes
12 a disclosure:

13 1. Describing, in a specific dollar amount, all fees earned by
14 the mortgage ~~broker~~ *loan originator*;

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

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

20 **Sec. 42.** NRS 645B.307 is hereby amended to read as follows:

21 645B.307 A mortgage ~~broker~~ *loan originator* shall ensure
22 that each loan secured by a lien on real property for which he or she
23 engages in activity as a mortgage ~~broker~~ *loan originator* includes:

24 1. If the mortgage ~~broker~~ *loan originator* is not registered
25 with the Registry, the license number of the mortgage ~~broker~~ *loan*
26 *originator*; or

27 2. Any identifying number issued by the Registry.

28 **Sec. 43.** NRS 645B.310 is hereby amended to read as follows:

29 645B.310 A mortgage ~~broker~~ *loan originator* shall not assign
30 all or a part of his or her interest in a loan secured by a lien on real
31 property, unless the mortgage ~~broker~~ *loan originator*:

32 1. Obtains a policy of title insurance for the real property;

33 2. Obtains the approval of the assignment from each investor
34 who has acquired ownership of or a beneficial interest in the loan if,
35 at the time of the assignment, the debtor on the loan has defaulted in
36 making a payment required for the loan or any portion of the loan;
37 and

38 3. Records the assignment in the office of the county recorder
39 of the county in which the real property is located.

40 **Sec. 44.** NRS 645B.320 is hereby amended to read as follows:

41 645B.320 If money from an investor is released to a debtor or
42 the debtor's designee pursuant to subsection 2 of NRS 645B.175
43 upon completion of a loan secured by a lien on real property, the
44 mortgage ~~broker~~ *loan originator* that arranged the loan shall, not
45 later than 3 business days after the date on which the mortgage



1 ~~broker~~ *loan originator* receives a copy of the recorded deed of
2 trust, mail to the last known address of each investor who owns a
3 beneficial interest in the loan a copy of the recorded deed of trust.

4 **Sec. 45.** NRS 645B.330 is hereby amended to read as follows:

5 645B.330 1. A mortgage ~~broker~~ *loan originator* or
6 mortgage agent shall not engage in any act or transaction on behalf
7 of a private investor pursuant to a power of attorney unless:

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

11 (b) The provisions of the power of attorney:

12 (1) Have been approved by the Commissioner;

13 (2) Expressly prohibit the mortgage ~~broker~~ *loan originator*
14 and his or her mortgage agents from engaging in any act or
15 transaction that subordinates the priority of a recorded deed of trust
16 unless, before such an act or transaction, the mortgage ~~broker~~ *loan*
17 *originator* obtains written approval for the subordination from the
18 private investor;

19 (3) Expressly prohibit the mortgage ~~broker~~ *loan originator*
20 and his or her mortgage agents from using or releasing any money
21 in which the private investor owns a beneficial interest with regard
22 to the specific loan for a purpose that is not directly related to
23 providing services for the loan unless, before any such money is
24 used or released for another purpose, the mortgage ~~broker~~ *loan*
25 *originator* obtains written approval from the private investor to use
26 or release the money for the other purpose; and

27 (4) Expressly provide that the power of attorney is effective
28 only for the term of the specific loan unless the mortgage ~~broker~~ *loan*
29 *originator* obtains written approval from the private investor to
30 extend the term of the power of attorney to provide services for not
31 more than one other loan and the written approval:

32 (I) Identifies the loan for which the power of attorney was
33 executed; and

34 (II) Identifies the loan for which the written approval is
35 being given.

36 2. A mortgage ~~broker~~ *loan originator* or mortgage agent shall
37 not act as the attorney-in-fact or the agent of a private investor with
38 respect to the giving of written approval pursuant to paragraph (b) of
39 subsection 1. A private investor and a mortgage ~~broker~~ *loan*
40 *originator* or mortgage agent may not agree to alter or waive the
41 provisions of this section by contract or other agreement. Any such
42 contract or agreement is void and must not be given effect to the
43 extent that it violates the provisions of this section.

44 3. Except as otherwise provided in subsection 4, a power of
45 attorney which designates a mortgage ~~broker~~ *loan originator* or



1 mortgage agent as the attorney-in-fact or the agent of a private
2 investor and which violates the provisions of this section is void and
3 must not be given effect with regard to any act or transaction that
4 occurs on or after October 1, 1999, whether or not the power of
5 attorney is or has been executed by the private investor before, on or
6 after October 1, 1999.

7 4. The provisions of subsection 3 do not apply to a power of
8 attorney that designates a mortgage ~~broker~~ *loan originator* or
9 mortgage agent as the attorney-in-fact or the agent of a private
10 investor if the power of attorney:

11 (a) Was executed before July 1, 2001; and

12 (b) Complied with the provisions of this section that were in
13 effect on October 1, 1999.

14 5. The provisions of this section do not limit the right of a
15 private investor to include provisions in a power of attorney that are
16 more restrictive than the provisions set forth in subsection 1.

17 **Sec. 46.** NRS 645B.340 is hereby amended to read as follows:

18 645B.340 1. Except as otherwise provided by law or by
19 agreement between the parties and regardless of the date the
20 interests were created, if the beneficial interest in a loan or the
21 ownership interest in the real property previously securing the loan
22 belongs to more than one person, the holders of the beneficial
23 interest in a loan whose interests represent 51 percent or more of the
24 outstanding principal balance of the loan or the holders of 51
25 percent or more of the ownership interest in the real property, as
26 indicated on a trustee's deed upon sale recorded pursuant to
27 subsection 10 of NRS 107.080, a deed recorded pursuant to
28 subsection 5 of NRS 40.430 or a deed in lieu of foreclosure, and any
29 subsequent deed selling, transferring or assigning an ownership
30 interest, may act on behalf of all the holders of the beneficial
31 interests or ownership interests of record on matters which require
32 the action of the holders of the beneficial interests in the loan or the
33 ownership interests in the real property, including, without
34 limitation:

35 (a) The designation of a mortgage ~~broker~~ *loan originator* or
36 mortgage agent, servicing agent or any other person to act on behalf
37 of all the holders of the beneficial interests or ownership interests of
38 record;

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

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

44 (d) The release of any obligation under a loan in return for an
45 interest in equity in the real property or, if the loan was made to a



1 person other than a natural person, an interest in equity of that
2 entity; and

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

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

17 (a) The actions that will be taken on behalf of the holders who
18 consent to an action pursuant to this section, if the holders of the
19 beneficial interest in a loan whose interests represent 51 percent or
20 more of the outstanding principal balance of the loan or the holders
21 of 51 percent or more of the ownership interest in the real property
22 act pursuant to subsection 1;

23 (b) The actions that will be taken on behalf of the holders who
24 do not consent to an action pursuant to this section, if the holders of
25 the beneficial interest in a loan whose interests represent 51 percent
26 or more of the outstanding principal balance of the loan or the
27 holders of 51 percent or more of the ownership interest in the real
28 property act pursuant to subsection 1; and

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

33 3. If real property is sold, transferred, encumbered or leased
34 pursuant to paragraph (c) of subsection 1, any beneficial interest in
35 the loan or ownership interest in the real property of a holder who
36 does not consent to the sale, transfer, encumbrance or lease,
37 including, without limitation, any interest of a tenant in common
38 who does not consent to the sale, transfer, encumbrance or lease,
39 must be sold, transferred, encumbered or leased by a reference to
40 this section and by the signatures on the necessary documents of the
41 holders consenting to the sale, transfer, encumbrance or lease of the
42 real property. The holders consenting to the sale, transfer,
43 encumbrance or lease of the real property shall designate a
44 representative to sign any necessary documents on behalf of the
45 holders who do not consent to the sale, transfer, encumbrance or



1 lease and, if the representative maintains written evidence of the
2 consent of the number of holders described in subsection 1, the
3 representative is not liable for any action taken pursuant to this
4 subsection.

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

7 5. The provisions of this section do not apply to a transaction
8 involving two investors with equal interests.

9 **Sec. 47.** NRS 645B.350 is hereby amended to read as follows:

10 645B.350 A mortgage ~~broker~~ *loan originator* shall not accept
11 money from an investor to acquire ownership of or a beneficial
12 interest in a loan which has more than one investor at the time of
13 origination unless the mortgage ~~broker~~ *loan originator* provides to
14 each investor a form which allows the investor to choose one of the
15 following options:

16 1. That, upon receipt of a written request submitted by another
17 investor who owns or has a beneficial interest in the loan, the
18 mortgage ~~broker~~ *loan originator* may provide to that other
19 investor the name, address, telephone number and electronic mail
20 address of the investor;

21 2. That, upon receipt of a written request submitted by another
22 investor who owns or has a beneficial interest in the loan, the
23 mortgage ~~broker~~ *loan originator* may provide to that other
24 investor the name, address, telephone number and electronic mail
25 address of the investor only if the loan is in default; or

26 3. That the address, telephone number and electronic mail
27 address of the investor must remain confidential and that the
28 mortgage ~~broker~~ *loan originator* may not provide that information
29 to any other investor unless the investor provides the mortgage
30 ~~broker~~ *loan originator* with subsequent written permission to
31 provide such information to other investors.

32 **Sec. 48.** NRS 645B.351 is hereby amended to read as follows:

33 645B.351 1. A mortgage ~~broker~~ *loan originator* who
34 makes or arranges a loan shall not include in any loan document a
35 provision which requires a private investor to participate in binding
36 arbitration of disputes relating to the loan.

37 2. The provisions of this section may not be varied by
38 agreement, and the rights conferred by this section may not be
39 waived. Any provision included in a loan document agreement that
40 conflicts with this section is void.

41 **Sec. 49.** NRS 645B.352 is hereby amended to read as follows:

42 645B.352 1. Before servicing a loan in which a private
43 investor has acquired a beneficial interest, a mortgage ~~broker~~ *loan*
44 *originator* must enter into a written servicing agreement with each
45 investor which describes specifically the services which the



1 mortgage ~~broker~~ *loan originator* will provide and the
2 compensation the mortgage ~~broker~~ *loan originator* will receive for
3 those services. The compensation of the mortgage ~~broker~~ *loan*
4 *originator* must include an amount reasonably necessary to pay the
5 cost of servicing the loan.

6 2. A mortgage ~~broker~~ *loan originator* shall include in each
7 servicing agreement provisions which:

8 (a) Require the mortgage ~~broker~~ *loan originator* to:

9 (1) Deposit in a trust account all money paid to the mortgage
10 ~~broker~~ *loan originator* in full or partial payment of a loan, unless a
11 provision of law authorizes the mortgage ~~broker~~ *loan originator* to
12 deposit such money in a different manner;

13 (2) Release to the investors, pursuant to paragraph (a) of
14 subsection 5 of NRS 645B.175, within 15 days after receipt of all
15 money paid to the mortgage ~~broker~~ *loan originator* in full or
16 partial payment of a loan;

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

21 (4) Provide to each investor prompt written notice of:

22 (I) Any lis pendens, mechanic's lien or other lien
23 recorded against the real property securing the loan after the
24 origination of the loan if the mortgage ~~broker~~ *loan originator* has
25 become aware that such an instrument has been recorded; and

26 (II) Any delinquent taxes or insurance premiums;

27 (5) Upon receiving a written request from an investor for a
28 tally of any vote of the investors, provide to the investor a statement
29 of the number of investors voting in favor of an action and the
30 number of investors voting against the action and the percentage of
31 beneficial interest represented by each such vote; and

32 (6) Respond within a reasonable time under the
33 circumstances to the request of the borrower or investor to correct
34 any errors relating to the loan.

35 (b) Prohibit the mortgage ~~broker~~ *loan originator* from:

36 (1) Commingling with the assets of the mortgage ~~broker~~
37 *loan originator* any money paid to the mortgage ~~broker~~ *loan*
38 *originator* in full or partial payment of a loan, unless a provision of
39 law authorizes such commingling;

40 (2) Using money paid to the mortgage ~~broker~~ *loan*
41 *originator* in full or partial payment of a loan for any transaction
42 other than the servicing transaction for which the money was paid,
43 unless a provision of law authorizes such use; or

44 (3) Requiring an investor to participate in binding arbitration
45 of disputes relating to the loan.



(c) Allow the majority of investors or the mortgage ~~broker~~ *loan originator* to transfer the servicing agreement to another entity authorized to service loans or terminate the servicing agreement for any reason, upon providing written notice at least 30 days before the effective date of the transfer or termination.

Sec. 50. NRS 645B.353 is hereby amended to read as follows:

645B.353 Except as otherwise permitted by law, a mortgage ~~broker~~ *loan originator* shall not release a borrower or guarantor from personal liability for a loan unless a majority of the investors approve such a release.

Sec. 51. NRS 645B.354 is hereby amended to read as follows:

645B.354 1. If an investor owes money to the mortgage ~~broker~~ *loan originator* who is servicing a loan or to other investors, the mortgage ~~broker~~ *loan originator* shall not withhold money due the investor in order to offset the money owed to the mortgage ~~broker~~ *loan originator* or to another investor, unless:

(a) The mortgage ~~broker~~ *loan originator* obtains the written consent of the investor who owes the money; or

(b) A court order requires the mortgage ~~broker~~ *loan originator* to withhold the money.

2. A mortgage ~~broker~~ *loan originator* may include in a loan servicing agreement a provision which provides written consent to withhold money due an investor in order to offset money owed by the investor to the mortgage ~~broker~~ *loan originator* or other investors.

Sec. 52. NRS 645B.355 is hereby amended to read as follows:

645B.355 A mortgage ~~broker~~ *loan originator* shall not act as a construction control with respect to money belonging to a borrower or investor. If a borrower or investor wishes to utilize a construction control for money belonging to the borrower or investor, a mortgage ~~broker~~ *loan originator* must place the money with a person who is independent of the mortgage ~~broker~~ *loan originator* and is licensed or authorized to accept such money. The money must be subject to the control of a construction control which is in compliance with, or exempt from, the provisions of NRS 627.180 or 627.183.

Sec. 53. NRS 645B.356 is hereby amended to read as follows:

645B.356 1. A mortgage ~~broker~~ *loan originator* shall not place or arrange to place a private investor into a limited-liability company, business trust or other entity before or after foreclosure of the real property securing the loan, or receipt of a deed in lieu of foreclosure in full satisfaction of a loan secured by the real property, unless the mortgage ~~broker~~ *loan originator*:

(a) Provides a copy of the organizational documents of the limited-liability company, business trust or other entity to each



1 investor not later than 5 days before the transfer of the interest in the
2 loan or the interest in the real property;

3 (b) Obtains the written authorization of a sufficient number of
4 the investors to act on behalf of all the investors pursuant to NRS
5 645B.340; and

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

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

25 3. The documents provided to each investor pursuant to
26 paragraph (a) of subsection 1 must clearly and concisely state any
27 fees which will be paid to the mortgage ~~broker~~ *loan originator* by
28 the limited-liability company, business trust or other entity, and the
29 sections of the documents that state fees must be initialed by the
30 investor and any representative designated pursuant to subsection 2.

31 4. A mortgage ~~broker~~ *loan originator* or mortgage agent shall
32 not act as the attorney-in-fact or the agent of a private investor for
33 the signing or dating of the written authorization.

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

36 **Sec. 54.** NRS 645B.357 is hereby amended to read as follows:
37 645B.357 1. A mortgage ~~broker~~ *loan originator* shall not
38 assess or collect any fee which is not:

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

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

43 2. A mortgage ~~broker~~ *loan originator* shall apply all fees
44 collected in the manner set forth in the loan documents or loan
45 servicing agreement.



1 **Sec. 55.** NRS 645B.400 is hereby amended to read as follows:

2 645B.400 A person shall not act as or provide any of the
3 services of a mortgage agent or otherwise engage in, carry on or
4 hold himself or herself out as engaging in or carrying on the
5 activities of a mortgage agent unless the person:

6 1. Has a license as a mortgage agent issued pursuant to
7 NRS 645B.410.

8 2. Is:

9 (a) If the person is not a loan processor who is an independent
10 contractor, an employee of a mortgage ~~broker or mortgage banker;~~
11 *loan originator*; or

12 (b) An employee of or associated with a person who holds a
13 certificate of exemption pursuant to NRS 645B.016.

14 3. If the person is required to register with the Registry:

15 (a) Is an employee of and whose sponsorship has been entered
16 with the Registry by a mortgage ~~broker, mortgage banker;~~ *loan*
17 *originator* or person who holds a certificate of exemption pursuant
18 to NRS 645B.016 as required by subsection 2 of NRS 645B.450;
19 and

20 (b) Is registered with and provides any identifying number
21 issued by the Registry.

22 **Sec. 56.** NRS 645B.405 is hereby amended to read as follows:

23 645B.405 A mortgage ~~broker;~~ *loan originator* or qualified
24 employee who wishes to engage in activities as a residential
25 mortgage loan originator or to supervise a mortgage agent who
26 engages in activities as a residential mortgage loan originator must
27 obtain and maintain a license as a mortgage agent pursuant to the
28 provisions of NRS 645B.400 to 645B.460, inclusive.

29 **Sec. 57.** NRS 645B.410 is hereby amended to read as follows:

30 645B.410 1. To obtain a license as a mortgage agent, a
31 person must:

32 (a) Be a natural person;

33 (b) File a written application for a license as a mortgage agent
34 with the Office of the Commissioner;

35 (c) Comply with the applicable requirements of this chapter;

36 (d) Pay an application fee set by the Commissioner of not more
37 than \$185; and

38 (e) Be:

39 (1) Employed by, or have received an offer of employment
40 from, a mortgage ~~broker;~~

41 ~~—(2) Employed by, or have received an offer of employment~~
42 ~~from, a mortgage banker;~~

43 ~~—(3) *loan originator*;~~



(2) Associated with or employed by, or have received an offer of a contract with or an offer of employment from, a person who holds a certificate of exemption pursuant to NRS 645B.016; or

~~[(4)]~~ (3) A loan processor who is not an employee and who is associated with, or has received an offer of a contract with, a mortgage ~~broker, mortgage banker~~ *loan originator* or person who holds a certificate of exemption pursuant to NRS 645B.016.

2. An application for a license as a mortgage agent must:

(a) State the name and residence address of the applicant;

(b) Include a provision by which the applicant gives written consent to the Division and, if applicable, the Registry for an investigation of his or her credit history, criminal history and background;

(c) Unless fingerprints were submitted to the Registry, include a complete set of fingerprints which the Division may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(d) Include a verified statement from the mortgage ~~broker, mortgage banker~~ *loan originator* or person who holds a certificate of exemption pursuant to NRS 645B.016 with whom the applicant will be associated or employed that expresses the intent of that mortgage ~~broker, mortgage banker~~ *loan originator* or exempt person to employ or associate the applicant with the mortgage ~~broker, mortgage banker~~ *loan originator* or exempt person and to be responsible for the activities of the applicant as a mortgage agent; and

(e) Include any other information or supporting materials required pursuant to the regulations adopted by the Commissioner, by an order of the Commissioner or, if applicable, by the Registry. Such information or supporting materials may include, without limitation, other forms of identification of the person.

3. Except as otherwise provided by law, the Commissioner shall issue a license as a mortgage agent to an applicant if:

(a) The application is verified by the Commissioner and complies with the applicable requirements of this chapter, other applicable law and, if applicable, the Registry; and

(b) The applicant:

(1) Has not been convicted of, or entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, money laundering or moral turpitude;

(2) Has never had a license or registration as a mortgage agent, mortgage banker, mortgage broker , *mortgage loan*



1 **originator** or residential mortgage loan originator revoked in this
2 State or any other jurisdiction, or had a financial services license
3 revoked within the immediately preceding 10 years;

4 (3) Has not made a false statement of material fact on his or
5 her application;

6 (4) Has not violated any provision of this chapter , ~~for~~
7 ~~chapter 645E of NRS,~~ a regulation adopted pursuant thereto or an
8 order of the Commissioner; and

9 (5) Has demonstrated financial responsibility, character and
10 general fitness so as to command the confidence of the community
11 and warrant a determination that the applicant will operate honestly,
12 fairly and efficiently for the purposes of this chapter.

13 4. Money received by the Commissioner pursuant to this
14 section is in addition to any fee required to be paid to the Registry
15 and must be deposited in the Account for Mortgage Lending created
16 by NRS 645F.270.

17 5. The Commissioner may require the submission of an item or
18 the payment of a fee required by this section directly to the
19 Commissioner or, if the person submitting the item or fee is required
20 to register or voluntarily registers with the Registry, to the
21 Commissioner through the Registry.

22 **Sec. 58.** NRS 645B.430 is hereby amended to read as follows:

23 645B.430 1. A license as a mortgage agent issued pursuant to
24 NRS 645B.410 expires each year on December 31, unless it is
25 renewed. To renew a license as a mortgage agent, the holder of the
26 license must continue to meet the requirements of subsection 3 of
27 NRS 645B.410 and must submit to the Commissioner on or after
28 November 1 and on or before December 31 of each year, or on a
29 date otherwise specified by the Commissioner by regulation:

30 (a) An application for renewal;

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

36 (c) A renewal fee set by the Commissioner of not more than
37 \$170.

38 2. In lieu of the continuing education requirement set forth in
39 paragraph (b) of subsection 1, the holder of a license as a mortgage
40 agent who, pursuant to subsection 1 of NRS 645F.267, is not
41 required to register or renew with the Registry and who has not
42 voluntarily registered or renewed with the Registry must submit to
43 the Commissioner satisfactory proof that he or she attended at least
44 5 hours of certified courses of continuing education during the 12
45 months immediately preceding the date on which the license



1 expires. The hours of continuing education required by this
2 subsection must include ~~+~~

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

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

6 3. If the holder of the license as a mortgage agent fails to
7 submit any item required pursuant to subsection 1 or 2 to the
8 Commissioner on or after November 1 and on or before
9 December 31 of any year, unless a different date is specified by the
10 Commissioner by regulation, the license is cancelled as of
11 December 31 of that year. The Commissioner may reinstate a
12 cancelled license if the holder of the license submits to the
13 Commissioner on or before February 28 of the following year:

14 (a) An application for renewal;

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

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

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

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

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

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

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

36 **Sec. 59.** NRS 645B.450 is hereby amended to read as follows:

37 645B.450 1. A person licensed as a mortgage agent pursuant
38 to the provisions of NRS 645B.410 may not be associated with or
39 employed by more than one licensed or registered mortgage ~~broker~~
40 ~~or mortgage banker~~ **loan originator** or person who holds a
41 certificate of exemption pursuant to NRS 645B.016 at the same
42 time.

43 2. A mortgage ~~broker, mortgage banker~~ **loan originator** or
44 person who holds a certificate of exemption pursuant to NRS
45 645B.016 shall not associate with or employ a person as a mortgage



1 agent or authorize a person to be associated with the mortgage
2 ~~broker, mortgage banker~~ *loan originator* or exempt person who
3 holds a certificate of exemption pursuant to NRS 645B.016 as a
4 mortgage agent if the mortgage agent is not licensed with the
5 Division pursuant to NRS 645B.410. Before allowing a mortgage
6 agent to act on its behalf, a mortgage ~~broker, mortgage banker~~
7 *loan originator* or person who holds a certificate of exemption
8 pursuant to NRS 645B.016, must:

9 (a) Enter its sponsorship of the mortgage agent with the
10 Registry; or

11 (b) If the mortgage agent is not required to be registered with the
12 Registry, notify the Division of its sponsorship of the mortgage
13 agent.

14 3. If a mortgage agent terminates his or her association or
15 employment with a mortgage ~~broker, mortgage banker~~ *loan*
16 *originator* or exempt person who holds a certificate of exemption
17 pursuant to NRS 645B.016 for any reason, the mortgage ~~broker,~~
18 ~~mortgage banker~~ *loan originator* or person who holds a certificate
19 of exemption pursuant to NRS 645B.016 shall, not later than the
20 third business day following the date of termination:

21 (a) Remove its sponsorship of the mortgage agent from the
22 Registry; or

23 (b) If the mortgage agent is not required to be registered with the
24 Registry, deliver to the Division and to the mortgage agent at the
25 last known residence address of the mortgage agent a written
26 statement which includes the name, address and license number of
27 the mortgage agent and a statement of the circumstances of the
28 termination.

29 **Sec. 60.** NRS 645B.460 is hereby amended to read as follows:

30 645B.460 1. A mortgage ~~broker~~ *loan originator* shall
31 exercise reasonable supervision and control over the activities of his
32 or her mortgage agents and must also be licensed as a mortgage
33 agent if required pursuant to NRS 645B.405. Such reasonable
34 supervision and control must include, as appropriate:

35 (a) The establishment of written policies and procedures for the
36 mortgage agents;

37 (b) The establishment of a system to review, oversee and inspect
38 the activities of the mortgage agents, including, without limitation:

39 (1) Transactions handled by the mortgage agents pursuant to
40 this chapter;

41 (2) Communications between the mortgage agents and a
42 party to such a transaction;

43 (3) Documents prepared by the mortgage agents that may
44 have a material effect upon the rights or obligations of a party to
45 such a transaction; and



(4) The handling by the mortgage agents of any fee, deposit or money paid to the mortgage ~~broker~~ *loan originator* or the mortgage agents or held in trust by the mortgage ~~broker~~ *loan originator* or the mortgage agents pursuant to this chapter; and

(c) The establishment of a system of reporting to the Division of any fraudulent activity engaged in by any of the mortgage agents.

2. The Commissioner shall allow a mortgage ~~broker~~ *loan originator* to take into consideration the total number of mortgage agents associated with or employed by the mortgage ~~broker~~ *loan originator* when the mortgage ~~broker~~ *loan originator* determines the form and extent of the policies and procedures for those mortgage agents and the system to review, oversee and inspect the activities of those mortgage agents.

3. The Commissioner may adopt regulations prescribing standards for determining whether a mortgage ~~broker~~ *loan originator* has exercised reasonable supervision and control over the activities of a mortgage agent pursuant to this section.

Sec. 61. NRS 645B.490 is hereby amended to read as follows:

645B.490 Except as otherwise required by the Registry for persons who are required to register or voluntarily register with the Registry:

1. Any mortgage ~~broker~~ *loan originator* or mortgage agent licensed under the provisions of this chapter who is called into the military service of the United States shall, at his or her request, be relieved from compliance with the provisions of this chapter and placed on inactive status for the period of such military service and for a period of 6 months after discharge therefrom.

2. At any time within 6 months after termination of such service, if the mortgage ~~broker~~ *loan originator* or mortgage agent complies with the provisions of subsection 1, the mortgage ~~broker~~ *loan originator* or mortgage agent may be reinstated, without having to meet any qualification or requirement other than the payment of the reinstatement fee, as provided in NRS 645B.050 or 645B.430, and the mortgage ~~broker~~ *loan originator* or mortgage agent is not required to make payment of the renewal fee for the current year.

3. Any mortgage ~~broker~~ *loan originator* or mortgage agent seeking to qualify for reinstatement, as provided in subsections 1 and 2, must present a certified copy of his or her honorable discharge or certificate of satisfactory service to the Commissioner.

Sec. 62. NRS 645B.620 is hereby amended to read as follows:

645B.620 1. Whether or not a complaint has been filed, the Commissioner shall investigate a mortgage ~~broker~~ *loan originator*, mortgage agent or other person if, for any reason, it appears that:



(a) The mortgage ~~broker~~ *loan originator* or mortgage agent is conducting business in an unsafe and injurious manner or in violation of any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(b) The person is offering or providing any of the services of a mortgage ~~broker~~ *loan originator* or mortgage agent or otherwise engaging in, carrying on or holding himself or herself out as engaging in or carrying on the business of a mortgage ~~broker~~ *loan originator* or mortgage agent without being appropriately licensed or exempt from licensing pursuant to the provisions of this chapter; or

(c) The person is violating any other provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

2. If, upon investigation, the Commissioner has reasonable cause to believe that the mortgage ~~broker~~ *loan originator*, mortgage agent or other person has engaged in any conduct or committed any violation described in subsection 1:

(a) The Commissioner shall notify the Attorney General of the conduct or violation and, if applicable, the Commissioner shall immediately take possession of the property of the mortgage ~~broker~~ *loan originator* pursuant to NRS 645B.630; and

(b) The Attorney General shall, if appropriate:

(1) Investigate and prosecute the mortgage ~~broker~~ *loan originator*, mortgage agent or other person pursuant to NRS 645B.800; and

(2) Bring a civil action to:

(I) Enjoin the mortgage ~~broker~~ *loan originator*, mortgage agent or other person from engaging in the conduct, operating the business or committing the violation; and

(II) Enjoin any other person who has encouraged, facilitated, aided or participated in the conduct, the operation of the business or the commission of the violation, or who is likely to engage in such acts, from engaging in or continuing to engage in such acts.

3. If the Attorney General brings a civil action pursuant to subsection 2, the district court of any county of this State is hereby vested with the jurisdiction in equity to enjoin the conduct, the operation of the business or the commission of the violation and may grant any injunctions that are necessary to prevent and restrain the conduct, the operation of the business or the commission of the violation. During the pendency of the proceedings before the district court:

(a) The court may issue any temporary restraining orders as may appear to be just and proper;



(b) The findings of the Commissioner shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the ex parte issuance of a temporary restraining order; and

(c) The Attorney General may apply for and on due showing is entitled to have issued the court's subpoena requiring forthwith the appearance of any person to:

(1) Produce any documents, books and records as may appear necessary for the hearing of the petition; and

(2) Testify and give evidence concerning the conduct complained of in the petition.

Sec. 63. NRS 645B.630 is hereby amended to read as follows:

645B.630 1. In addition to any other action that is required or permitted pursuant to this chapter, if the Commissioner has reasonable cause to believe that:

(a) The assets or capital of a mortgage ~~broker~~ *loan originator* are impaired; or

(b) A mortgage ~~broker~~ *loan originator* is conducting business in an unsafe and injurious manner that may result in danger to the public,

the Commissioner shall immediately take possession of all the property, business and assets of the mortgage ~~broker~~ *loan originator* that are located in this State and shall retain possession of them pending further proceedings provided for in this chapter.

2. If the licensee, the board of directors or any officer or person in charge of the offices of the mortgage ~~broker~~ *loan originator* refuses to permit the Commissioner to take possession of the property of the mortgage ~~broker~~ *loan originator* pursuant to subsection 1:

(a) The Commissioner shall notify the Attorney General; and

(b) The Attorney General shall immediately bring such proceedings as may be necessary to place the Commissioner in immediate possession of the property of the mortgage ~~broker~~ *loan originator*.

3. If the Commissioner takes possession of the property of the mortgage ~~broker~~ *loan originator*, the Commissioner shall:

(a) Make or have made an inventory of the assets and known liabilities of the mortgage ~~broker~~ *loan originator*;

(b) File one copy of the inventory in the office of the Commissioner and one copy in the office of the clerk of the district court of the county in which the principal office of the mortgage ~~broker~~ *loan originator* is located and shall mail one copy to each stockholder, partner, officer, director or associate of the mortgage ~~broker~~ *loan originator* at his or her last known address; and

(c) If the mortgage ~~broker~~ *loan originator* maintains any accounts described in NRS 645B.175, not later than 5 business days



1 after the date on which the Commissioner takes possession of the
2 property of the mortgage ~~broker~~ *loan originator*, mail notice of
3 the possession to the last known address of each person whose
4 money is deposited in such an account or whose money was or
5 should have been deposited in such an account during the preceding
6 12 months.

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

10 **Sec. 64.** NRS 645B.640 is hereby amended to read as follows:

11 645B.640 1. If the Commissioner takes possession of the
12 property of a mortgage ~~broker~~ *loan originator* pursuant to NRS
13 645B.630, the licensee, officers, directors, partners, associates or
14 stockholders of the mortgage ~~broker~~ *loan originator* may, within
15 60 days after the date on which the Commissioner takes possession
16 of the property, make good any deficit in the assets or capital of the
17 mortgage ~~broker~~ *loan originator* or remedy any unsafe and
18 injurious conditions or practices of the mortgage ~~broker~~ *loan*
19 *originator*.

20 2. At the expiration of the 60-day period, if the deficiency in
21 assets or capital has not been made good or the unsafe and injurious
22 conditions or practices remedied, the Commissioner may apply to
23 the court to be appointed receiver and proceed to liquidate the assets
24 of the mortgage ~~broker~~ *loan originator* which are located in this
25 State in the same manner as now provided by law for liquidation of
26 a private corporation in receivership.

27 3. No other person may be appointed receiver by any court
28 without first giving the Commissioner ample notice of his or her
29 application.

30 4. The inventory made by the Commissioner and all claims
31 filed by creditors are open at all reasonable times for inspection, and
32 any action taken by the receiver upon any of the claims is subject to
33 the approval of the court before which the cause is pending.

34 5. The expenses of the receiver and compensation of counsel,
35 as well as all expenditures required in the liquidation proceedings,
36 must be fixed by the Commissioner subject to the approval of the
37 court and, upon certification of the Commissioner, must be paid out
38 of the money in his or her hands as the receiver.

39 **Sec. 65.** NRS 645B.670 is hereby amended to read as follows:

40 645B.670 1. Except as otherwise provided in NRS 645B.690:

41 (a) For each violation committed by an applicant for a license
42 issued pursuant to this chapter, whether or not the applicant is issued
43 a license, the Commissioner may impose upon the applicant an
44 administrative fine of not more than \$25,000 if the applicant:



(1) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(2) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by the applicant, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(3) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his or her application for a license or during the course of the investigation of his or her application for a license.

(b) For each violation committed by a mortgage ~~broker~~ *loan originator*, the Commissioner may impose upon the mortgage ~~broker~~ *loan originator* an administrative fine of not more than \$25,000, may suspend, revoke or place conditions upon the mortgage ~~broker's~~ *loan originator's* license, or may do both, if the mortgage ~~broker~~ *loan originator*, whether or not acting as such:

(1) Is insolvent;

(2) Is grossly negligent or incompetent in performing any act for which the mortgage ~~broker~~ *loan originator* is required to be licensed pursuant to the provisions of this chapter;

(3) Does not conduct his or her business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(4) Is in such financial condition that the mortgage ~~broker~~ *loan originator* cannot continue in business with safety to his or her customers;

(5) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(6) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage ~~broker~~ *loan originator* knew or, by the exercise of reasonable diligence, should have known;

(7) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage ~~broker~~ *loan originator* possesses and which, if submitted by the mortgage ~~broker~~ *loan originator*, would have rendered the mortgage ~~broker~~ *loan originator* ineligible to be licensed pursuant to the provisions of this chapter;

(8) Has failed to account to persons interested for all money received for a trust account;

(9) Has refused to permit an examination by the Commissioner of his or her books and affairs or has refused or failed, within a reasonable time, to furnish any information or make



1 any report that may be required by the Commissioner pursuant to
2 the provisions of this chapter or a regulation adopted pursuant to this
3 chapter;

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

10 (11) Has refused or failed to pay, within a reasonable time,
11 any fees, assessments, costs or expenses that the mortgage ~~broker~~
12 *loan originator* is required to pay pursuant to this chapter or a
13 regulation adopted pursuant to this chapter;

14 (12) Has failed to satisfy a claim made by a client which has
15 been reduced to judgment;

16 (13) Has failed to account for or to remit any money of a
17 client within a reasonable time after a request for an accounting or
18 remittal;

19 (14) Has commingled the money or other property of a client
20 with his or her own or has converted the money or property of
21 others to his or her own use;

22 (15) Has engaged in any other conduct constituting a
23 deceitful, fraudulent or dishonest business practice;

24 (16) Has repeatedly violated the policies and procedures of
25 the mortgage ~~broker~~ *loan originator*;

26 (17) Has failed to exercise reasonable supervision and
27 control over the activities of a mortgage agent as required by
28 NRS 645B.460;

29 (18) Has instructed a mortgage agent to commit an act that
30 would be cause for the revocation of the license of the mortgage
31 ~~broker~~ *loan originator*, whether or not the mortgage agent
32 commits the act;

33 (19) Has employed a person as a mortgage agent or
34 authorized a person to be associated with the mortgage ~~broker~~
35 *loan originator* as a mortgage agent at a time when the mortgage
36 ~~broker~~ *loan originator* knew or, in light of all the surrounding
37 facts and circumstances, reasonably should have known that the
38 person:

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



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

(20) Has violated NRS 645C.557;

(21) Has failed to pay a tax as required pursuant to the provisions of chapter 363A or 363C of NRS; or

(22) Has, directly or indirectly, paid any commission, fees, points or any other compensation as remuneration for the services of a mortgage agent to a person other than a mortgage agent who:

(I) Is an employee of or associated with the mortgage ~~broker;~~ *loan originator*; or

(II) If the mortgage agent is required to register with the Registry, is an employee of and whose sponsorship has been entered with the Registry by the mortgage ~~broker;~~ *loan originator* as required by subsection 2 of NRS 645B.450.

(c) For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than \$25,000, may suspend, revoke or place conditions upon the mortgage agent's license, or may do both, if the mortgage agent, whether or not acting as such:

(1) Is grossly negligent or incompetent in performing any act for which the mortgage agent is required to be licensed pursuant to the provisions of this chapter;

(2) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(3) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(4) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by the mortgage agent, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(5) Has 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;



(6) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(7) Has commingled the money or other property of a client with his or her own or has converted the money or property of others to his or her own use;

(8) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(9) Has violated NRS 645C.557;

(10) Has repeatedly violated the policies and procedures of the mortgage ~~broker~~ *loan originator* with whom the mortgage agent is associated or by whom he or she is employed;

(11) Has, directly or indirectly, received any commission, fees, points or any other compensation as remuneration for his or her services as a mortgage agent:

(I) From a person other than the mortgage ~~broker~~ *loan originator* with whom the mortgage agent is associated or by whom he or she is employed; or

(II) If the mortgage agent is required to be registered with the Registry, from a person other than the mortgage ~~broker~~ *loan originator* by whom the mortgage agent is employed and on whose behalf sponsorship was entered as required by subsection 2 of NRS 645B.450; or

(12) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

2. This section does not prohibit the co-brokering of a commercial loan through the cooperation of two or more mortgage ~~brokers~~ *loan originators* so long as such a transaction is not inconsistent with any other provision of this chapter.

Sec. 66. NRS 645B.670 is hereby amended to read as follows:

645B.670 1. Except as otherwise provided in NRS 645B.690:

(a) For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$25,000 if the applicant:

(1) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(2) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by the applicant, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(3) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in



1 completing and filing his or her application for a license or during
2 the course of the investigation of his or her application for a license.

3 (b) For each violation committed by a mortgage broker, the
4 Commissioner may impose upon the mortgage broker an
5 administrative fine of not more than \$25,000, may suspend, revoke
6 or place conditions upon the mortgage broker's license, or may do
7 both, if the mortgage broker, whether or not acting as such:

8 (1) Is insolvent;

9 (2) Is grossly negligent or incompetent in performing any act
10 for which the mortgage broker is required to be licensed pursuant to
11 the provisions of this chapter;

12 (3) Does not conduct his or her business in accordance with
13 law or has violated any provision of this chapter, a regulation
14 adopted pursuant to this chapter or an order of the Commissioner;

15 (4) Is in such financial condition that the mortgage broker
16 cannot continue in business with safety to his or her customers;

17 (5) Has made a material misrepresentation in connection
18 with any transaction governed by this chapter;

19 (6) Has suppressed or withheld from a client any material
20 facts, data or other information relating to any transaction governed
21 by the provisions of this chapter which the mortgage broker knew
22 or, by the exercise of reasonable diligence, should have known;

23 (7) Has knowingly made or caused to be made to the
24 Commissioner any false representation of material fact or has
25 suppressed or withheld from the Commissioner any information
26 which the mortgage broker possesses and which, if submitted by the
27 mortgage broker, would have rendered the mortgage broker
28 ineligible to be licensed pursuant to the provisions of this chapter;

29 (8) Has failed to account to persons interested for all money
30 received for a trust account;

31 (9) Has refused to permit an examination by the
32 Commissioner of his or her books and affairs or has refused or
33 failed, within a reasonable time, to furnish any information or make
34 any report that may be required by the Commissioner pursuant to
35 the provisions of this chapter or a regulation adopted pursuant to this
36 chapter;

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

43 (11) Has refused or failed to pay, within a reasonable time,
44 any fees, assessments, costs or expenses that the mortgage broker is



1 required to pay pursuant to this chapter or a regulation adopted
2 pursuant to this chapter;

3 (12) Has failed to satisfy a claim made by a client which has
4 been reduced to judgment;

5 (13) Has failed to account for or to remit any money of a
6 client within a reasonable time after a request for an accounting or
7 remittal;

8 (14) Has commingled the money or other property of a client
9 with his or her own or has converted the money or property of
10 others to his or her own use;

11 (15) Has engaged in any other conduct constituting a
12 deceitful, fraudulent or dishonest business practice;

13 (16) Has repeatedly violated the policies and procedures of
14 the mortgage broker;

15 (17) Has failed to exercise reasonable supervision and
16 control over the activities of a mortgage agent as required by
17 NRS 645B.460;

18 (18) Has instructed a mortgage agent to commit an act that
19 would be cause for the revocation of the license of the mortgage
20 broker, whether or not the mortgage agent commits the act;

21 (19) Has employed a person as a mortgage agent or
22 authorized a person to be associated with the mortgage broker as a
23 mortgage agent at a time when the mortgage broker knew or, in light
24 of all the surrounding facts and circumstances, reasonably should
25 have known that the person:

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

32 (II) Had a license or registration as a mortgage agent,
33 mortgage banker, mortgage broker or residential mortgage loan
34 originator revoked in this State or any other jurisdiction or had a
35 financial services license or registration revoked within the
36 immediately preceding 10 years;

37 (20) Has violated NRS 645C.557;

38 (21) Has failed to pay a tax as required pursuant to the
39 provisions of chapter 363A or 363C of NRS; or

40 (22) Has, directly or indirectly, paid any commission, fees,
41 points or any other compensation as remuneration for the services of
42 a mortgage agent to a person other than a mortgage agent who:

43 (I) Is an employee of or associated with the mortgage
44 broker; or



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(II) If the mortgage agent is required to register with the Registry, is an employee of and whose sponsorship has been entered with the Registry by the mortgage broker as required by subsection 2 of NRS 645B.450.

(c) For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than \$25,000, may suspend, revoke or place conditions upon the mortgage agent's license, or may do both, if the mortgage agent, whether or not acting as such:

(1) Is grossly negligent or incompetent in performing any act for which the mortgage agent is required to be licensed pursuant to the provisions of this chapter;

(2) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(3) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(4) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and which, if submitted by the mortgage agent, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(5) Has 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;

(6) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(7) Has commingled the money or other property of a client with his or her own or has converted the money or property of others to his or her own use;

(8) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(9) Has violated NRS 645C.557;

(10) Has repeatedly violated the policies and procedures of the mortgage broker with whom the mortgage agent is associated or by whom he or she is employed;

(11) Has, directly or indirectly, received any commission, fees, points or any other compensation as remuneration for his or her services as a mortgage agent:



(I) From a person other than the mortgage broker with whom the mortgage agent is associated or by whom he or she is employed; or

(II) If the mortgage agent is required to be registered with the Registry, from a person other than the mortgage broker by whom the mortgage agent is employed and on whose behalf sponsorship was entered as required by subsection 2 of NRS 645B.450; or

(12) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

2. This section does not prohibit the co-brokering of a commercial loan through the cooperation of two or more mortgage brokers so long as such a transaction is not inconsistent with any other provision of this chapter.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 67. NRS 645B.680 is hereby amended to read as follows:

645B.680 1. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a mortgage ~~broker~~ *loan originator* or mortgage agent, the Commissioner shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Commissioner shall reinstate a license as a mortgage ~~broker~~ *loan originator* or mortgage agent 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. 68. 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~~ *loan originator* 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~~ *loan originator* 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~~ *loan originator* violates any provision of subsection 1 of NRS 645B.080 and the mortgage ~~broker~~ *loan originator* 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~~ *loan originator* 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~~ *loan originator* 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~~ *loan originator* an administrative fine of not more than \$25,000 for each violation;

(b) Suspend or revoke the license of the mortgage ~~broker~~ *loan originator*; and

(c) Conduct a hearing to determine whether the mortgage ~~broker~~ *loan originator* 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~~ *loan originator* pursuant to NRS 645B.630.

3. If a mortgage ~~broker~~ *loan originator*:

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

↳ the Commissioner shall suspend or revoke the license of the mortgage ~~broker~~ *loan originator*.

Sec. 69. NRS 645B.740 is hereby amended to read as follows:

645B.740 The expiration or revocation of a license of a mortgage ~~broker~~ *loan originator* or mortgage agent 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. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the mortgage ~~broker~~ *loan originator* or mortgage agent as authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto; or

2. Prevent the imposition or collection of any fine or penalty authorized pursuant to the provisions of this chapter or the regulations adopted pursuant thereto against the mortgage ~~broker~~ *loan originator* or mortgage agent.

Sec. 70. NRS 645B.900 is hereby amended to read as follows:

645B.900 It is unlawful for any person to offer or provide any of the services of a mortgage ~~broker~~ *loan originator* or mortgage agent or otherwise to engage in, carry on or hold himself or herself out as engaging in or carrying on the business of a mortgage ~~broker~~ *loan originator* or mortgage agent without first obtaining the applicable license issued pursuant to this chapter, unless the person:

1. Is exempt from the provisions of this chapter; and

2. Complies with the requirements for that exemption.

Sec. 71. NRS 645B.910 is hereby amended to read as follows:

645B.910 It is unlawful for any foreign corporation, association or business trust to conduct any business as a mortgage ~~broker~~ *loan originator* within this State, unless it:

1. Qualifies under chapter 80 of NRS; and

2. Complies with the provisions of this chapter or, if it claims an exemption from the provisions of this chapter, complies with the requirements for that exemption.

Sec. 72. NRS 645B.930 is hereby amended to read as follows:

645B.930 In addition to any other remedy or penalty, if a person , *or any general partner, director, officer, agent or employee of a person*, violates the provisions of NRS 645B.900 or 645B.910, the client 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. 73. NRS 645B.955 is hereby amended to read as follows:

645B.955 1. A person who engages in an activity for which a license as a mortgage ~~broker~~ *loan originator* or mortgage agent is required pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required by the



1 Commissioner to pay restitution to any person who has suffered an
2 economic loss as a result of a violation of the provisions of this
3 chapter or any regulation adopted pursuant thereto.

4 2. Notwithstanding the provision of paragraph (m) of
5 subsection 1 of NRS 622A.120, payment of restitution pursuant to
6 subsection 1 shall be done in a manner consistent with the
7 provisions of chapter 622A of NRS.

8 **Sec. 74.** NRS 645F.060 is hereby amended to read as follows:

9 645F.060 “Mortgage ~~broker~~ *loan originator*” has the
10 meaning ascribed to it in NRS 645B.0127.

11 **Sec. 75.** NRS 645F.160 is hereby amended to read as follows:

12 645F.160 The Commissioner shall not, either directly or
13 indirectly, be interested in any mortgage servicer, escrow agency ~~+~~
14 *or* mortgage ~~broker or mortgage banker~~ *loan originator* to which
15 this chapter and chapters 645A ~~+~~ *and* 645B ~~and 645E~~ of NRS
16 apply, nor engage in business as a personal loan broker.

17 **Sec. 76.** NRS 645F.180 is hereby amended to read as follows:

18 645F.180 1. The Commissioner may appoint deputy
19 commissioners of mortgage lending, examiners, assistants, clerks,
20 stenographers and other employees necessary to assist the
21 Commissioner in the performance of his or her duties pursuant to
22 this chapter, chapters 645A ~~+~~ *and* 645B ~~and 645E~~ of NRS or any
23 other law. These employees shall perform such duties as are
24 assigned to them by the Commissioner.

25 2. The Commissioner may employ or contract with a certified
26 public accountant to review and conduct independent audits and
27 examinations of escrow agencies, mortgage ~~brokers~~ *loan*
28 *originators and* mortgage servicers . ~~and mortgage bankers.~~ The
29 Commissioner shall levy an assessment upon each licensed escrow
30 agency, mortgage ~~broker~~ *loan originator and* mortgage servicer
31 ~~and mortgage banker~~ to cover all the costs related to the
32 employment of or the contract with the certified public accountant
33 and the performance of the audits and examinations.

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

39 **Sec. 77.** NRS 645F.250 is hereby amended to read as follows:

40 645F.250 The Commissioner and the Division shall administer
41 the provisions of this chapter and chapters 645A ~~+~~ *and* 645B ~~and~~
42 ~~645E~~ of NRS, subject to administrative supervision by the Director
43 of the Department of Business and Industry.



Sec. 78. NRS 645F.260 is hereby amended to read as follows:

645F.260 The State Board of Finance shall act in an advisory capacity to the Division in the administration of this chapter and chapters 645A ~~{,} and~~ 645B ~~{and 645E}~~ of NRS.

Sec. 79. NRS 645F.267 is hereby amended to read as follows:

645F.267 1. A mortgage agent, mortgage ~~{banker, mortgage broker}~~ *loan originator* or mortgage servicer or an employee of a mortgage ~~{banker, mortgage broker}~~ *loan originator* 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}~~ *loan originator* 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, mortgage broker}~~ *loan originator* or mortgage servicer or an employee of a mortgage ~~{banker, mortgage broker}~~ *loan originator* 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. 80. NRS 645F.275 is hereby amended to read as follows:

645F.275 The Commissioner shall adopt regulations:

1. Establishing minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, as defined in NRS 645B.01325; or

2. Requiring a percentage of the fees collected for the issuance or renewal of a license pursuant to chapter 645B ~~{or 645E}~~ of NRS to be deposited in a mortgage recovery fund, and setting forth the methods by which a person may make a claim against and be paid from the fund.

Sec. 81. NRS 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, mortgage broker~~ *loan originator* or mortgage
7 servicer or an employee of a mortgage ~~banker, mortgage broker~~
8 *loan originator* or mortgage servicer to register with the Registry if
9 the mortgage agent, mortgage ~~banker, mortgage broker~~ *loan*
10 *originator*, mortgage servicer or employee is exempt from
11 registration pursuant to subsection 1 of NRS 645F.267.

12 **Sec. 82.** NRS 645F.500 is hereby amended to read as follows:

13 645F.500 The provisions of NRS 645F.500 to 645F.540,
14 inclusive, do not apply to:

15 1. A depository financial institution, as that term is defined in
16 NRS ~~645E.060~~ *645B.0109*, or any subsidiary or holding company
17 of a depository financial institution if such entity maintains its
18 principal place of business or a branch office in this State.

19 2. A real estate investment trust, as that term is defined in 26
20 U.S.C. § 856(a), unless the business conducted by the trust in this
21 State is not subject to supervision by the appropriate regulatory
22 body of a jurisdiction outside of this State.

23 3. Any trustee of an employee benefit plan, as that term is
24 defined in 29 U.S.C. § 1002(3), who makes a residential mortgage
25 loan directly from money in the plan.

26 4. An attorney who is licensed in this State and who does not
27 engage in the business of, or otherwise hold himself or herself out as
28 being able to provide services related to, a mortgage servicer, if the
29 activities of the attorney are directly incidental to the representation
30 of a client.

31 5. A person performing any act pursuant to a court order.

32 6. A federal or state agency or a political subdivision of this
33 State, including, without limitation, the Public Employees'
34 Retirement System.

35 7. A nonprofit organization that is recognized as exempt under
36 section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. §
37 501(c)(3).

38 8. A mortgage servicer that, in the aggregate with any
39 affiliates, services not more than 10 residential mortgage loans in
40 this State during a calendar year.

41 9. A person licensed pursuant to the provisions of chapter
42 645B ~~645E~~ or 675 of NRS who is collecting payments on a
43 mortgage loan or servicing one or more mortgage loans made or
44 arranged by the person under his or her license.



Sec. 83. NRS 645H.040 is hereby amended to read as follows:

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

1. A bank, mortgage ~~broker, mortgage banker,~~ *loan originator*, mortgage servicer as that term is defined in NRS 645F.063, credit union, thrift company or savings and loan association, or any subsidiary thereof which is authorized to transact business in this State;

2. A mortgage holding entity chartered by Congress; or

3. A federal, state or local governmental entity.

Sec. 84. NRS 645H.060 is hereby amended to read as follows:

645H.060 "Client" means:

1. A bank, mortgage ~~broker, mortgage banker,~~ *loan originator*, mortgage servicer as that term is defined in NRS 645F.063, credit union, thrift company or savings and loan association, or any subsidiary thereof that is authorized to transact business in this State;

2. A mortgage holding entity chartered by Congress; or

3. A federal, state or local governmental entity,

↳ for whom an asset management company provides asset management.

Sec. 85. NRS 645H.110 is hereby amended to read as follows:

645H.110 "Mortgage ~~broker~~" *loan originator*" has the meaning ascribed to it in NRS 645B.0127.

Sec. 86. NRS 645H.160 is hereby amended to read as follows:

645H.160 1. The provisions of this chapter which require a certificate of registration or permit do not apply to a person or broker who has a current permit to engage in property management pursuant to chapter 645 of NRS.

2. A person or broker who has a permit to engage in property management pursuant to chapter 645 of NRS may engage in the business of asset management if the provision of asset management services is included in the property management agreement entered into pursuant to NRS 645.6056.

3. Except as otherwise provided in subsection 1, a person or broker who engages in the business of asset management must comply with the provisions of this chapter and the recordkeeping requirements of chapter 645 of NRS.

4. The provisions of this chapter do not apply to:

(a) A person who is a regular, full-time employee of a bank, mortgage ~~broker, mortgage banker,~~ *loan originator*, mortgage



1 servicer as that term is defined in NRS 645F.063, credit union, thrift
2 company or savings and loan association, or any subsidiary thereof.

3 (b) A person who takes possession of property from a defendant
4 in connection with a judicial proceeding for eminent domain
5 brought pursuant to chapter 37 of NRS.

6 **Sec. 87.** NRS 40.750 is hereby amended to read as follows:

7 40.750 1. As used in this section, "financial institution"
8 means a bank, mortgage ~~broker, mortgage banker,~~ *loan originator*,
9 mortgage servicer as that term is defined in NRS 645F.063, credit
10 union, thrift company or savings and loan association, or any
11 subsidiary or affiliate of a bank, mortgage ~~broker, mortgage~~
12 ~~banker,~~ *loan originator*, mortgage servicer, credit union, thrift
13 company or savings and loan association, which is authorized to
14 transact business in this State and which makes or acquires, in
15 whole or in part, any loan of the kind described in subsection 2.

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

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

26 4. The cause of action provided by this section:

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

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

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

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

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

43 **Sec. 88.** NRS 80.015 is hereby amended to read as follows:

44 80.015 1. For the purposes of this chapter, the following
45 activities do not constitute doing business in this State:



- 1 (a) Maintaining, defending or settling any proceeding;
- 2 (b) Holding meetings of the board of directors or stockholders or
- 3 carrying on other activities concerning internal corporate affairs;
- 4 (c) Maintaining accounts in banks or credit unions;
- 5 (d) Maintaining offices or agencies for the transfer, exchange
- 6 and registration of the corporation's own securities or maintaining
- 7 trustees or depositories with respect to those securities;
- 8 (e) Making sales through independent contractors;
- 9 (f) Soliciting or receiving orders outside of this State through or
- 10 in response to letters, circulars, catalogs or other forms of
- 11 advertising, accepting those orders outside of this State and filling
- 12 them by shipping goods into this State;
- 13 (g) Creating or acquiring indebtedness, mortgages and security
- 14 interests in real or personal property;
- 15 (h) Securing or collecting debts or enforcing mortgages and
- 16 security interests in property securing the debts;
- 17 (i) Owning, without more, real or personal property;
- 18 (j) Isolated transactions completed within 30 days and not a part
- 19 of a series of similar transactions;
- 20 (k) The production of motion pictures as defined in
- 21 NRS 231.020;
- 22 (l) Transacting business as an out-of-state depository institution
- 23 pursuant to the provisions of title 55 of NRS; and
- 24 (m) Transacting business in interstate commerce.
- 25 2. The list of activities in subsection 1 is not exhaustive.
- 26 3. A person who is not doing business in this State within the
- 27 meaning of this section need not qualify or comply with any
- 28 provision of this chapter, chapter 645A ~~or~~ 645B ~~or 645E~~ of
- 29 NRS or title 55 or 56 of NRS unless the person:
- 30 (a) Maintains an office in this State for the transaction of
- 31 business;
- 32 (b) Solicits or accepts deposits in the State, except pursuant to
- 33 the provisions of chapter 666 or 666A of NRS;
- 34 (c) Solicits business for the activities of a mortgage ~~broker~~
- 35 **loan originator** as defined ~~by~~ **in** NRS 645B.0127 ; ~~or the~~
- 36 ~~activities of a mortgage banker as defined by NRS 645E.100;~~ or
- 37 (d) Arranges a mortgage loan secured by real property which is
- 38 not commercial property . ~~as defined by NRS 645E.040.~~
- 39 4. The fact that a person is not doing business in this State
- 40 within the meaning of this section:
- 41 (a) Does not affect the determination of whether any court,
- 42 administrative agency or regulatory body in this State may exercise
- 43 personal jurisdiction over the person in any civil action, criminal
- 44 action, administrative proceeding or regulatory proceeding; and



(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section and for the purposes of NRS 80.016, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

6. As used in this section, "commercial property" means any real property which is located in this State and which is neither used as a dwelling nor upon which a dwelling is constructed or intended to be constructed. For the purposes of this subsection, "dwelling" has the meaning ascribed to it in section 103(v) of the federal Truth in Lending Act, 15 U.S.C. § 1602(w).

Sec. 89. NRS 86.5483 is hereby amended to read as follows:

86.5483 1. For the purposes of NRS 86.543 to 86.549, inclusive, the following activities do not constitute transacting business in this State:

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the managers or members or carrying on other activities concerning internal company affairs;

(c) Maintaining accounts in banks or credit unions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside this State and filling them by shipping goods into this State;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in NRS 231.020;

(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and



(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not transacting business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, title 55 or 56 of NRS or chapter 645A ~~or 645B~~ ~~or 645E~~ of NRS unless the person:

(a) Maintains an office in this State for the transaction of business; or

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not transacting business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 90. NRS 87A.615 is hereby amended to read as follows:

87A.615 1. For the purposes of NRS 87A.535 to 87A.625, inclusive, the following activities do not constitute transacting business in this State:

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the managers or members or carrying on other activities concerning internal company affairs;

(c) Maintaining accounts in banks or credit unions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositories with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside this State and filling them by shipping goods into this State;



(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in NRS 231.020;

(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not transacting business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, title 55 or 56 of NRS or chapter 645A ~~or 645B~~ ~~for 645E~~ of NRS unless the person:

(a) Maintains an office in this State for the transaction of business; or

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not transacting business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 91. NRS 88.602 is hereby amended to read as follows:

88.602 1. For the purposes of NRS 88.570 to 88.605, inclusive, the following activities do not constitute transacting business in this State:



- 1 (a) Maintaining, defending or settling any proceeding;
- 2 (b) Holding meetings of the managers or members or carrying
- 3 on other activities concerning internal company affairs;
- 4 (c) Maintaining accounts in banks or credit unions;
- 5 (d) Maintaining offices or agencies for the transfer, exchange
- 6 and registration of the company's own securities or maintaining
- 7 trustees or depositories with respect to those securities;
- 8 (e) Making sales through independent contractors;
- 9 (f) Soliciting or receiving orders outside this State through or in
- 10 response to letters, circulars, catalogs or other forms of advertising,
- 11 accepting those orders outside this State and filling them by
- 12 shipping goods into this State;
- 13 (g) Creating or acquiring indebtedness, mortgages and security
- 14 interests in real or personal property;
- 15 (h) Securing or collecting debts or enforcing mortgages and
- 16 security interests in property securing the debts;
- 17 (i) Owning, without more, real or personal property;
- 18 (j) Isolated transactions completed within 30 days and not a part
- 19 of a series of similar transactions;
- 20 (k) The production of motion pictures as defined in
- 21 NRS 231.020;
- 22 (l) Transacting business as an out-of-state depository institution
- 23 pursuant to the provisions of title 55 of NRS; and
- 24 (m) Transacting business in interstate commerce.
- 25 2. The list of activities in subsection 1 is not exhaustive.
- 26 3. A person who is not transacting business in this State within
- 27 the meaning of this section need not qualify or comply with any
- 28 provision of this chapter, title 55 or 56 of NRS or chapter 645A ~~H~~
- 29 ~~or 645B~~ ~~for 645E~~ of NRS unless the person:
- 30 (a) Maintains an office in this State for the transaction of
- 31 business; or
- 32 (b) Solicits or accepts deposits in the State, except pursuant to
- 33 the provisions of chapter 666 or 666A of NRS.
- 34 4. The fact that a person is not transacting business in this State
- 35 within the meaning of this section:
- 36 (a) Does not affect the determination of whether any court,
- 37 administrative agency or regulatory body in this State may exercise
- 38 personal jurisdiction over the person in any civil action, criminal
- 39 action, administrative proceeding or regulatory proceeding; and
- 40 (b) Except as otherwise provided in subsection 3, does not affect
- 41 the applicability of any other provision of law with respect to the
- 42 person and may not be offered as a defense or introduced in
- 43 evidence in any civil action, criminal action, administrative
- 44 proceeding or regulatory proceeding to prove that the person is not
- 45 transacting business in this State, including, without limitation, any



1 civil action, criminal action, administrative proceeding or regulatory
2 proceeding involving an alleged violation of chapter 597, 598 or
3 598A of NRS.

4 5. As used in this section, "deposits" means demand deposits,
5 savings deposits and time deposits, as those terms are defined in
6 chapter 657 of NRS.

7 **Sec. 92.** NRS 90.530 is hereby amended to read as follows:

8 90.530 The following transactions are exempt from NRS
9 90.460 and 90.560:

10 1. An isolated nonissuer transaction, whether or not effected
11 through a broker-dealer.

12 2. A nonissuer transaction in an outstanding security if the
13 issuer of the security has a class of securities subject to registration
14 under section 12 of the Securities Exchange Act of 1934, 15 U.S.C.
15 § 78l, and has been subject to the reporting requirements of section
16 13 or 15(d) of the Securities Exchange Act of 1934, 15 U.S.C. §§
17 78m and 78o(d), for not less than 90 days next preceding the
18 transaction, or has filed and maintained with the Administrator for
19 not less than 90 days preceding the transaction information, in such
20 form as the Administrator, by regulation, specifies, substantially
21 comparable to the information the issuer would be required to file
22 under section 12(b) or 12(g) of the Securities Exchange Act of 1934,
23 15 U.S.C. §§ 78l(b) and 78l(g), were the issuer to have a class of its
24 securities registered under section 12 of the Securities Exchange Act
25 of 1934, 15 U.S.C. § 78l, and paid a fee of \$300 with the filing.

26 3. A nonissuer transaction by a sales representative licensed in
27 this State, in an outstanding security if:

28 (a) The security is sold at a price reasonably related to the
29 current market price of the security at the time of the transaction;

30 (b) The security does not constitute all or part of an unsold
31 allotment to, or subscription or participation by, a broker-dealer as
32 an underwriter of the security;

33 (c) At the time of the transaction, a recognized securities manual
34 designated by the Administrator by regulation or order contains the
35 names of the issuer's officers and directors, a statement of the
36 financial condition of the issuer as of a date within the preceding 18
37 months, and a statement of income or operations for each of the last
38 2 years next preceding the date of the statement of financial
39 condition, or for the period as of the date of the statement of
40 financial condition if the period of existence is less than 2 years;

41 (d) The issuer of the security has not undergone a major
42 reorganization, merger or acquisition within the preceding 30 days
43 which is not reflected in the information contained in the manual;
44 and



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(e) At the time of the transaction, the issuer of the security has a class of equity security listed on the New York Stock Exchange, American Stock Exchange or other exchange designated by the Administrator, or on the National Market System of the National Association of Securities Dealers Automated Quotation System. The requirements of this paragraph do not apply if:

(1) The security has been outstanding for at least 180 days;

(2) The issuer of the security is actually engaged in business and is not developing the issuer's business, in bankruptcy or in receivership; and

(3) The issuer of the security has been in continuous operation for at least 5 years.

4. A nonissuer transaction in a security that has a fixed maturity or a fixed interest or dividend provision if there has been no default during the current fiscal year or within the 3 preceding years, or during the existence of the issuer, and any predecessors if less than 3 years, in the payment of principal, interest or dividends on the security.

5. A nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to purchase.

6. A transaction between the issuer or other person on whose behalf the offering of a security is made and an underwriter, or a transaction among underwriters.

7. A transaction in a bond or other evidence of indebtedness secured by a real estate mortgage, deed of trust, personal property security agreement, or by an agreement for the sale of real estate or personal property, if the entire mortgage, deed of trust or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit.

8. A transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian or conservator.

9. A transaction executed by a bona fide secured party without the purpose of evading this chapter.

10. An offer to sell or the sale of a security to a financial or institutional investor or to a broker-dealer.

11. Except as otherwise provided in this subsection, a transaction pursuant to an offer to sell securities of an issuer if:

(a) The transaction is part of an issue in which there are not more than 25 purchasers in this State, other than those designated in subsection 10, during any 12 consecutive months;

(b) No general solicitation or general advertising is used in connection with the offer to sell or sale of the securities;

(c) No commission or other similar compensation is paid or given, directly or indirectly, to a person, other than a broker-dealer



1 licensed or not required to be licensed under this chapter, for
2 soliciting a prospective purchaser in this State; and

3 (d) One of the following conditions is satisfied:

4 (1) The seller reasonably believes that all the purchasers in
5 this State, other than those designated in subsection 10, are
6 purchasing for investment; or

7 (2) Immediately before and immediately after the
8 transaction, the issuer reasonably believes that the securities of the
9 issuer are held by 50 or fewer beneficial owners, other than those
10 designated in subsection 10, and the transaction is part of an
11 aggregate offering that does not exceed \$500,000 during any 12
12 consecutive months.

13 ➔ The Administrator by rule or order as to a security or transaction
14 or a type of security or transaction may withdraw or further
15 condition the exemption set forth in this subsection or waive one or
16 more of the conditions of the exemption.

17 12. An offer to sell or sale of a preorganization certificate or
18 subscription if:

19 (a) No commission or other similar compensation is paid or
20 given, directly or indirectly, for soliciting a prospective subscriber;

21 (b) No public advertising or general solicitation is used in
22 connection with the offer to sell or sale;

23 (c) The number of offers does not exceed 50;

24 (d) The number of subscribers does not exceed 10; and

25 (e) No payment is made by a subscriber.

26 13. An offer to sell or sale of a preorganization certificate or
27 subscription issued in connection with the organization of a
28 depository institution if that organization is under the supervision of
29 an official or agency of a state or of the United States which has and
30 exercises the authority to regulate and supervise the organization of
31 the depository institution. For the purpose of this subsection, "under
32 the supervision of an official or agency" means that the official or
33 agency by law has authority to require disclosures to prospective
34 investors similar to those required under NRS 90.490, impound
35 proceeds from the sale of a preorganization certificate or
36 subscription until organization of the depository institution is
37 completed, and require refund to investors if the depository
38 institution does not obtain a grant of authority from the appropriate
39 official or agency.

40 14. A transaction pursuant to an offer to sell to existing
41 security holders of the issuer, including persons who at the time of
42 the transaction are holders of transferable warrants exercisable
43 within not more than 90 days after their issuance, convertible
44 securities or nontransferable warrants, if:



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1 (a) No commission or other similar compensation, other than a
2 standby commission, is paid or given, directly or indirectly, for
3 soliciting a security holder in this State; or

4 (b) The issuer first files a notice specifying the terms of the offer
5 to sell, together with a nonrefundable fee of \$300, and the
6 Administrator does not by order disallow the exemption within the
7 next 5 full business days.

8 15. A transaction involving an offer to sell, but not a sale, of a
9 security not exempt from registration under the Securities Act of
10 1933, 15 U.S.C. §§ 77a et seq., if:

11 (a) A registration or offering statement or similar record as
12 required under the Securities Act of 1933, 15 U.S.C. §§ 77a et seq.,
13 has been filed, but is not effective;

14 (b) A registration statement, if required, has been filed under
15 this chapter, but is not effective; and

16 (c) No order denying, suspending or revoking the effectiveness
17 of registration, of which the offeror is aware, has been entered by
18 the Administrator or the Securities and Exchange Commission, and
19 no examination or public proceeding that may culminate in that kind
20 of order is known by the offeror to be pending.

21 16. A transaction involving an offer to sell, but not a sale, of a
22 security exempt from registration under the Securities Act of 1933,
23 15 U.S.C. §§ 77a et seq., if:

24 (a) A registration statement has been filed under this chapter, but
25 is not effective; and

26 (b) No order denying, suspending or revoking the effectiveness
27 of registration, of which the offeror is aware, has been entered by
28 the Administrator and no examination or public proceeding that may
29 culminate in that kind of order is known by the offeror to be
30 pending.

31 17. A transaction involving the distribution of the securities of
32 an issuer to the security holders of another person in connection
33 with a merger, consolidation, exchange of securities, sale of assets
34 or other reorganization to which the issuer, or its parent or
35 subsidiary, and the other person, or its parent or subsidiary, are
36 parties, if:

37 (a) The securities to be distributed are registered under the
38 Securities Act of 1933, 15 U.S.C. §§ 77a et seq., before the
39 consummation of the transaction; or

40 (b) The securities to be distributed are not required to be
41 registered under the Securities Act of 1933, 15 U.S.C. §§ 77a et
42 seq., written notice of the transaction and a copy of the materials, if
43 any, by which approval of the transaction will be solicited, together
44 with a nonrefundable fee of \$300, are given to the Administrator at
45 least 10 days before the consummation of the transaction and the



1 Administrator does not, by order, disallow the exemption within the
2 next 10 days.

3 18. A transaction involving the offer to sell or sale of one or
4 more promissory notes each of which is directly secured by a first
5 lien on a single parcel of real estate, or a transaction involving the
6 offer to sell or sale of participation interests in the notes if the notes
7 and participation interests are originated by a depository institution
8 and are offered and sold subject to the following conditions:

9 (a) The minimum aggregate sales price paid by each purchaser
10 may not be less than \$250,000;

11 (b) Each purchaser must pay cash either at the time of the sale or
12 within 60 days after the sale; and

13 (c) Each purchaser may buy for the purchaser's own account
14 only.

15 19. A transaction involving the offer to sell or sale of one or
16 more promissory notes directly secured by a first lien on a single
17 parcel of real estate or participating interests in the notes, if the
18 notes and interests are originated by a mortgagee approved by the
19 Secretary of Housing and Urban Development under sections 203
20 and 211 of the National Housing Act, 12 U.S.C. §§ 1709 and 1715b,
21 and are offered or sold, subject to the conditions specified in
22 subsection 18, to a depository institution or insurance company, the
23 Federal Home Loan Mortgage Corporation, the Federal National
24 Mortgage Association or the Government National Mortgage
25 Association.

26 20. A transaction between any of the persons described in
27 subsection 19 involving a nonassignable contract to buy or sell the
28 securities described in subsection 18 if the contract is to be
29 completed within 2 years and if:

30 (a) The seller of the securities pursuant to the contract is one of
31 the parties described in subsection 18 or 19 who may originate
32 securities;

33 (b) The purchaser of securities pursuant to a contract is any
34 other person described in subsection 19; and

35 (c) The conditions described in subsection 18 are fulfilled.

36 21. A transaction involving one or more promissory notes
37 secured by a lien on real estate, or participating interests in those
38 notes, by ~~†~~

39 ~~—(a) A~~ **a** mortgage ~~{banker licensed pursuant to chapter 645E of~~
40 ~~NRS to engage in those transactions; or~~

41 ~~—(b) A mortgage broker}~~ **loan originator** licensed pursuant to
42 chapter 645B of NRS to engage in those transactions.

43 **Sec. 93.** NRS 205.372 is hereby amended to read as follows:

44 205.372 1. A person who is a participant in a mortgage
45 lending transaction and who:



1 (a) Knowingly makes a false statement or misrepresentation
2 concerning a material fact or knowingly conceals or fails to disclose
3 a material fact;

4 (b) Knowingly uses or facilitates the use of a false statement or
5 misrepresentation made by another person concerning a material
6 fact or knowingly uses or facilitates the use of another person's
7 concealment or failure to disclose a material fact;

8 (c) Receives any proceeds or any other money in connection
9 with a mortgage lending transaction that the person knows resulted
10 from a violation of paragraph (a) or (b);

11 (d) Conspires with another person to violate any of the
12 provisions of paragraph (a), (b) or (c); or

13 (e) Files or causes to be filed with a county recorder any
14 document that the person knows to include a misstatement,
15 misrepresentation or omission concerning a material fact,

16 ➤ commits the offense of mortgage lending fraud which is a
17 category C felony and, upon conviction, shall be punished by
18 imprisonment in the state prison for a minimum term of not less
19 than 1 year and a maximum term of not more than 10 years, or by a
20 fine of not more than \$10,000, or by both fine and imprisonment.

21 2. A person who engages in a pattern of mortgage lending
22 fraud or conspires or attempts to engage in a pattern of mortgage
23 lending fraud is guilty of a category B felony and, upon conviction,
24 shall be punished by imprisonment in the state prison for a
25 minimum term of not less than 3 years and a maximum term of not
26 more than 20 years, or by a fine of not more than \$50,000, or by
27 both fine and imprisonment.

28 3. Each mortgage lending transaction in which a person
29 violates any provision of subsection 1 constitutes a separate
30 violation.

31 4. Except as otherwise provided in this subsection, if a lender
32 or any agent of the lender is convicted of the offense of mortgage
33 lending fraud in violation of this section, the mortgage lending
34 transaction with regard to which the fraud was committed may be
35 rescinded by the borrower within 6 months after the date of the
36 conviction if the borrower gives written notice to the lender and
37 records that notice with the recorder of the county in which the
38 mortgage was recorded. A mortgage lending transaction may not be
39 rescinded pursuant to this subsection if the lender has transferred the
40 mortgage to a bona fide purchaser.

41 5. The Attorney General may investigate and prosecute a
42 violation of this section.

43 6. In addition to the criminal penalties imposed for a violation
44 of this section, any person who violates this section is subject to a
45 civil penalty of not more than \$5,000 for each violation. This



1 penalty must be recovered in a civil action, brought in the name of
2 the State of Nevada by the Attorney General. In such an action, the
3 Attorney General may recover reasonable attorney's fees and costs.

4 7. The owner or holder of the beneficial interest in real
5 property which is the subject of mortgage lending fraud may bring a
6 civil action in the district court in and for the county in which the
7 real property is located to recover any damages suffered by the
8 owner or holder of the beneficial interest plus reasonable attorney's
9 fees and costs.

10 8. As used in this section:

11 (a) "Bona fide purchaser" means any person who purchases a
12 mortgage in good faith and for valuable consideration and who does
13 not know or have reasonable cause to believe that the lender or any
14 agent of the lender engaged in mortgage lending fraud in violation
15 of this section.

16 (b) "Mortgage lending transaction" means any transaction
17 between two or more persons for the purpose of making or
18 obtaining, attempting to make or obtain, or assisting another person
19 to make or obtain a loan that is secured by a mortgage or other lien
20 on residential real property. The term includes, without limitation:

21 (1) The solicitation of a person to make or obtain the loan;

22 (2) The representation or offer to represent another person to
23 make or obtain the loan;

24 (3) The negotiation of the terms of the loan;

25 (4) The provision of services in connection with the loan;
26 and

27 (5) The execution of any document in connection with
28 making or obtaining the loan.

29 (c) "Participant in a mortgage lending transaction" includes,
30 without limitation:

31 (1) A borrower as defined in NRS 598D.020;

32 (2) An escrow agent as defined in NRS 645A.010;

33 (3) A foreclosure consultant as defined in NRS 645F.320;

34 (4) A foreclosure purchaser as defined in NRS 645F.330;

35 (5) An investor as defined in NRS 645B.0121;

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

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

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

40 (9) A mortgage ~~banker~~ **loan originator** as defined in
41 ~~NRS 645E.100;~~

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

43 ~~{(11)}~~ **(10)** A mortgage servicer as defined in
44 NRS 645F.063.



(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. 94. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 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, 130.712, 136.050, 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, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 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, 241.039, 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, 289.830, 293.5002, 293.503, 293.558, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 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, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 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, 408.3888, 408.5484, 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720,



1 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,
2 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240,
3 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170,
4 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070,
5 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,
6 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
7 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315,
8 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,
9 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
10 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,
11 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301,
12 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
13 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
14 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,
15 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,
16 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082,
17 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
18 ~~645E.300, 645E.375,~~ 645G.510, 645H.320, 645H.330, 647.0945,
19 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110,
20 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,
21 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,
22 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,
23 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
24 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115,
25 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,
26 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,
27 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,
28 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of
29 Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013
30 and unless otherwise declared by law to be confidential, all public
31 books and public records of a governmental entity must be open at
32 all times during office hours to inspection by any person, and may
33 be fully copied or an abstract or memorandum may be prepared
34 from those public books and public records. Any such copies,
35 abstracts or memoranda may be used to supply the general public
36 with copies, abstracts or memoranda of the records or may be used
37 in any other way to the advantage of the governmental entity or of
38 the general public. This section does not supersede or in any manner
39 affect the federal laws governing copyrights or enlarge, diminish or
40 affect in any other manner the rights of a person in any written book
41 or record which is copyrighted pursuant to federal law.

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

44 3. A governmental entity that has legal custody or control of a
45 public book or record shall not deny a request made pursuant to



1 subsection 1 to inspect or copy or receive a copy of a public book or
2 record on the basis that the requested public book or record contains
3 information that is confidential if the governmental entity can
4 redact, delete, conceal or separate the confidential information from
5 the information included in the public book or record that is not
6 otherwise confidential.

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

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

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

19 **Sec. 95.** NRS 315.99815 is hereby amended to read as
20 follows:

21 315.99815 "Lending institution" means any bank or trust
22 company, Federal National Mortgage Association approved
23 mortgage ~~banker,~~ *loan originator*, national banking association,
24 savings and loan association or other financial institution or
25 governmental agency of the United States which customarily
26 provides service or otherwise aids in the financing of mortgages
27 located in this State.

28 **Sec. 96.** NRS 319.090 is hereby amended to read as follows:

29 319.090 "Lending institution" means any bank or trust
30 company, Federal National Mortgage Association approved
31 mortgage ~~banker,~~ *loan originator*, national banking association,
32 savings and loan association or other financial institution or
33 governmental agency of the United States which customarily
34 provides service or otherwise aids in the financing of mortgages
35 located in this state.

36 **Sec. 97.** NRS 319.173 is hereby amended to read as follows:

37 319.173 1. There is hereby created an Advisory Committee
38 on Housing to review and provide to the Director of the Department
39 of Business and Industry and the Administrator advice,
40 recommendations and other commentary regarding:

41 (a) The investment of money or issuance of obligations by the
42 Division.

43 (b) The development of new programs or the improvement of
44 existing programs of the Division.



(c) The improvement of policies and procedures of the Division, including those relating to the dissemination of relevant information to persons who participate in or are otherwise interested in programs of the Division.

(d) The administration of the Account for Low-Income Housing.

(e) Any other matters referred to the Advisory Committee by the Director or Administrator.

2. The Advisory Committee consists of the Director of the Department of Business and Industry or his or her representative, and eight members appointed by the Director. The Director shall appoint to the Advisory Committee:

(a) One representative of an association of mortgage ~~bankers~~ *loan originators* in this State, selected from a list of names submitted to the Director by that association.

(b) One representative of persons engaged in residential construction in this State.

(c) One representative of banks or savings and loan associations in this State who is knowledgeable about making mortgage loans.

(d) One member who is knowledgeable about the sale and marketing or the management of real property in this State.

(e) One member who is knowledgeable about the development or management of nonprofit housing in this State.

(f) One member who is knowledgeable about housing programs sponsored, administered or supported by local governments in this State.

(g) One member who is knowledgeable about federal housing programs administered by the Division.

(h) One member who is an advocate of affordable housing.

➔ The members of the Advisory Committee are not entitled to any additional compensation for their service in that capacity.

3. The Director of the Department of Business and Industry or his or her representative shall serve as the Chair of the Advisory Committee. The Advisory Committee shall meet at least once each calendar quarter, and at the call of the Chair or upon the written request of the Administrator or a majority of the members of the Committee.

4. The Administrator shall submit annually to the Advisory Committee for its review, comment and recommendations a work plan for the activities of the Division for the succeeding calendar year. The work plan must include:

(a) The expected needs for financing and anticipated demand for tax credits and sources of funding for each of the programs administered by the Division.

(b) Strategies for meeting those needs and demands.



1 (c) A plan for resolving any anticipated problems in carrying out
2 those strategies.

3 (d) A plan for the allocation of the resources of the Division,
4 including the allotment of its employees' time, to carry out the work
5 plan in such a manner as to serve the entire area of the State
6 adequately.

7 (e) Any other matters which are critical to the success of any
8 programs administered by the Division.

9 5. Before the:

10 (a) Investment of money of the Division pursuant to NRS
11 319.171; or

12 (b) Submission of findings to the State Board of Finance
13 pursuant to subsection 4 of NRS 319.323,

14 ➔ the Administrator shall submit a plan of investment or a plan of
15 financing, together with any proposed findings relating to that plan,
16 to the Advisory Committee for its review and comment.

17 6. The Administrator shall report to the Advisory Committee at
18 least once each calendar quarter on the activities of the Division and
19 the implementation of the Division's work plan for that year.

20 **Sec. 98.** NRS 363A.050 is hereby amended to read as follows:

21 363A.050 1. Except as otherwise provided in subsection 2,
22 "financial institution" means:

23 (a) An institution licensed, registered or otherwise authorized to
24 do business in this State pursuant to the provisions of title 55 or 56
25 of NRS or chapter 604A ~~§ or~~ 645B ~~for 645E~~ of NRS, or a similar
26 institution chartered or licensed pursuant to federal law;

27 (b) A person licensed or registered or required to be licensed or
28 registered pursuant to NRS 90.310, 90.330, 90.453, 686A.340 or
29 688C.190;

30 (c) A person holding or required to hold a solicitation permit or
31 license pursuant to NRS 692B.040, 692B.190 or 692B.260;

32 (d) A person designated or registered or required to be
33 designated or registered pursuant to the Commodity Exchange Act,
34 the Securities Exchange Act of 1934, the Public Utility Holding
35 Company Act of 1935, the Investment Company Act of 1940 or the
36 Investment Advisers Act of 1940, as amended;

37 (e) A person licensed pursuant to 7 U.S.C. § 2009cc-3 to operate
38 as a rural business investment company;

39 (f) A person registered or required to be registered as a savings
40 and loan holding company pursuant to 12 U.S.C. § 1467a;

41 (g) A person registered or required to be registered as a bank
42 holding company pursuant to 12 U.S.C. § 1844;

43 (h) An investment bank holding company supervised pursuant to
44 15 U.S.C. § 78q;



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(i) A person electing to be treated as a business development company pursuant to 15 U.S.C. § 80a-53;

(j) A person licensed pursuant to 15 U.S.C. § 681 to operate as a small business investment company;

(k) A person granted final approval pursuant to 15 U.S.C. § 689c to operate as a new markets venture capital company;

(l) A person qualifying as and electing to be considered a real estate investment trust pursuant to 26 U.S.C. § 856;

(m) A bank, as defined in 12 U.S.C. § 1813(a);

(n) A savings association, as defined in 12 U.S.C. § 1813(b);

(o) A savings bank, as defined in 12 U.S.C. § 1813(g);

(p) A thrift institution, as defined in 12 U.S.C. § 1841(i);

(q) A national banking association organized under the National Bank Act;

(r) An entity that is related to any of the entities described in paragraphs (a), (b), (d) to (k), inclusive, and (m) to (q), inclusive, regardless of whether the entity described in any of those paragraphs is doing business in this State; and

(s) An issuer or a service provider,

➤ who is conducting a business activity in this State.

2. The term does not include:

(a) A credit union organized under the provisions of chapter 678 of NRS or the Federal Credit Union Act;

(b) A federal land credit association, farm credit bank, agricultural credit association or similar institution organized under the provisions of the Farm Credit Act;

(c) A person who sells, solicits or negotiates insurance and whose business primarily consists of the sale, solicitation or negotiation of insurance; and

(d) Any person or other entity that this State is prohibited from taxing under the Constitution, laws or treaties of the United States or the Nevada Constitution.

3. For the purposes of this section:

(a) "Credit card" has the meaning ascribed to it in NRS 97A.050.

(b) "Entity" includes, without limitation, any corporation, limited-liability company, association, organization, company, firm, partnership, joint venture, trust, business trust, receiver, trustee, syndicate, cooperative or assignee, or any other group or combination acting as a unit.

(c) "Issuer" has the meaning ascribed to it in NRS 97A.100, except that the term does not include a seller of goods or provider of services who issues a credit card for the purpose of providing or extending credit only in connection with the goods he or she sells or the services he or she provides.



(d) A business “primarily consists of the sale, solicitation or negotiation of insurance” if more than 50 percent of the annual income of the business from commissions is derived from the sale, solicitation or negotiation of insurance.

(e) Entities are “related” if at least 50 percent of the interest, either by vote or value, in each entity is owned, either directly or indirectly, by the same entity, including either of those entities.

(f) “Service provider” has the meaning ascribed to it in NRS 97A.130, except that the term does not include a service provider who acts in that capacity solely on behalf of a seller of goods or provider of services who issues a credit card for the purpose of providing or extending credit only in connection with the goods he or she sells or the services he or she provides.

Sec. 99. NRS 604A.250 is hereby amended to read as follows:

604A.250 The provisions of this chapter do not apply to:

1. Except as otherwise provided in NRS 604A.200, a person doing business pursuant to the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage ~~brokers, mortgage bankers,~~ *loan originators*, thrift companies or insurance companies, including, without limitation, any affiliate or subsidiary of such a person regardless of whether the affiliate or subsidiary is a bank.

2. A person who is primarily engaged in the retail sale of goods or services who:

(a) As an incident to or independently of a retail sale or service, from time to time cashes checks for a fee or other consideration of not more than \$2; and

(b) Does not hold himself or herself out as a check-cashing service.

3. A person while performing any act authorized by a license issued pursuant to chapter 671 of NRS.

4. A person who holds a nonrestricted gaming license issued pursuant to chapter 463 of NRS while performing any act in the course of that licensed operation.

5. A person who is exclusively engaged in a check-cashing service relating to out-of-state checks.

6. A corporation organized pursuant to the laws of this State that has been continuously and exclusively engaged in a check-cashing service in this State since July 1, 1973.

7. A pawnbroker, unless the pawnbroker operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

8. A real estate investment trust, as defined in 26 U.S.C. § 856.



9. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

10. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

11. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

12. Any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

13. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.

14. A seller of real property who offers credit secured by a mortgage of the property sold.

15. A person who makes a refund anticipation loan, unless the person operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service.

Sec. 100. NRS 604A.655 is hereby amended to read as follows:

604A.655 1. Except as otherwise provided in this section, a licensee may not conduct the business of making loans within any office, suite, room or place of business in which any other lending business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans in the same office or place of business as ~~+~~

~~—(a) A~~ a mortgage ~~broker~~ loan originator if:

~~+(1)+~~ (a) The licensee and the mortgage ~~broker~~ loan originator:

~~+(1)+~~ (1) Maintain separate accounts, books and records;

~~+(1)+~~ (2) Are subsidiaries of the same parent corporation;

and

~~+(1)+~~ (3) Maintain separate licenses; and

~~+(2)+~~ (b) The mortgage ~~broker~~ loan originator is licensed by this State pursuant to chapter 645B of NRS and does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

~~+(b) A mortgage banker if:~~



~~(1) The licensee and the mortgage banker:~~
~~(I) Maintain separate accounts, books and records;~~
~~(II) Are subsidiaries of the same parent corporation; and~~
~~(III) Maintain separate licenses; and~~
~~(2) The mortgage banker is licensed by this State pursuant to chapter 645E of NRS and, if the mortgage banker is also licensed as a mortgage broker pursuant to chapter 645B of NRS, does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.]~~

3. If a pawnbroker is licensed to operate a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service, the pawnbroker may operate that service at the same office or place of business from which he or she conducts business as a pawnbroker pursuant to chapter 646 of NRS.

Sec. 101. NRS 657.120 is hereby amended to read as follows:

657.120 1. A financial institution may impose and collect a fee or charge, not to exceed an amount specified in or limited by specific statute, for any service it provides to a customer, if the fee or charge is clearly and conspicuously disclosed in writing to the customer before the customer receives the service. A financial institution must provide a customer with written notice of any increase in the fee or charge at least 10 days before the increase becomes effective.

2. A fee or charge for the presentation for payment, on a single business day, of multiple checks drawn by a customer on an account for which there is an insufficient balance to pay all the checks, must be determined as if the checks drawn in a single series or class were presented:

- (a) In the order the checks were written;
 - (b) From the lowest check number to the highest check number;
- or

(c) In order of ascending amounts, the check for the smallest sum being presented first.

3. As used in this section, "financial institution" means an institution licensed pursuant to the provisions of this title or title 56 or chapter 645B ~~[- 645E]~~ or 649 of NRS, or a similar institution chartered or licensed pursuant to federal law.

Sec. 102. NRS 657.130 is hereby amended to read as follows:

657.130 1. As used in this section, unless the context otherwise requires:

(a) "Committee to review compliance" means one or more persons assigned or engaged by a financial institution to test, review or evaluate its conduct, transactions or potential transactions, policies or procedures for the purpose of monitoring and improving or enforcing compliance with state and federal statutes and



1 regulations requiring safe, sound and fair lending practices,
2 including, without limitation, acts concerning equal credit
3 opportunity, fair housing, fair lending, flood zone protection,
4 housing and financial discrimination, truth in lending and financial
5 reporting to federal or state regulatory agencies.

6 (b) "Financial institution" means an institution licensed pursuant
7 to the provisions of this title or title 56 or chapter 645B ~~for 645E~~ of
8 NRS, or a similar institution chartered or licensed pursuant to
9 federal law. The term includes, without limitation, a holding
10 company, affiliate or subsidiary of such an institution.

11 2. Except as otherwise voluntarily authorized by the financial
12 institution:

13 (a) A document prepared for or created by a committee to
14 review compliance is confidential and privileged, and is not subject
15 to discovery or admissible in evidence in a civil action of this State,
16 even if it has been submitted to a governmental or regulatory agency
17 of this State, the United States or a foreign government.

18 (b) A member of a committee to review compliance or a person
19 who acted under the direction of the committee cannot be required
20 to testify in a civil action concerning the contents of a document
21 described in paragraph (a) or concerning the discussions or
22 conclusions of, or the actions taken by, the committee.

23 **Sec. 103.** NRS 657.140 is hereby amended to read as follows:

24 657.140 1. Except as otherwise provided in subsection 2, a
25 financial institution shall not include in any loan agreement a
26 provision that allows the financial institution to recover, take,
27 appropriate or otherwise apply as a setoff against any debt or
28 liability owing to the financial institution under the loan agreement
29 money from an account unrelated to the loan agreement to the extent
30 the money is exempt from execution pursuant to paragraph (y) of
31 subsection 1 of NRS 21.090.

32 2. The provisions of subsection 1 do not apply to a provision in
33 a loan agreement that specifically authorizes automatic withdrawals
34 from an account.

35 3. The provisions of this section may not be varied by
36 agreement, and the rights conferred by this section may not be
37 waived. Any provision included in an agreement that conflicts with
38 this section is void.

39 4. As used in this section:

40 (a) "An account unrelated to the loan agreement" includes,
41 without limitation, an account pledged as security under the loan
42 agreement, unless the specific account pledged as security is
43 conspicuously described in the loan agreement.

44 (b) "Financial institution" means an institution licensed pursuant
45 to the provisions of this title or title 56 or chapter 645B ~~for 645E~~ or



649 of NRS, or a similar institution chartered or licensed pursuant to federal law.

Sec. 104. NRS 658.190 is hereby amended to read as follows:

658.190 1. The Commissioner of Financial Institutions shall, with the cooperation of the Commissioner of Mortgage Lending, adopt regulations concerning nontraditional mortgage loan products and lending practices of persons and financial institutions that are required to be licensed or registered pursuant to the provisions of titles 55 and 56 and ~~chapters~~ **chapter** 645B ~~and 645E~~ of NRS and which make or offer to make loans that are secured by liens on real property.

2. The regulations required to be adopted by subsection 1 must be substantially similar to the provisions set forth in the "Guidance on Nontraditional Mortgage Product Risks" published by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators on November 14, 2006.

3. If the publication is revised, the Commissioner shall review the revision to determine whether the revision is suitable for this State. If the Commissioner determines that the revision is suitable for this State, he or she shall adopt a regulation that includes the revision.

4. If the Commissioner determines that the revision is not suitable for this State, the Commissioner shall hold a hearing within 60 days after his or her determination and give notice of the hearing. If, after the hearing, the Commissioner does not revise his or her determination, the Commissioner shall give written notice within 30 days after the hearing that the revision is not suitable for this State.

5. As used in this section, "nontraditional mortgage loan product":

(a) Means a residential loan agreement whose terms allow a borrower to defer repayment of principal or payment of interest on the loan for a period.

(b) Includes, without limitation:

(1) An interest-only loan; and

(2) A payment option adjustable-rate mortgage.

(c) Does not include:

(1) A home equity line of credit other than a simultaneous second-lien home equity line of credit; or

(2) A reverse mortgage.

Sec. 105. 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,~~ *loan originator*, mortgage servicer as that term is defined in NRS 645F.063, 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. 106. NRS 675.040 is hereby amended to read as follows:

675.040 This chapter does not apply to:

1. Except as otherwise provided in NRS 675.035, a person doing business under the authority of any law of this State or of the United States relating to banks, national banking associations, savings banks, trust companies, savings and loan associations, credit unions, mortgage ~~brokers, mortgage bankers,~~ *loan originators*, thrift companies, pawnbrokers or insurance companies.

2. A real estate investment trust, as defined in 26 U.S.C. § 856.

3. An employee benefit plan, as defined in 29 U.S.C. § 1002(3), if the loan is made directly from money in the plan by the plan's trustee.

4. An attorney at law rendering services in the performance of his or her duties as an attorney at law if the loan is secured by real property.

5. A real estate broker rendering services in the performance of his or her duties as a real estate broker if the loan is secured by real property.

6. Except as otherwise provided in this subsection, any firm or corporation:

(a) Whose principal purpose or activity is lending money on real property which is secured by a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer; and

(c) Approved by the Department of Housing and Urban Development and the Department of Veterans Affairs.

7. A person who provides money for investment in loans secured by a lien on real property, on his or her own account.



8. A seller of real property who offers credit secured by a mortgage of the property sold.

9. A person holding a nonrestricted state gaming license issued pursuant to the provisions of chapter 463 of NRS.

10. A person licensed to do business pursuant to chapter 604A of NRS with regard to those services regulated pursuant to chapter 604A of NRS.

Sec. 107. NRS 675.230 is hereby amended to read as follows:

675.230 1. Except as otherwise provided in subsection 2, a licensee may not conduct the business of making loans under this chapter within any office, suite, room or place of business in which any other business is solicited or engaged in, except an insurance agency or notary public, or in association or conjunction with any other business, unless authority to do so is given by the Commissioner.

2. A licensee may conduct the business of making loans pursuant to this chapter in the same office or place of business as ~~+~~

~~—(a) A~~ a mortgage ~~broker~~ loan originator if:

~~+(1)~~ (a) The licensee and the mortgage ~~broker~~ loan originator:

~~+(1)~~ (1) Operate as separate legal entities;

~~+(II)~~ (2) Maintain separate accounts, books and records;

~~+(III)~~ (3) Are subsidiaries of the same parent corporation; and

~~+(IV)~~ (4) Maintain separate licenses; and

~~+(2)~~ (b) The mortgage ~~broker~~ loan originator is licensed by this state pursuant to chapter 645B of NRS and does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.

~~+(b) A mortgage banker if:~~

~~—(1) The licensee and the mortgage banker:~~

~~—(I) Operate as separate legal entities;~~

~~—(II) Maintain separate accounts, books and records;~~

~~—(III) Are subsidiaries of the same parent corporation; and~~

~~—(IV) Maintain separate licenses; and~~

~~—(2) The mortgage banker is licensed by this state pursuant to chapter 645E of NRS and, if the mortgage banker is also licensed as a mortgage broker pursuant to chapter 645B of NRS, does not receive money to acquire or repay loans or maintain trust accounts as provided by NRS 645B.175.~~

Sec. 108. NRS 690B.180 is hereby amended to read as follows:

690B.180 An insurer who issues policies of insurance for home protection, other than casualty insurance, shall not:



1 1. Engage in any other business of insurance or real estate
2 pursuant to chapters 645 to ~~645E,~~ **645H**, inclusive, of NRS.

3 2. Assume reinsurance from any other insurer.

4 **Sec. 109.** A person who, on January 1, 2018, is the holder of a
5 valid license as a:

6 1. Mortgage broker issued pursuant to NRS 645B.020 and who
7 is otherwise qualified to hold such a license on that date shall be
8 deemed to hold a license as a mortgage loan originator issued
9 pursuant to NRS 645B.020, as amended by section 11 of this act.

10 2. Mortgage banker issued pursuant to NRS 645E.200 and who
11 is otherwise qualified to hold such a license on that date shall be
12 deemed to hold a license as a mortgage loan originator issued
13 pursuant to NRS 645B.020, as amended by section 11 of this act.

14 **Sec. 110.** The regulations of the Commissioner of Mortgage
15 Lending which are codified as chapter 645E of NAC remain in
16 effect and may be enforced with respect to any person who, on
17 January 1, 2018, is the holder of a valid license as a mortgage
18 banker issued pursuant to NRS 645E.200 until the Commissioner
19 adopts regulations to repeal or replace those regulations.

20 **Sec. 111.** The Commissioner of Mortgage Lending shall, on or
21 before January 1, 2019, adopt such regulations as are necessary to
22 carry out the provisions of this act.

23 **Sec. 112.** NRS 645B.035, 645E.010, 645E.020, 645E.030,
24 645E.040, 645E.050, 645E.060, 645E.070, 645E.080, 645E.090,
25 645E.100, 645E.105, 645E.115, 645E.130, 645E.150, 645E.160,
26 645E.165, 645E.170, 645E.200, 645E.210, 645E.220, 645E.230,
27 645E.280, 645E.290, 645E.291, 645E.300, 645E.310, 645E.315,
28 645E.320, 645E.350, 645E.360, 645E.370, 645E.375, 645E.390,
29 645E.420, 645E.430, 645E.440, 645E.470, 645E.620, 645E.630,
30 645E.640, 645E.670, 645E.680, 645E.690, 645E.700, 645E.710,
31 645E.750, 645E.800, 645E.900, 645E.910, 645E.920, 645E.930,
32 645E.950, 645E.955, 645E.960, 645F.050 and 645H.100 are hereby
33 repealed.

34 **Sec. 113.** This act becomes effective:

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

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



LEADLINES OF REPEALED SECTIONS

645B.035 Activities authorized by license; dual licensure as mortgage banker and mortgage broker.

645E.010 Definitions.

645E.020 "Applicant" defined.

645E.030 "Commercial mortgage loan" defined.

645E.040 "Commercial property" defined.

645E.050 "Commissioner" defined.

645E.060 "Depository financial institution" defined.

645E.070 "Division" defined.

645E.080 "Institutional investor" defined.

645E.090 "Licensee" defined.

645E.100 "Mortgage banker" defined.

645E.105 "Nationwide Mortgage Licensing System and Registry" and "Registry" defined.

645E.115 "Wholesale lender" defined.

645E.130 Statutory and common-law rights, remedies and punishments unaffected; limitation on actions against State and its officers and employees.

645E.150 Exemptions for certain persons and entities.

645E.160 Certificate of exemption: Application; fee; automatic expiration; prohibitions; administrative fines; authority to file application for purposes of complying with requirements of Registry; applicability.

645E.165 Certificate of exemption: Annual expiration; procedure for renewal; cancellation and reinstatement; fees; duplicate copy; deposit of fees; regulations.

645E.170 Exemptions for certain loans: Grounds for granting; revocation; issuance of statement by Commissioner of reasons for granting, denying or revoking.

645E.200 Application for license; application for branch offices; requirements for issuance of license; grounds for denial of license to partnership, corporation or unincorporated association; license for office outside Nevada which conducts business in Nevada.

645E.210 Payment of child support: Submission of certain information by applicant; grounds for denial of license; duty of Commissioner. [Effective until the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the



professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

645E.220 Posting of license; restrictions on transfer or assignment of license.

645E.230 Activities authorized by license; dual licensure as mortgage banker and mortgage broker.

645E.280 Annual expiration of license; procedure for renewal; cancellation and reinstatement; fees; duplicate copy; deposit of fees; regulations. [Parts of this section were replaced in revision in 2015 by NRS 645E.165.]

645E.290 License required for certain persons who engage in activities as loan originator or who supervise mortgage agents who engage in such activities.

645E.291 Supervision of mortgage agents by mortgage banker; requirements; regulations.

645E.300 Duties of Commissioner: General supervision and control over mortgage bankers; regulations; investigations; annual or biennial examinations; periodic and special audits; hearings; related fees; classification of certain records and information as confidential.

645E.310 Subpoenas; oaths; examination of witnesses; penalty; assessment of costs.

645E.315 Written notice of address change; approval by Commissioner; administrative fine.

645E.320 Payment of statutory assessment by mortgage banker; duty of mortgage banker to cooperate fully with audits and examinations.

645E.350 Records relating to mortgage transactions, financial condition and trust accounts; monthly report to Commissioner; accounting procedures for trust accounts; regulations; records of licensee who operates outside Nevada; mortgage bankers required to submit reports to Registry.

645E.360 Annual financial statement; audit of trust accounts; Commissioner authorized to direct submission of financial statement; regulations.

645E.370 Records of Commissioner: General provisions governing public inspection and confidentiality.

645E.375 Records of Commissioner: Certain records relating to complaint or investigation deemed confidential; certain records relating to disciplinary action deemed public records; disclosure by Commissioner.

645E.390 Notification of certain transfers required; application to Commissioner for approval of change of control; investigation; waiver.



645E.420 Escrow account required for fee, salary, deposit or money paid in advance; release from escrow; exceptions; refunds; penalty.

645E.430 Trust account required for money deposited to pay taxes or insurance premiums; fiduciary duty of mortgage banker; accounting to debtor and Commissioner; additional duties and prohibitions.

645E.440 Limitations on execution or attachment of money in trust account; commingling of money prohibited.

645E.470 Limitations on charging late fee, additional amount of interest or other penalty.

645E.620 Authority of Commissioner when violation is suspected; referral of violations to district attorney for criminal prosecution; civil action for injunctive relief.

645E.630 Authority of Commissioner when unsafe condition or practice is suspected; seizure of property and assets of mortgage banker; duties of Attorney General.

645E.640 Persons entitled to correct unsafe conditions and practices; effect of failure to correct; receivership and liquidation of assets.

645E.670 Authorized disciplinary or other action; grounds for disciplinary action; orders imposing discipline deemed public records.

645E.680 Suspension of license for failure to pay child support or comply with certain subpoenas or warrants; reinstatement of license. [Effective until 2 years after the date of the repeal of 42 U.S.C. § 666, the federal law requiring each state to establish procedures for withholding, suspending and restricting the professional, occupational and recreational licenses for child support arrearages and for noncompliance with certain processes relating to paternity or child support proceedings.]

645E.690 Duty of Commissioner to take disciplinary action for certain violations.

645E.700 Investigations, actions, disciplinary proceedings, fines and penalties not affected by expiration, revocation or voluntary surrender of license.

645E.710 Act or omission of partner, officer or director deemed act or omission of partnership, corporation or unincorporated association.

645E.750 Duty of Commissioner to provide written notice of disciplinary action or denial of license; right to administrative hearing; entry of final order; appeals.

645E.800 Exercise of jurisdiction over party to civil action; service of summons to confer jurisdiction.



645E.900 Unlawful to conduct business of mortgage banker without being licensed or exempt from licensing.

645E.910 Unlawful for foreign corporation, association or business trust to conduct business of mortgage banker without meeting certain requirements.

645E.920 Contracts for mortgage transaction voidable for certain violations.

645E.930 Civil action authorized for certain violations.

645E.950 Penalties for general violations.

645E.955 Restitution.

645E.960 Penalties for violations relating to escrow or trust accounts.

645F.050 “Mortgage banker” defined.

645H.100 “Mortgage banker” defined.

