

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

MARCH 27, 2017

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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.

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

**Legislative Counsel’s Digest:**

1 Existing law requires the Commissioner of Mortgage Lending to perform  
2 annual examinations of mortgage brokers and mortgage bankers. (NRS 645B.060,  
3 645E.300) **Sections 1 and 6** of this bill eliminate the requirement for an annual  
4 examination and instead require the Commissioner to conduct, at his or her  
5 discretion, standard examinations of a mortgage broker or mortgage banker.  
6 Existing law requires each mortgage broker or mortgage banker to submit a  
7 monthly report of the activity of the mortgage broker or mortgage banker to the  
8 Commissioner. (NRS 645B.080, 645E.350) **Sections 2 and 7** of this bill allow the  
9 Commissioner to waive this requirement if substantially similar information is  
10 available to the Commissioner from another source.

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

1 **Section 1.** NRS 645B.060 is hereby amended to read as  
2 follows:  
3 645B.060 1. Subject to the administrative control of the  
4 Director of the Department of Business and Industry, the



1 Commissioner shall exercise general supervision and control over  
2 mortgage brokers and mortgage agents doing business in this State.

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

5 (a) Adopt regulations:

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

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

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

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

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

26 (1) Standards for determining the rating of each mortgage  
27 broker based upon the results of ~~{the annual}~~ *a standard*  
28 examination; and

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

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

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



1 (1) The Legislative Auditor; or  
2 (2) The Department of Taxation if necessary to carry out the  
3 provisions of chapters 363A and 363C of NRS.

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

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

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

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

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

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

22 ~~—(d) Does not maintain any trust accounts pursuant to NRS~~  
23 ~~645B.170 or 645B.175 or arrange loans funded by private~~  
24 ~~investors.]~~

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

26 645B.080 1. Each mortgage broker shall keep and maintain  
27 at all times at each location where the mortgage broker conducts  
28 business in this state complete and suitable records of all mortgage  
29 transactions made by the mortgage broker at that location. Each  
30 mortgage broker shall also keep and maintain at all times at each  
31 such location all original books, papers and data, or copies thereof,  
32 clearly reflecting the financial condition of the business of the  
33 mortgage broker.

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

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

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

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



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

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

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

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

13       645B.260 1. If a mortgage broker maintains any accounts  
14 described in subsection 4 of NRS 645B.175 in which the mortgage  
15 broker deposits payments from a debtor on a loan secured by a lien  
16 on real property and, on the last day of any month, the debtor has  
17 failed to make two or more consecutive payments in accordance  
18 with the terms of the loan, the mortgage broker shall:

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

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

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

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

32       (2) The lien securing the loan is extinguished.

33       2. The Commissioner:

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

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



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

2 645B.690 1. If a person offers or provides any of the services  
3 of a mortgage broker or mortgage agent or otherwise engages in,  
4 carries on or holds himself or herself out as engaging in or carrying  
5 on the business of a mortgage broker or mortgage agent and, at the  
6 time:

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

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

11 (c) The person's license was suspended or revoked pursuant to  
12 this chapter,

13 ↪ the Commissioner shall impose upon the person an  
14 administrative fine of not more than \$50,000 for each violation and,  
15 if the person has a license, the Commissioner may suspend or  
16 revoke it.

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

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

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

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

35 3. If a mortgage broker:

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

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

40 ↪ the Commissioner shall suspend or revoke the license of the  
41 mortgage broker.

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

43 645E.030 "Commercial mortgage loan" means a loan  
44 *primarily for a business, commercial or agricultural purpose* that:



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

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

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

6 645E.300 1. Subject to the administrative control of the  
7 Director of the Department of Business and Industry, the  
8 Commissioner shall exercise general supervision and control over  
9 mortgage bankers doing business in this State.

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

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

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

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

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

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

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

31 (1) The Legislative Auditor; or

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

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

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

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

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



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

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

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

7 645E.350 1. Each mortgage banker shall keep and maintain  
8 at all times at each location where the mortgage banker conducts  
9 business in this State complete and suitable records of all mortgage  
10 transactions made by the mortgage banker at that location. Each  
11 mortgage banker shall also keep and maintain at all times at each  
12 such location all original books, papers and data, or copies thereof,  
13 clearly reflecting the financial condition of the business of the  
14 mortgage banker.

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

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

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

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

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

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

31 ~~4.~~ 5. A licensee who operates outside this State an office or  
32 other place of business which is licensed pursuant to this chapter  
33 shall:

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

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

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

44 ~~5.~~ 6. Each mortgage banker who is required to register or  
45 voluntarily registers with the Registry shall submit to the Registry



1 and the Commissioner a report of condition or any other report  
2 required by the Registry in the form and at the time required by the  
3 Registry.

4 **Sec. 8.** This act becomes effective:

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

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

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\* S B 4 9 8 R 1 \*