

ASSEMBLY BILL NO. 490—COMMITTEE ON
COMMERCE AND LABOR

MARCH 24, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing mortgage brokers and mortgage agents. (BDR 54-998)

FISCAL NOTE: Effect on Local Government: Yes.
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 investments; creating the Board for the Regulation of Mortgage Brokers and Mortgage Agents; authorizing the Board to direct the Commissioner of Financial Institutions in regulating mortgage brokers and mortgage agents; providing for the licensure of mortgage agents; providing that advertising spokespersons for mortgage brokers are jointly and severally liable for damages caused by the mortgage brokers under certain circumstances; increasing the amount of continuing education annually required of mortgage brokers and mortgage agents; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 645B of NRS is hereby amended by adding
- 2 thereto the provisions set forth as sections 2 to 10, inclusive, of this
- 3 act.
- 4 **Sec. 2.** *“Board” means the Board for the Regulation of*
- 5 *Mortgage Brokers and Mortgage Agents created by section 8 of*
- 6 *this act.*
- 7 **Sec. 3.** *1. An advertising spokesperson for a mortgage*
- 8 *broker is jointly and severally liable with the mortgage broker for*
- 9 *damages caused by the mortgage broker by fraud, embezzlement,*



1 *misappropriation of property, a violation of the provisions of this*
2 *chapter or the regulations adopted pursuant thereto, or an action*
3 *of the mortgage broker that is grounds for disciplinary action, if:*

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

9 (b) *In advertising for the mortgage broker, the advertising*
10 *spokesperson knew or should have known that:*

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

14 (2) *The advertising spokesperson was disseminating*
15 *material information concerning the mortgage broker or the*
16 *business, products or services of the mortgage broker, which was*
17 *false or misleading.*

18 2. *As used in this section:*

19 (a) *“Advertising for a mortgage broker” means advertising or*
20 *otherwise promoting a mortgage broker or the business, products*
21 *or services of the mortgage broker using any medium of*
22 *communication.*

23 (b) *“Advertising spokesperson for a mortgage broker” or*
24 *“advertising spokesperson” means a person who consents to and*
25 *receives compensation for using his name or likeness in*
26 *advertising for a mortgage broker.*

27 **Sec. 4.** *A person shall not act as or provide any of the*
28 *services of a mortgage agent or otherwise engage in, carry on or*
29 *hold himself out as engaging in or carrying on the activities of a*
30 *mortgage agent unless the person:*

31 1. *Has a license as a mortgage agent issued pursuant to*
32 *section 5 of this act; and*

33 2. *Is registered pursuant to NRS 645B.450.*

34 **Sec. 5.** 1. *To obtain a license as a mortgage agent, a person*
35 *must:*

36 (a) *Be a natural person;*

37 (b) *File a written application for a license as a mortgage agent*
38 *with the office of the Commissioner;*

39 (c) *Comply with the applicable requirements of this chapter;*
40 *and*

41 (d) *Pay an application fee set by the Commissioner of not more*
42 *than \$1,500.*

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

44 (a) *Be verified;*

45 (b) *State the name and residence address of the applicant;*



- 1 (c) *Include a provision by which the applicant gives his written*
2 *consent to an investigation of his credit history, criminal history*
3 *and background; and*
- 4 (d) *Include any other information or supporting materials*
5 *required pursuant to the regulations adopted by the Commissioner*
6 *or an order of the Commissioner. Such information or supporting*
7 *materials may include, without limitation, a complete set of*
8 *fingerprints from the person and other forms of identification of*
9 *the person.*
- 10 3. *Except as otherwise provided in this chapter, the*
11 *Commissioner shall issue a license as a mortgage agent to an*
12 *applicant if:*
- 13 (a) *The application complies with the applicable requirements*
14 *of this chapter; and*
- 15 (b) *The applicant:*
- 16 (1) *Has not been convicted of, or entered a plea of nolo*
17 *contendere to, a felony or any crime involving fraud,*
18 *misrepresentation or moral turpitude;*
- 19 (2) *Has not had a financial services license suspended or*
20 *revoked within the immediately preceding 10 years;*
- 21 (3) *Has not made a false statement of material fact on his*
22 *application;*
- 23 (4) *Has not violated any provision of this chapter or*
24 *chapter 645E of NRS, a regulation adopted pursuant thereto or an*
25 *order of the Commissioner; and*
- 26 (5) *Has a good reputation for honesty, trustworthiness and*
27 *integrity and displays competence to transact the business of a*
28 *mortgage agent in a manner which safeguards the interests of the*
29 *general public. The applicant must submit satisfactory proof of*
30 *these qualifications to the Commissioner.*
- 31 4. *Money received by the Commissioner pursuant to this*
32 *section must be placed in the Investigative Account created by*
33 *NRS 232.545.*
- 34 **Sec. 6. 1.** *A license as a mortgage agent issued pursuant to*
35 *section 5 of this act expires each year on June 30, unless it is*
36 *renewed. To renew a license as a mortgage agent, the holder of the*
37 *license must submit to the Commissioner on or before June 30 of*
38 *each year:*
- 39 (a) *An application for renewal;*
- 40 (b) *Satisfactory proof that the holder of the license as a*
41 *mortgage agent attended at least 10 hours of certified courses of*
42 *continuing education during the 12 months immediately preceding*
43 *the date on which the license expires; and*
- 44 (c) *A renewal fee set by the Commissioner of not more than*
45 *\$500.*



- 1 2. *If the holder of the license as a mortgage agent fails to*
2 *submit any item required pursuant to subsection 1 to the*
3 *Commissioner on or before June 30 of any year, the license is*
4 *cancelled. The Commissioner may reinstate a cancelled license if*
5 *the holder of the license submits to the Commissioner:*
- 6 (a) *An application for renewal;*
7 (b) *The fee required to renew the license pursuant to this*
8 *section; and*
9 (c) *A reinstatement fee of \$200.*
- 10 3. *To be issued a duplicate copy of a license as a mortgage*
11 *agent, a person must make a satisfactory showing of its loss and*
12 *pay a fee of \$10.*
- 13 4. *Money received by the Commissioner pursuant to this*
14 *section must be deposited in the State Treasury for credit to the*
15 *State General Fund.*
- 16 5. *As used in this section, "certified course of continuing*
17 *education" has the meaning ascribed to it in NRS 645B.051.*
- 18 **Sec. 7. 1.** *In addition to any other requirement for the*
19 *issuance of a license as a mortgage agent pursuant to section 5 of*
20 *this act, an applicant for the issuance of the license must include*
21 *his social security number in his application.*
- 22 2. *In addition to any other requirement for the issuance or*
23 *renewal of a license as a mortgage agent pursuant to section 5 or*
24 *6 of this act, an applicant for the issuance or renewal of the*
25 *license shall submit to the Commissioner the statement prescribed*
26 *by the Welfare Division of the Department of Human Resources*
27 *pursuant to NRS 425.520. The statement must be completed and*
28 *signed by the applicant.*
- 29 3. *The Commissioner shall include the statement required*
30 *pursuant to subsection 2 in:*
- 31 (a) *The application or any other forms that must be submitted*
32 *for the issuance or renewal of the license as a mortgage agent; or*
33 (b) *A separate form prescribed by the Commissioner.*
- 34 4. *The license as a mortgage agent may not be issued or*
35 *renewed by the Commissioner if the applicant:*
- 36 (a) *Fails to submit the statement required pursuant to*
37 *subsection 2; or*
38 (b) *Indicates on the statement submitted pursuant to*
39 *subsection 2 that he is subject to a court order for the support of a*
40 *child and is not in compliance with the order or a plan approved*
41 *by the district attorney or other public agency enforcing the order*
42 *for the repayment of the amount owed pursuant to the order.*
- 43 5. *If an applicant indicates on the statement submitted*
44 *pursuant to subsection 2 that he is subject to a court order for the*
45 *support of a child and is not in compliance with the order or a*



1 *plan approved by the district attorney or other public agency*
2 *enforcing the order for the repayment of the amount owed*
3 *pursuant to the order, the Commissioner shall advise the applicant*
4 *to contact the district attorney or other public agency enforcing*
5 *the order to determine the actions that the applicant may take to*
6 *satisfy the arrearage.*

7 **Sec. 8.** *1. The Board for the Regulation of Mortgage*
8 *Brokers and Mortgage Agents is hereby created. The Board*
9 *consists of five members appointed by the Governor. Two of the*
10 *members must hold a license issued pursuant to this chapter.*
11 *Three of the members must be representatives of the general*
12 *public. A member may not serve more than two consecutive terms.*

13 *2. The Governor shall appoint the Chairman of the Board*
14 *from among the members of the Board who are representatives of*
15 *the general public.*

16 *3. A majority of the members constitutes a quorum, and a*
17 *majority of those present must concur in any decision.*

18 *4. Each member is entitled to receive a salary of not more*
19 *than \$80, as fixed by the Board, for each day's attendance at a*
20 *meeting of the Board.*

21 *5. While engaged in the business of the Board, each member*
22 *is entitled to receive the per diem allowance and travel expenses*
23 *provided for state officers and employees generally.*

24 *6. The Commissioner and Division shall provide technical*
25 *advice, support and assistance to the Board.*

26 **Sec. 9.** *The Board shall:*

27 *1. Establish policies and standards for the administration and*
28 *enforcement of the provisions of this chapter.*

29 *2. Meet not less than once each quarter to review the actions*
30 *and decisions of the Commissioner and Division in administering*
31 *and enforcing the provisions of this chapter.*

32 **Sec. 10.** *The Board may:*

33 *1. Direct the actions and decisions of the Commissioner and*
34 *Division with regard to the administration and enforcement of the*
35 *provisions of this chapter.*

36 *2. Adopt regulations as necessary to administer and enforce*
37 *this chapter, including, without limitation, regulations which*
38 *revise or repeal any regulations adopted by the Commissioner*
39 *pursuant to this chapter.*

40 *3. Require the Commissioner or Division to provide any*
41 *records or information deemed necessary or useful to the Board in*
42 *exercising its powers.*

43 **Sec. 11.** NRS 645B.010 is hereby amended to read as follows:

44 645B.010 As used in this chapter, unless the context otherwise
45 requires, the words and terms defined in NRS ~~645B.0103~~



1 **645B.0105** to 645B.0135, inclusive, *and section 2 of this act*, have
2 the meanings ascribed to them in those sections.

3 **Sec. 12.** NRS 645B.0123 is hereby amended to read as
4 follows:

5 645B.0123 "Licensee" means a person who is licensed as a
6 mortgage broker pursuant to this chapter. *The term does not include*
7 *a person issued a license as a mortgage agent pursuant to section*
8 *5 of this act.*

9 **Sec. 13.** NRS 645B.016 is hereby amended to read as follows:

10 645B.016 Except as otherwise provided in NRS 645B.690:

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

13 (a) File a written application for a certificate of exemption with
14 the office of the Commissioner;

15 (b) Pay the fee required pursuant to NRS 645B.050; and

16 (c) Include with the written application satisfactory proof that
17 the person meets the requirements of subsection 1 or 6 of
18 NRS 645B.015.


19 2. The Commissioner may require a person who claims an
20 exemption from the provisions of this chapter pursuant to
21 subsections 2 to 5, inclusive, or 7 to 10, inclusive, of NRS 645B.015
22 to:

23 (a) File a written application for a certificate of exemption with
24 the office of the Commissioner;

25 (b) Pay the fee required pursuant to NRS 645B.050; and

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

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

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

39 (a) A license as a mortgage broker *or mortgage agent, as*
40 *applicable*, pursuant to this chapter; or

41 (b) Another certificate of exemption.

42 5. The Commissioner may impose upon a person who is
43 required to apply for a certificate of exemption or who holds a
44 certificate of exemption an administrative fine of not more than
45 \$10,000 for each violation that he commits, if the person:



- 1 (a) Has knowingly made or caused to be made to the
- 2 Commissioner any false representation of material fact;
- 3 (b) Has suppressed or withheld from the Commissioner any
- 4 information which the person possesses and which, if submitted by
- 5 him, would have rendered the person ineligible to hold a certificate
- 6 of exemption; or
- 7 (c) Has violated any provision of this chapter, a regulation
- 8 adopted pursuant to this chapter or an order of the Commissioner
- 9 that applies to a person who is required to apply for a certificate of
- 10 exemption or who holds a certificate of exemption.

11 **6. *A certificate of exemption does not exempt the holder from***
12 ***the requirements of NRS 645B.450.***

13 **Sec. 14.** NRS 645B.035 is hereby amended to read as follows:

14 645B.035 1. A license *as a mortgage broker* entitles a
15 licensee to engage only in the activities authorized by this chapter.
16 2. The provisions of this chapter do not prohibit a licensee
17 from:

- 18 (a) Holding a license as a mortgage company pursuant to
- 19 chapter 645E of NRS; or
- 20 (b) Conducting the business of a mortgage company and the
- 21 business of a mortgage broker in the same office or place of
- 22 business.

23 **Sec. 15.** NRS 645B.050 is hereby amended to read as follows:

24 645B.050 1. A license *as a mortgage broker* issued pursuant
25 to this chapter expires each year on June 30, unless it is renewed. To
26 renew *such* a license, the licensee must submit to the Commissioner
27 on or before June 30 of each year:

- 28 (a) An application for renewal;
- 29 (b) The fee required to renew the license pursuant to this
- 30 section;
- 31 (c) If the licensee is a natural person, the statement required
- 32 pursuant to NRS 645B.023; and
- 33 (d) The information required pursuant to NRS 645B.051.

34 2. If the licensee fails to submit any item required pursuant to
35 subsection 1 to the Commissioner on or before June 30 of any year,
36 the license is cancelled. The Commissioner may reinstate a
37 cancelled license if the licensee submits to the Commissioner:

- 38 (a) An application for renewal;
- 39 (b) The fee required to renew the license pursuant to this
- 40 section;
- 41 (c) If the licensee is a natural person, the statement required
- 42 pursuant to NRS 645B.023;
- 43 (d) The information required pursuant to NRS 645B.051; and
- 44 (e) Except as otherwise provided in this section, a reinstatement
- 45 fee of \$200.



1 3. Except as otherwise provided in NRS 645B.016, a certificate
2 of exemption issued pursuant to this chapter expires each year on
3 December 31, unless it is renewed. To renew a certificate of
4 exemption, a person must submit to the Commissioner on or before
5 December 31 of each year:

- 6 (a) An application for renewal that includes satisfactory proof
7 that the person meets the requirements for an exemption from the
8 provisions of this chapter; and
9 (b) The fee required to renew the certificate of exemption.

10 4. If the person fails to submit any item required pursuant to
11 subsection 3 to the Commissioner on or before December 31 of any
12 year, the certificate of exemption is cancelled. Except as otherwise
13 provided in NRS 645B.016, the Commissioner may reinstate a
14 cancelled certificate of exemption if the person submits to the
15 Commissioner:

- 16 (a) An application for renewal that includes satisfactory proof
17 that the person meets the requirements for an exemption from the
18 provisions of this chapter;
19 (b) The fee required to renew the certificate of exemption; and
20 (c) Except as otherwise provided in this section, a reinstatement
21 fee of \$100.

22 5. Except as otherwise provided in this section, a person must
23 pay the following fees to apply for, to be issued or to renew a
24 license as a mortgage broker pursuant to this chapter:

- 25 (a) To file an original application or a license, \$1,500 for the
26 principal office and \$40 for each branch office. The person must
27 also pay such additional expenses incurred in the process of
28 investigation as the Commissioner deems necessary. All money
29 received by the Commissioner pursuant to this paragraph must be
30 placed in the Investigative Account created by NRS 232.545.
31 (b) To be issued a license, \$1,000 for the principal office and
32 \$60 for each branch office.
33 (c) To renew a license, \$500 for the principal office and \$100
34 for each branch office.

35 6. Except as otherwise provided in this section, a person must
36 pay the following fees to apply for or to renew a certificate of
37 exemption pursuant to this chapter:

- 38 (a) To file an application for a certificate of exemption, \$200.
39 (b) To renew a certificate of exemption, \$100.

40 7. To be issued a duplicate copy of any license or certificate of
41 exemption, a person must make a satisfactory showing of its loss
42 and pay a fee of \$10.

43 8. Except as otherwise provided in this chapter, all fees
44 received pursuant to this chapter must be deposited in the State
45 Treasury for credit to the State General Fund.



1 9. The Commissioner may, by regulation, increase any fee set
2 forth in this section if the Commissioner determines that such an
3 increase is necessary for the Commissioner to carry out his duties
4 pursuant to this chapter. The amount of any increase in a fee
5 pursuant to this subsection must not exceed the amount determined
6 to be necessary for the Commissioner to carry out his duties
7 pursuant to this chapter.

8 **Sec. 16.** NRS 645B.050 is hereby amended to read as follows:
9 645B.050 1. A license *as a mortgage broker* issued pursuant
10 to this chapter expires each year on June 30, unless it is renewed. To
11 renew *such* a license, the licensee must submit to the Commissioner
12 on or before June 30 of each year:

- 13 (a) An application for renewal;
- 14 (b) The fee required to renew the license pursuant to this
15 section; and
- 16 (c) The information required pursuant to NRS 645B.051.

17 2. If the licensee fails to submit any item required pursuant to
18 subsection 1 to the Commissioner on or before June 30 of any year,
19 the license is cancelled. The Commissioner may reinstate a
20 cancelled license if the licensee submits to the Commissioner:

- 21 (a) An application for renewal;
- 22 (b) The fee required to renew the license pursuant to this
23 section;
- 24 (c) The information required pursuant to NRS 645B.051; and
- 25 (d) Except as otherwise provided in this section, a reinstatement
26 fee of \$200.

27 3. Except as otherwise provided in NRS 645B.016, a certificate
28 of exemption issued pursuant to this chapter expires each year on
29 December 31, unless it is renewed. To renew a certificate of
30 exemption, a person must submit to the Commissioner on or before
31 December 31 of each year:

- 32 (a) An application for renewal that includes satisfactory proof
33 that the person meets the requirements for an exemption from the
34 provisions of this chapter; and
- 35 (b) The fee required to renew the certificate of exemption.

36 4. If the person fails to submit any item required pursuant to
37 subsection 3 to the Commissioner on or before December 31 of any
38 year, the certificate of exemption is cancelled. Except as otherwise
39 provided in NRS 645B.016, the Commissioner may reinstate a
40 cancelled certificate of exemption if the person submits to the
41 Commissioner:

- 42 (a) An application for renewal that includes satisfactory proof
43 that the person meets the requirements for an exemption from the
44 provisions of this chapter;
- 45 (b) The fee required to renew the certificate of exemption; and



1 (c) Except as otherwise provided in this section, a reinstatement
2 fee of \$100.

3 5. Except as otherwise provided in this section, a person must
4 pay the following fees to apply for, to be issued or to renew a
5 license as a mortgage broker pursuant to this chapter:

6 (a) To file an original application for a license, \$1,500 for the
7 principal office and \$40 for each branch office. The person must
8 also pay such additional expenses incurred in the process of
9 investigation as the Commissioner deems necessary. All money
10 received by the Commissioner pursuant to this paragraph must be
11 placed in the Investigative Account created by NRS 232.545.

12 (b) To be issued a license, \$1,000 for the principal office and
13 \$60 for each branch office.

14 (c) To renew a license, \$500 for the principal office and \$100
15 for each branch office.

16 6. Except as otherwise provided in this section, a person must
17 pay the following fees to apply for or to renew a certificate of
18 exemption pursuant to this chapter:

19 (a) To file an application for a certificate of exemption, \$200.

20 (b) To renew a certificate of exemption, \$100.

21 7. To be issued a duplicate copy of any license or certificate of
22 exemption, a person must make a satisfactory showing of its loss
23 and pay a fee of \$10.

24 8. Except as otherwise provided in this chapter, all fees
25 received pursuant to this chapter must be deposited in the State
26 Treasury for credit to the State General Fund.

27 9. The Commissioner may, by regulation, increase any fee set
28 forth in this section if the Commissioner determines that such an
29 increase is necessary for the Commissioner to carry out his duties
30 pursuant to this chapter. The amount of any increase in a fee
31 pursuant to this subsection must not exceed the amount determined
32 to be necessary for the Commissioner to carry out his duties
33 pursuant to this chapter.

34 **Sec. 17.** NRS 645B.051 is hereby amended to read as follows:

35 645B.051 1. In addition to the requirements set forth in NRS
36 645B.050, to renew a license ~~as a mortgage broker:~~

37 (a) If the licensee is a natural person, the licensee must submit to
38 the Commissioner satisfactory proof that the licensee attended at
39 least ~~5~~ 10 hours of certified courses of continuing education during
40 the 12 months immediately preceding the date on which the license
41 expires.

42 (b) If the licensee is not a natural person, the licensee must
43 submit to the Commissioner satisfactory proof that each natural
44 person who supervises the daily business of the licensee attended at
45 least ~~5~~ 10 hours of certified courses of continuing education during



1 the 12 months immediately preceding the date on which the license
2 expires.

3 2. As used in this section, "certified course of continuing
4 education" means a course of continuing education which relates to
5 the mortgage industry or mortgage transactions and which is:

6 (a) Certified by the National Association of Mortgage Brokers
7 or any successor in interest to that organization; or

8 (b) Certified in a manner established by the Commissioner, if
9 the National Association of Mortgage Brokers or any successor in
10 interest to that organization ceases to exist.

11 **Sec. 18.** NRS 645B.060 is hereby amended to read as follows:

12 645B.060 1. Subject to the administrative control of the
13 *Board and the* Director of the Department of Business and Industry,
14 the Commissioner shall exercise general supervision and control
15 over mortgage brokers doing business in this state.

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

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

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

24 (c) Conduct an annual examination of each mortgage broker
25 doing business in this state. The annual examination must include,
26 without limitation, a formal exit review with the mortgage broker.
27 The Commissioner shall adopt regulations prescribing:

28 (1) Standards for determining the rating of each mortgage
29 broker based upon the results of the annual examination; and

30 (2) Procedures for resolving any objections made by the
31 mortgage broker to the results of the annual examination. The
32 results of the annual examination may not be opened to public
33 inspection pursuant to NRS 645B.090 until any objections made by
34 the mortgage broker have been decided by the Commissioner.

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

42 (e) 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



1 confidential. This paragraph does not limit examination by the
2 Legislative Auditor.

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

8 3. For each special audit, investigation or examination, a
9 mortgage broker *or mortgage agent* shall pay a fee based on the rate
10 established pursuant to NRS 658.101.

11 **Sec. 19.** NRS 645B.450 is hereby amended to read as follows:

12 645B.450 1. A person ~~[shall not act as or provide any of the~~
13 ~~services of a mortgage agent or otherwise engage in, carry on or~~
14 ~~hold himself out as engaging in or carrying on the activities of a~~
15 ~~mortgage agent if the person:~~

16 ~~—(a) Has been convicted of, or entered a plea of nolo contendere~~
17 ~~to, a felony or any crime involving fraud, misrepresentation or~~
18 ~~moral turpitude; or~~

19 ~~—(b) Has had a financial services license or registration suspended~~
20 ~~or revoked within the immediately preceding 10 years.] *may not be*~~
21 ~~registered pursuant to this section unless he has been issued a~~
22 ~~license as a mortgage agent pursuant to section 5 of this act.~~

23 2. A mortgage agent may not be associated with or employed
24 by more than one mortgage broker at the same time.

25 3. A mortgage broker shall register with the Division each
26 person who will be associated with or employed by the mortgage
27 broker as a mortgage agent. A mortgage broker shall register each
28 such person with the Division when the person begins his
29 association or employment with the mortgage broker and annually
30 thereafter. A registration expires 12 months after its effective date.

31 4. To register a person as a mortgage agent, a mortgage broker
32 must ~~f:~~

33 ~~—(a) Submit] *submit*~~ to the Division a registration form which is
34 provided by the Division and which:

35 ~~[(1)] (a)~~ States the name, residence address and business
36 address of the person;

37 ~~[(2)] (b)~~ Is signed by the person;

38 ~~[(3) Includes a provision by which the person gives his~~
39 ~~written consent to an investigation of his credit history, criminal~~
40 ~~history and background; and~~

41 ~~—[(4)] and~~

42 (c) Includes any other information or supporting materials
43 required by the regulations adopted by the Commissioner. ~~[Such~~
44 ~~information or supporting materials may include, without limitation,~~



1 ~~a complete set of fingerprints from the person, the social security~~
2 ~~number of the person and other forms of identification of the person.~~

3 ~~—(b) For each initial registration, pay the actual costs and~~
4 ~~expenses incurred by the Division to investigate the credit history,~~
5 ~~criminal history and background of the person. All money received~~
6 ~~pursuant to this paragraph must be placed in the Investigative~~
7 ~~Account created by NRS 232.545.~~

8 ~~—(c) For each annual registration, submit to the Division~~
9 ~~satisfactory proof that the person attended at least 5 hours of~~
10 ~~certified courses of continuing education during the 12 months~~
11 ~~immediately preceding the date on which the registration expires.~~

12 ~~—5. Not later than the date on which the mortgage broker~~
13 ~~submits the information for annual registration required by~~
14 ~~subsection 4, the person being registered shall pay an annual~~
15 ~~registration fee of \$125. If the person does not pay the annual~~
16 ~~registration fee, the person shall be deemed to be unregistered for~~
17 ~~the purposes of this chapter.~~

18 ~~—6.] 5. A mortgage broker shall not employ a person as a~~
19 ~~mortgage agent or authorize a person to be associated with the~~
20 ~~mortgage broker as a mortgage agent if the mortgage broker has not~~
21 ~~registered the person with the Division pursuant to this section . [or~~
22 ~~if the person:~~

23 ~~—(a) Has been convicted of, or entered a plea of nolo contendere~~
24 ~~to, a felony or any crime involving fraud, misrepresentation or~~
25 ~~moral turpitude; or~~

26 ~~—(b) Has had a financial services license or registration suspended~~
27 ~~or revoked within the immediately preceding 10 years.~~

28 ~~—7.] 6. If a mortgage agent terminates his association or~~
29 ~~employment with a mortgage broker for any reason, the mortgage~~
30 ~~broker shall, not later than the third business day following the date~~
31 ~~of termination:~~

32 (a) Deliver to the mortgage agent or send by certified mail to the
33 last known residence address of the mortgage agent a written
34 statement which advises him that his termination is being reported
35 to the Division; and

36 (b) Deliver or send by certified mail to the Division:
37 (1) A written statement of the circumstances surrounding the
38 termination; and
39 (2) A copy of the written statement that the mortgage broker
40 delivers or mails to the mortgage agent pursuant to paragraph (a).

41 ~~[8.—As used in this section, “certified course of continuing~~
42 ~~education” has the meaning ascribed to it in NRS 645B.051.]~~

43 *7. As used in this section, “mortgage broker” includes a*
44 *person who is required to apply for a certificate of exemption or*
45 *who holds a certificate of exemption.*



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1 **Sec. 20.** NRS 645B.620 is hereby amended to read as follows:
2 645B.620 1. Whether or not a complaint has been filed, the
3 Commissioner shall investigate a mortgage broker , *mortgage agent*
4 or other person if, for any reason, it appears that:

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

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

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

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

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

26 (b) The Attorney General shall, if appropriate:

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

29 (2) Bring a civil action to:

30 (I) Enjoin the mortgage broker , *mortgage agent* or other
31 person from engaging in the conduct, operating the business or
32 committing the violation; and

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

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



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

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

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

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

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

13 **Sec. 21.** NRS 645B.670 is hereby amended to read as follows:
14 645B.670 Except as otherwise provided in NRS 645B.690:

15 1. For each violation committed by an applicant ~~§~~ *for a*
16 *license pursuant to this chapter*, whether or not he is issued a
17 license, the Commissioner may impose upon the applicant an
18 administrative fine of not more than \$10,000, if the applicant:

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

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

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

29 2. For each violation committed by a licensee, the
30 Commissioner may impose upon the licensee an administrative fine
31 of not more than \$10,000, may suspend, revoke or place conditions
32 upon his license, or may do both, if the licensee, whether or not
33 acting as such:

34 (a) Is insolvent;

35 (b) Is grossly negligent or incompetent in performing any act for
36 which he is required to be licensed pursuant to the provisions of this
37 chapter;

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

41 (d) Is in such financial condition that he cannot continue in
42 business with safety to his customers;

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



- 1 (f) Has suppressed or withheld from a client any material facts,
2 data or other information relating to any transaction governed by the
3 provisions of this chapter which the licensee knew or, by the
4 exercise of reasonable diligence, should have known;
- 5 (g) Has knowingly made or caused to be made to the
6 Commissioner any false representation of material fact or has
7 suppressed or withheld from the Commissioner any information
8 which the licensee possesses and which, if submitted by him, would
9 have rendered the licensee ineligible to be licensed pursuant to the
10 provisions of this chapter;
- 11 (h) Has failed to account to persons interested for all money
12 received for a trust account;
- 13 (i) Has refused to permit an examination by the Commissioner
14 of his books and affairs or has refused or failed, within a reasonable
15 time, to furnish any information or make any report that may be
16 required by the Commissioner pursuant to the provisions of this
17 chapter or a regulation adopted pursuant to this chapter;
- 18 (j) Has been convicted of, or entered a plea of nolo contendere
19 to, a felony or any crime involving fraud, misrepresentation or
20 moral turpitude;
- 21 (k) Has refused or failed to pay, within a reasonable time, any
22 fees, assessments, costs or expenses that the licensee is required to
23 pay pursuant to this chapter or a regulation adopted pursuant to this
24 chapter;
- 25 (l) Has failed to satisfy a claim made by a client which has been
26 reduced to judgment;
- 27 (m) Has failed to account for or to remit any money of a client
28 within a reasonable time after a request for an accounting or
29 remittal;
- 30 (n) Has commingled the money or other property of a client
31 with his own or has converted the money or property of others to his
32 own use;
- 33 (o) Has engaged in any other conduct constituting a deceitful,
34 fraudulent or dishonest business practice;
- 35 (p) Has repeatedly violated the policies and procedures of the
36 mortgage broker;
- 37 (q) Has failed to exercise reasonable supervision over the
38 activities of a mortgage agent as required by NRS 645B.460;
- 39 (r) Has instructed a mortgage agent to commit an act that would
40 be cause for the revocation of the license of the mortgage broker,
41 whether or not the mortgage agent commits the act;
- 42 (s) Has employed a person as a mortgage agent or authorized a
43 person to be associated with the licensee as a mortgage agent at a
44 time when the licensee knew or, in light of all the surrounding facts
45 and circumstances, reasonably should have known that the person:



1 (1) Had been convicted of, or entered a plea of nolo
2 contendere to, a felony or any crime involving fraud,
3 misrepresentation or moral turpitude; or

4 (2) Had a financial services license or registration suspended
5 or revoked within the immediately preceding 10 years; or

6 (t) Has not conducted verifiable business as a mortgage broker
7 for 12 consecutive months, except in the case of a new applicant.
8 The Commissioner shall determine whether a mortgage broker is
9 conducting business by examining the monthly reports of activity
10 submitted by the licensee or by conducting an examination of the
11 licensee.

12 **Sec. 22.** NRS 645B.680 is hereby amended to read as follows:

13 645B.680 1. If the Commissioner receives a copy of a court
14 order issued pursuant to NRS 425.540 that provides for the
15 suspension of all professional, occupational and recreational
16 licenses, certificates and permits issued to a person who is the
17 holder of a license as a mortgage broker ~~or~~ *or mortgage agent*, the
18 Commissioner shall deem the license issued to that person to be
19 suspended at the end of the 30th day after the date on which the
20 court order was issued unless the Commissioner receives a letter
21 issued to the holder of the license by the district attorney or other
22 public agency pursuant to NRS 425.550 stating that the holder of the
23 license has complied with the subpoena or warrant or has satisfied
24 the arrearage pursuant to NRS 425.560.

25 2. The Commissioner shall reinstate a license as a mortgage
26 broker *or mortgage agent* that has been suspended by a district
27 court pursuant to NRS 425.540 if the Commissioner receives a letter
28 issued by the district attorney or other public agency pursuant to
29 NRS 425.550 to the person whose license was suspended stating
30 that the person whose license was suspended has complied with the
31 subpoena or warrant or has satisfied the arrearage pursuant to
32 NRS 425.560.

33 **Sec. 23.** NRS 645B.690 is hereby amended to read as follows:

34 645B.690 1. If a person offers or provides any of the services
35 of a mortgage broker *or mortgage agent* or otherwise engages in,
36 carries on or holds himself out as engaging in or carrying on the
37 business of a mortgage broker *or mortgage agent* and, at the time:

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

40 (b) The person's license was suspended or revoked pursuant to
41 this chapter,

42 the Commissioner shall impose upon the person an administrative
43 fine of not more than \$10,000 for each violation and, if the person
44 has a license, the Commissioner shall revoke it.



1 2. If a person is exempt from the provisions of this chapter
2 pursuant to subsection 6 of NRS 645B.015 and the person, while
3 exempt, maintains, offers to maintain or holds himself out as
4 maintaining any accounts described in subsection 1 of NRS
5 645B.175 or otherwise engages in, offers to engage in or holds
6 himself out as engaging in any activity that would remove the
7 person from the exemption set forth in subsection 6 of NRS
8 645B.015, the Commissioner shall impose upon the person an
9 administrative fine of not more than \$10,000 for each violation and
10 the Commissioner shall revoke the person's exemption. If the
11 Commissioner revokes an exemption pursuant to this subsection, the
12 person may not again be granted the same or a similar exemption
13 from the provisions of this chapter. The person may apply for a
14 license pursuant to this chapter unless otherwise prohibited by
15 specific statute.

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

26 (a) Impose upon the mortgage broker an administrative fine of
27 not more than \$10,000 for each violation;

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

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

34 **Sec. 24.** NRS 645B.900 is hereby amended to read as follows:

35 645B.900 It is unlawful for any person to offer or provide any
36 of the services of a mortgage broker *or mortgage agent* or otherwise
37 to engage in, carry on or hold himself out as engaging in or carrying
38 on the business of a mortgage broker *or mortgage agent* without
39 first obtaining ~~{a license as a mortgage broker}~~ *the applicable*
40 *license* pursuant to this chapter, unless the person:

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

42 2. Complies with the requirements for that exemption.

43 **Sec. 25.** NRS 645B.0103 is hereby repealed.

44 **Sec. 26.** 1. On October 1, 2003, the Commissioner of
45 Financial Institutions may begin accepting applications for, and



1 issuing, licenses as mortgage agents pursuant to section 5 of this act.
2 Any such license issued before July 1, 2004:

- 3 (a) Becomes effective on July 1, 2004; and
4 (b) Expires on June 30, 2005, pursuant to section 6 of this act.

5 2. On July 1, 2004, the registration of a mortgage agent who is
6 registered pursuant to NRS 645B.450 expires unless the mortgage
7 agent has obtained a license as a mortgage agent issued pursuant to
8 section 5 of this act.

9 3. As used in this section, "mortgage agent" has the meaning
10 ascribed to it in NRS 645B.0125.

11 **Sec. 27.** Not later than July 1, 2004, the Governor shall
12 appoint to the Board for the Regulation of Mortgage Brokers and
13 Mortgage Agents created by section 8 of this act:

14 1. Two members whose terms expire on July 1, 2006,
15 including:

16 (a) One member who holds a license as a mortgage broker or
17 mortgage agent; and

18 (b) One member who is a representative of the general public.

19 2. Three members whose terms expire on July 1, 2007.

20 **Sec. 28.** 1. This section becomes effective upon passage and
21 approval.

22 2. Sections 1 to 15, inclusive, and 17 to 27, inclusive, of this
23 act become effective upon passage and approval for the purposes of
24 adopting regulations, appointing members to the Board for the
25 Regulation of Mortgage Brokers and Mortgage Agents created by
26 section 8 of this act, and performing any other preparatory
27 administrative tasks that are necessary to carry out the provisions of
28 this act, and:

29 (a) Sections 1 and 3 of this act become effective on October 1,
30 2003, for all other purposes.

31 (b) Sections 2, 4 to 15, inclusive, and 17 to 27, inclusive, of this
32 act become effective on July 1, 2004, for all other purposes.

33 3. Sections 7, 15 and 22 of this act expire by limitation on the
34 date on which the provisions of 42 U.S.C. § 666 requiring each state
35 to establish procedures under which the State has authority to
36 withhold or suspend, or to restrict the use of professional,
37 occupational and recreational licenses of persons who:

38 (a) Have failed to comply with a subpoena or warrant relating to
39 a proceeding to determine the paternity of a child or to establish or
40 enforce an obligation for the support of a child; or

41 (b) Are in arrears in the payment for the support of one or more
42 children,
43 are repealed by the Congress of the United States.

44 4. Section 16 of this act becomes effective on the date on
45 which the provisions of 42 U.S.C. § 666 requiring each state to



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- 1 establish procedures under which the State has authority to withhold
2 or suspend, or to restrict the use of professional, occupational and
3 recreational licenses of persons who:
- 4 (a) Have failed to comply with a subpoena or warrant relating to
 - 5 a proceeding to determine the paternity of a child or to establish or
 - 6 enforce an obligation for the support of a child; or
 - 7 (b) Are in arrears in the payment for the support of one or more
 - 8 children,
 - 9 are repealed by the Congress of the United States.

TEXT OF REPEALED SECTION

645B.0103 “Applicant” defined. “Applicant” means a person who applies for licensure as a mortgage broker pursuant to this chapter.

