

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

MARCH 27, 2017

Referred to Committee on Commerce, Labor and Energy

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

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

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

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

Legislative Counsel’s Digest:

- 1 Existing law requires a mortgage broker or mortgage agent to satisfy certain
- 2 requirements for continuing education. (NRS 645B.051, 645B.430) **Sections 1 and**
- 3 **3.5** of this bill eliminate a requirement that certain courses of continuing education
- 4 for a mortgage broker or mortgage agent include at least 3 hours relating to the laws
- 5 and regulations of this State and reduce the number of hours of continuing education
- 6 which must be completed annually by a mortgage broker or mortgage agent.
- 7 Existing law requires the Commissioner of Mortgage Lending to perform
- 8 annual examinations of mortgage brokers and mortgage bankers. (NRS 645B.060,
- 9 645E.300) **Sections 1.5 and 6** of this bill eliminate the requirement for an annual
- 10 examination and instead require the Commissioner to conduct, at his or her
- 11 discretion, periodic standard examinations of a mortgage broker or mortgage
- 12 banker.
- 13 Existing law requires each mortgage broker or mortgage banker to submit a
- 14 monthly report of the activity of the mortgage broker or mortgage banker to the
- 15 Commissioner. (NRS 645B.080, 645E.350) **Sections 2 and 7** of this bill allow the
- 16 Commissioner to waive this requirement if substantially similar information is
- 17 available to the Commissioner from another source.



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

1 **Section 1.** NRS 645B.051 is hereby amended to read as
2 follows:

3 645B.051 1. Except as otherwise provided in subsection 2, in
4 addition to the requirements set forth in NRS 645B.050, to renew a
5 license as a mortgage broker:

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

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

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

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

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

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

35 **Sec. 1.5.** NRS 645B.060 is hereby amended to read as follows:

36 645B.060 1. Subject to the administrative control of the
37 Director of the Department of Business and Industry, the
38 Commissioner shall exercise general supervision and control over
39 mortgage brokers and mortgage agents doing business in this State.

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

42 (a) Adopt regulations:



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

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

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

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

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

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

24 (2) Procedures for resolving any objections made by the
25 mortgage broker to the results of ~~the annual~~ *a periodic standard*
26 examination. The results of ~~the annual~~ *a periodic standard*
27 examination may not be opened to public inspection pursuant to
28 NRS 645B.090 until after a period of time set by the Commissioner
29 to determine any objections made by the mortgage broker.

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

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

41 (1) The Legislative Auditor; or

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

44 (g) Conduct such examinations and investigations as are
45 necessary to ensure that mortgage brokers and mortgage agents meet



1 the requirements of this chapter for obtaining a license, both at the
2 time of the application for a license and thereafter on a continuing
3 basis.

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

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

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

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

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

17 ~~—(d) Does not maintain any trust accounts pursuant to NRS~~
18 ~~645B.170 or 645B.175 or arrange loans funded by private~~
19 ~~investors.]~~

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

21 645B.080 1. Each mortgage broker shall keep and maintain
22 at all times at each location where the mortgage broker conducts
23 business in this state complete and suitable records of all mortgage
24 transactions made by the mortgage broker at that location. Each
25 mortgage broker shall also keep and maintain at all times at each
26 such location all original books, papers and data, or copies thereof,
27 clearly reflecting the financial condition of the business of the
28 mortgage broker.

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

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

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

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

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

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



1 ~~4~~ 5. Each mortgage broker who is required to register or
2 voluntarily registers with the Registry shall submit to the Registry
3 and the Commissioner a report of condition or any other report
4 required by the Registry in the form and at the time required by the
5 Registry.

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

7 645B.090 1. Except as otherwise provided in this section or
8 by specific statute, all papers, documents, reports and other written
9 instruments filed with the Commissioner pursuant to this chapter are
10 open to public inspection.

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

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

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

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

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

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

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

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

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

39 (2) The findings and results of:

40 (I) All examinations or investigations of the mortgage
41 broker conducted pursuant to NRS 645B.060 during the
42 immediately preceding 5 years, including, without limitation,
43 ~~annual or biennial examinations~~ **any periodic standard**
44 **examination** of the mortgage broker conducted pursuant to NRS
45 645B.060, including, without limitation, the rating for each annual



1 or biennial examination and an explanation of the standards for
2 determining that rating; and

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

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

8 645B.260 1. If a mortgage broker maintains any accounts
9 described in subsection 4 of NRS 645B.175 in which the mortgage
10 broker deposits payments from a debtor on a loan secured by a lien
11 on real property and, on the last day of any month, the debtor has
12 failed to make two or more consecutive payments in accordance
13 with the terms of the loan, the mortgage broker shall:

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

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

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

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

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

28 2. The Commissioner:

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

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

39 **Sec. 3.5.** NRS 645B.430 is hereby amended to read as follows:

40 645B.430 1. A license as a mortgage agent issued pursuant to
41 NRS 645B.410 expires each year on December 31, unless it is
42 renewed. To renew a license as a mortgage agent, the holder of the
43 license must continue to meet the requirements of subsection 3 of
44 NRS 645B.410 and must submit to the Commissioner on or after



1 November 1 and on or before December 31 of each year, or on a
2 date otherwise specified by the Commissioner by regulation:

3 (a) An application for renewal;

4 (b) Except as otherwise provided in this section, satisfactory
5 proof that the holder of the license as a mortgage agent attended at
6 least ~~10~~ 8 hours of certified courses of continuing education during
7 the 12 months immediately preceding the date on which the license
8 expires; and

9 (c) A renewal fee set by the Commissioner of not more than
10 \$170.

11 2. In lieu of the continuing education requirement set forth in
12 paragraph (b) of subsection 1, the holder of a license as a mortgage
13 agent who, pursuant to subsection 1 of NRS 645F.267, is not
14 required to register or renew with the Registry and who has not
15 voluntarily registered or renewed with the Registry must submit to
16 the Commissioner satisfactory proof that he or she attended at least
17 5 hours of certified courses of continuing education during the 12
18 months immediately preceding the date on which the license
19 expires. The hours of continuing education required by this
20 subsection must include ~~f~~

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

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

24 3. If the holder of the license as a mortgage agent fails to
25 submit any item required pursuant to subsection 1 or 2 to
26 the Commissioner on or after November 1 and on or before
27 December 31 of any year, unless a different date is specified by the
28 Commissioner by regulation, the license is cancelled as of
29 December 31 of that year. The Commissioner may reinstate a
30 cancelled license if the holder of the license submits to the
31 Commissioner on or before February 28 of the following year:

32 (a) An application for renewal;

33 (b) The fee required to renew the license pursuant to this
34 section; and

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

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

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

43 6. The Commissioner may require a licensee to submit an item
44 or pay a fee required by this section directly to the Division or, if the



1 licensee is required to register or voluntarily registers with the
2 Registry, to the Division through the Registry.

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

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

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

10 645B.690 1. If a person offers or provides any of the services
11 of a mortgage broker or mortgage agent or otherwise engages in,
12 carries on or holds himself or herself out as engaging in or carrying
13 on the business of a mortgage broker or mortgage agent and, at the
14 time:

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

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

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

21 ➔ the Commissioner shall impose upon the person an
22 administrative fine of not more than \$50,000 for each violation and,
23 if the person has a license, the Commissioner may suspend or
24 revoke it.

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

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

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

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

43 3. If a mortgage broker:

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



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

4 → the Commissioner shall suspend or revoke the license of the
5 mortgage broker.

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

7 645E.030 “Commercial mortgage loan” means a loan
8 **primarily for a business, commercial or agricultural purpose** that:

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

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

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

14 645E.300 1. Subject to the administrative control of the
15 Director of the Department of Business and Industry, the
16 Commissioner shall exercise general supervision and control over
17 mortgage bankers doing business in this State.

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

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

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

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

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

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

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

40 (1) The Legislative Auditor; or

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

43 (g) Conduct such examinations and investigations as are
44 necessary to ensure that mortgage bankers meet the requirements of



1 this chapter for obtaining a license, both at the time of the
2 application for a license and thereafter on a continuing basis.

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

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

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

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

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

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

17 645E.350 1. Each mortgage banker shall keep and maintain
18 at all times at each location where the mortgage banker conducts
19 business in this State complete and suitable records of all mortgage
20 transactions made by the mortgage banker at that location. Each
21 mortgage banker shall also keep and maintain at all times at each
22 such location all original books, papers and data, or copies thereof,
23 clearly reflecting the financial condition of the business of the
24 mortgage banker.

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

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

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

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

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

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

41 ~~4.~~ 5. A licensee who operates outside this State an office or
42 other place of business which is licensed pursuant to this chapter
43 shall:

44 (a) Make available at a location within this State the books,
45 accounts, papers, records and files of the office or place of business



1 located outside this State to the Commissioner or a representative of
2 the Commissioner; or

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

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

9 ~~§ 6.~~ 6. Each mortgage banker who is required to register or
10 voluntarily registers with the Registry shall submit to the Registry
11 and the Commissioner a report of condition or any other report
12 required by the Registry in the form and at the time required by the
13 Registry.

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

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

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

