

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; revising provisions governing continuing education; 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*



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

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

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

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

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

19 2. *As used in this section:*

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

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

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

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

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

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

37 (a) *Be a natural person;*

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

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

42 (d) *Pay an application fee set by the Commissioner of not more*
43 *than \$185.*

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

45 (a) *Be verified;*



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



- 1 (c) A renewal fee set by the Commissioner of not more than
2 \$170.
- 3 2. If the holder of the license as a mortgage agent fails to
4 submit any item required pursuant to subsection 1 to the
5 Commissioner each year on or before the date the license expires,
6 the license is cancelled. The Commissioner may reinstate a
7 cancelled license if the holder of the license submits to the
8 Commissioner:
- 9 (a) An application for renewal;
- 10 (b) The fee required to renew the license pursuant to this
11 section; and
- 12 (c) A reinstatement fee of \$75.
- 13 3. To be issued a duplicate copy of a license as a mortgage
14 agent, a person must make a satisfactory showing of its loss and
15 pay a fee of \$10.
- 16 4. Money received by the Commissioner pursuant to this
17 section must be deposited in the State Treasury for credit to the
18 State General Fund.
- 19 5. The Commissioner may provide by regulation that a
20 certified course of continuing education attended during a 12-
21 month period, but not needed to satisfy a requirement set forth in
22 this section for the 12-month period in which the course was
23 taken, may be used to satisfy a requirement set forth in this section
24 for a later 12-month period.
- 25 6. As used in this section, "certified course of continuing
26 education" has the meaning ascribed to it in NRS 645B.051.
- 27 **Sec. 7. 1.** In addition to any other requirement for the
28 issuance of a license as a mortgage agent pursuant to section 5 of
29 this act, an applicant for the issuance of the license must include
30 his social security number in his application.
- 31 2. In addition to any other requirement for the issuance or
32 renewal of a license as a mortgage agent pursuant to section 5 or
33 6 of this act, an applicant for the issuance or renewal of the
34 license shall submit to the Commissioner the statement prescribed
35 by the Welfare Division of the Department of Human Resources
36 pursuant to NRS 425.520. The statement must be completed and
37 signed by the applicant.
- 38 3. The Commissioner shall include the statement required
39 pursuant to subsection 2 in:
- 40 (a) The application or any other forms that must be submitted
41 for the issuance or renewal of the license as a mortgage agent; or
42 (b) A separate form prescribed by the Commissioner.
- 43 4. The license as a mortgage agent may not be issued or
44 renewed by the Commissioner if the applicant:



1 (a) Fails to submit the statement required pursuant to
2 subsection 2; or

3 (b) Indicates on the statement submitted pursuant to
4 subsection 2 that he is subject to a court order for the support of a
5 child and is not in compliance with the order or a plan approved
6 by the district attorney or other public agency enforcing the order
7 for the repayment of the amount owed pursuant to the order.

8 5. If an applicant indicates on the statement submitted
9 pursuant to subsection 2 that he is subject to a court order for the
10 support of a child and is not in compliance with the order or a
11 plan approved by the district attorney or other public agency
12 enforcing the order for the repayment of the amount owed
13 pursuant to the order, the Commissioner shall advise the applicant
14 to contact the district attorney or other public agency enforcing
15 the order to determine the actions that the applicant may take to
16 satisfy the arrearage.

17 **Sec. 7.5.** 1. Any mortgage broker or mortgage agent
18 licensed under the provisions of this chapter who is called into the
19 military service of the United States shall, at his request, be
20 relieved from compliance with the provisions of this chapter and
21 placed on inactive status for the period of such military service
22 and for a period of 6 months after discharge therefrom.

23 2. At any time within 6 months after termination of such
24 service, providing the provisions of subsection 1 are complied
25 with, the mortgage broker or mortgage agent may be reinstated,
26 without having to meet any qualification or requirement other
27 than the payment of the reinstatement fee, as provided in NRS
28 645B.050 or section 6 of this act, and the mortgage broker or
29 mortgage agent must not be required to make payment of the
30 renewal fee for the current year.

31 3. Any mortgage broker or mortgage agent seeking to qualify
32 for reinstatement, as provided in subsections 1 and 2, must present
33 a certified copy of his honorable discharge or certificate of
34 satisfactory service to the Commissioner.

35 **Sec. 8.** 1. The Board for the Regulation of Mortgage
36 Brokers and Mortgage Agents is hereby created. The Board
37 consists of five members, each of whom must:

- 38 (a) Be a citizen of the United States;
39 (b) Be a resident of the State of Nevada; and
40 (c) Have been a resident of the State of Nevada for the 3 years
41 immediately preceding his appointment to the Board.

42 2. The Governor shall appoint to the Board:

- 43 (a) Two members who must be:
44 (1) Licensed pursuant to this chapter; and



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- 1 (2) *Engaged in business as a mortgage broker or mortgage*
- 2 *agent; and*
- 3 (b) *One member who is a representative of the general public.*
- 4 3. *The Speaker of the Assembly and the Majority Leader of*
- 5 *the Senate shall each appoint to the Board one member who must*
- 6 *possess knowledge of the field of financial services.*
- 7 4. *At the first meeting of the Board after July 1 of each year,*
- 8 *the members of the Board shall elect from among the members a*
- 9 *Chairman of the Board.*
- 10 5. *A majority of the members constitutes a quorum, and a*
- 11 *majority of those present must concur in any decision.*
- 12 6. *Each member is entitled to receive a salary of not more*
- 13 *than \$80, as fixed by the Board, for each day's attendance at a*
- 14 *meeting of the Board.*
- 15 7. *While engaged in the business of the Board, each member*
- 16 *is entitled to receive the per diem allowance and travel expenses*
- 17 *provided for state officers and employees generally.*
- 18 **Sec. 8.5.** *1. The Board is hereby declared to be supreme in*
- 19 *all matters related to the administration and enforcement of the*
- 20 *provisions of this chapter, but not the administration of the*
- 21 *Division.*
- 22 2. *As directed by the Board, the Commissioner shall provide*
- 23 *all advice, support and assistance to the Board that the Board*
- 24 *deems necessary or useful.*
- 25 **Sec. 9.** *The Board shall:*
- 26 1. *Supervise and direct the actions and decisions of the*
- 27 *Commissioner with regard to the administration and enforcement*
- 28 *of the provisions of this chapter.*
- 29 2. *Establish policies and standards for the administration and*
- 30 *enforcement of the provisions of this chapter.*
- 31 3. *Meet not less than once each quarter to review the actions*
- 32 *and decisions of the Commissioner in administering and enforcing*
- 33 *the provisions of this chapter.*
- 34 **Sec. 10.** *The Board may:*
- 35 1. *Adopt regulations as necessary to administer and enforce*
- 36 *this chapter, including, without limitation, regulations which*
- 37 *revise or repeal any regulations adopted by the Commissioner*
- 38 *pursuant to this chapter.*
- 39 2. *Require the Commissioner to provide any records or*
- 40 *information the Board deems necessary or useful for the Board to*
- 41 *exercise its powers.*
- 42 **Sec. 11.** *NRS 645B.010 is hereby amended to read as follows:*
- 43 645B.010 *As used in this chapter, unless the context otherwise*
- 44 *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. *To the extent consistent with federal law, a certificate of***
12 ***exemption does not exempt the holder from the requirements of***
13 ***NRS 645B.450.***

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

15 645B.035 1. A license *as a mortgage broker* entitles a

16 licensee to engage only in the activities authorized by this chapter.

17 2. The provisions of this chapter do not prohibit a licensee

18 from:

19 (a) Holding a license as a mortgage company pursuant to

20 chapter 645E of NRS; or

21 (b) Conducting the business of a mortgage company and the

22 business of a mortgage broker in the same office or place of

23 business.

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

25 645B.050 1. A license *as a mortgage broker* issued pursuant

26 to this chapter expires each year on June 30, unless it is renewed. To

27 renew *such* a license, the licensee must submit to the Commissioner

28 on or before June 30 of each year:

29 (a) An application for renewal;

30 (b) The fee required to renew the license pursuant to this

31 section;

32 (c) If the licensee is a natural person, the statement required

33 pursuant to NRS 645B.023; and

34 (d) The information required pursuant to NRS 645B.051.

35 2. If the licensee fails to submit any item required pursuant to

36 subsection 1 to the Commissioner on or before June 30 of any year,

37 the license is cancelled. The Commissioner may reinstate a

38 cancelled license if the licensee submits to the Commissioner:

39 (a) An application for renewal;

40 (b) The fee required to renew the license pursuant to this

41 section;

42 (c) If the licensee is a natural person, the statement required

43 pursuant to NRS 645B.023;

44 (d) The information required pursuant to NRS 645B.051; and



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- 1 (e) Except as otherwise provided in this section, a reinstatement
2 fee of \$200.
- 3 3. Except as otherwise provided in NRS 645B.016, a certificate
4 of exemption issued pursuant to this chapter expires each year on
5 December 31, unless it is renewed. To renew a certificate of
6 exemption, a person must submit to the Commissioner on or before
7 December 31 of each year:
- 8 (a) An application for renewal that includes satisfactory proof
9 that the person meets the requirements for an exemption from the
10 provisions of this chapter; and
- 11 (b) The fee required to renew the certificate of exemption.
- 12 4. If the person fails to submit any item required pursuant to
13 subsection 3 to the Commissioner on or before December 31 of any
14 year, the certificate of exemption is cancelled. Except as otherwise
15 provided in NRS 645B.016, the Commissioner may reinstate a
16 cancelled certificate of exemption if the person submits to the
17 Commissioner:
- 18 (a) An application for renewal that includes satisfactory proof
19 that the person meets the requirements for an exemption from the
20 provisions of this chapter;
- 21 (b) The fee required to renew the certificate of exemption; and
- 22 (c) Except as otherwise provided in this section, a reinstatement
23 fee of \$100.
- 24 5. Except as otherwise provided in this section, a person must
25 pay the following fees to apply for, to be issued or to renew a
26 license as a mortgage broker pursuant to this chapter:
- 27 (a) To file an original application or a license, \$1,500 for the
28 principal office and \$40 for each branch office. The person must
29 also pay such additional expenses incurred in the process of
30 investigation as the Commissioner deems necessary. All money
31 received by the Commissioner pursuant to this paragraph must be
32 placed in the Investigative Account created by NRS 232.545.
- 33 (b) To be issued a license, \$1,000 for the principal office and
34 \$60 for each branch office.
- 35 (c) To renew a license, \$500 for the principal office and \$100
36 for each branch office.
- 37 6. Except as otherwise provided in this section, a person must
38 pay the following fees to apply for or to renew a certificate of
39 exemption pursuant to this chapter:
- 40 (a) To file an application for a certificate of exemption, \$200.
- 41 (b) To renew a certificate of exemption, \$100.
- 42 7. To be issued a duplicate copy of any license or certificate of
43 exemption, a person must make a satisfactory showing of its loss
44 and pay a fee of \$10.



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

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

11 **Sec. 16.** NRS 645B.050 is hereby amended to read as follows:

12 645B.050 1. A license *as a mortgage broker* issued pursuant
13 to this chapter expires each year on June 30, unless it is renewed. To
14 renew *such* a license, the licensee must submit to the Commissioner
15 on or before June 30 of each year:

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

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

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

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

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

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



- 1 (a) An application for renewal that includes satisfactory proof
2 that the person meets the requirements for an exemption from the
3 provisions of this chapter;
- 4 (b) The fee required to renew the certificate of exemption; and
- 5 (c) Except as otherwise provided in this section, a reinstatement
6 fee of \$100.
- 7 5. Except as otherwise provided in this section, a person must
8 pay the following fees to apply for, to be issued or to renew a
9 license as a mortgage broker pursuant to this chapter:
- 10 (a) To file an original application for a license, \$1,500 for the
11 principal office and \$40 for each branch office. The person must
12 also pay such additional expenses incurred in the process of
13 investigation as the Commissioner deems necessary. All money
14 received by the Commissioner pursuant to this paragraph must be
15 placed in the Investigative Account created by NRS 232.545.
- 16 (b) To be issued a license, \$1,000 for the principal office and
17 \$60 for each branch office.
- 18 (c) To renew a license, \$500 for the principal office and \$100
19 for each branch office.
- 20 6. Except as otherwise provided in this section, a person must
21 pay the following fees to apply for or to renew a certificate of
22 exemption pursuant to this chapter:
- 23 (a) To file an application for a certificate of exemption, \$200.
- 24 (b) To renew a certificate of exemption, \$100.
- 25 7. To be issued a duplicate copy of any license or certificate of
26 exemption, a person must make a satisfactory showing of its loss
27 and pay a fee of \$10.
- 28 8. Except as otherwise provided in this chapter, all fees
29 received pursuant to this chapter must be deposited in the State
30 Treasury for credit to the State General Fund.
- 31 9. The Commissioner may, by regulation, increase any fee set
32 forth in this section if the Commissioner determines that such an
33 increase is necessary for the Commissioner to carry out his duties
34 pursuant to this chapter. The amount of any increase in a fee
35 pursuant to this subsection must not exceed the amount determined
36 to be necessary for the Commissioner to carry out his duties
37 pursuant to this chapter.
- 38 **Sec. 17.** NRS 645B.051 is hereby amended to read as follows:
39 645B.051 1. ~~It~~ *Except as otherwise provided in this*
40 *section, in* addition to the requirements set forth in NRS 645B.050,
41 to renew a license ~~it~~ *as a mortgage broker:*
- 42 (a) If the licensee is a natural person, the licensee must submit to
43 the Commissioner satisfactory proof that the licensee attended at
44 least ~~it~~ *10* hours of certified courses of continuing education during



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

3 (b) If the licensee is not a natural person, the licensee must
4 submit to the Commissioner satisfactory proof that each natural
5 person who supervises the daily business of the licensee attended at
6 least ~~5~~ 10 hours of certified courses of continuing education during
7 the 12 months immediately preceding the date on which the license
8 expires.

9 2. *The Commissioner may provide by regulation that a*
10 *certified course of continuing education attended during a 12-*
11 *month period, but not needed to satisfy a requirement set forth in*
12 *this section for the 12-month period in which the course was*
13 *taken, may be used to satisfy a requirement set forth in this section*
14 *for a later 12-month period.*

15 3. As used in this section, "certified course of continuing
16 education" means a course of continuing education which relates to
17 the mortgage industry or mortgage transactions and which is ~~:~~

18 ~~(a) Certified by the~~ *certified by:*

19 *(a) The Board;*

20 *(b) The National Association of Mortgage Brokers or any*
21 *successor in interest to that organization; or*

22 ~~[(b) Certified in a manner established by the Commissioner, if~~
23 ~~the National Association of Mortgage Brokers or any successor in~~
24 ~~interest to that organization ceases to exist.]~~

25 *(c) Any organization designated for this purpose by the Board*
26 *by regulation.*

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

28 645B.060 1. ~~Subject~~ *In accordance with the policies,*
29 *standards and directions of the Board with regard to the*
30 *administration and enforcement of this chapter, but subject to the*
31 *administrative control of the Director of the Department of Business*
32 *and Industry* ~~with regard to the administration of the Division,~~
33 *the Commissioner shall exercise general supervision and control*
34 *over mortgage brokers doing business in this state.*

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

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

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

43 (c) Conduct an annual examination of each mortgage broker
44 doing business in this state. The annual examination must include,



1 without limitation, a formal exit review with the mortgage broker.
2 The Commissioner shall adopt regulations prescribing:

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

5 (2) Procedures for resolving any objections made by the
6 mortgage broker to the results of the annual examination. The
7 results of the annual examination may not be opened to public
8 inspection pursuant to NRS 645B.090 until any objections made by
9 the mortgage broker have been decided by the Commissioner.

10 (d) Conduct such other examinations, periodic or special audits,
11 investigations and hearings as may be necessary and proper for the
12 efficient administration of the laws of this state regarding mortgage
13 brokers and mortgage agents. The Commissioner shall adopt
14 regulations specifying the general guidelines that will be followed
15 when a periodic or special audit of a mortgage broker is conducted
16 pursuant to this chapter.

17 (e) Classify as confidential certain records and information
18 obtained by the Division when those matters are obtained from a
19 governmental agency upon the express condition that they remain
20 confidential. This paragraph does not limit examination by the
21 Legislative Auditor.

22 (f) Conduct such examinations and investigations as are
23 necessary to ensure that mortgage brokers *and mortgage agents*
24 meet the requirements of this chapter for obtaining a license, both at
25 the time of the application for a license and thereafter on a
26 continuing basis.

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

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

31 645B.450 1. A person ~~[shall not act as or provide any of the~~
32 ~~services of a mortgage agent or otherwise engage in, carry on or~~
33 ~~hold himself out as engaging in or carrying on the activities of a~~
34 ~~mortgage agent if the person:~~

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

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

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

44 3. A mortgage broker shall register with the Division each
45 person who will be associated with or employed by the mortgage



1 broker as a mortgage agent. A mortgage broker shall register each
2 such person with the Division when the person begins his
3 association or employment with the mortgage broker and annually
4 thereafter. A registration expires 12 months after its effective date.

5 4. To register a person as a mortgage agent, a mortgage broker
6 must ~~[-~~

7 ~~—(a) Submit~~ *submit* to the Division a registration form which is
8 provided by the Division and which:

9 ~~[(1)]~~ *(a)* States the name, residence address and business
10 address of the person;

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

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

15 ~~—[(4)] and~~

16 *(c)* Includes any other information or supporting materials
17 required by the regulations adopted by the Commissioner. ~~[Such
18 information or supporting materials may include, without limitation,
19 a complete set of fingerprints from the person, the social security
20 number of the person and other forms of identification of the person.~~

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

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

30 ~~—5. Not later than the date on which the mortgage broker
31 submits the information for annual registration required by
32 subsection 4, the person being registered shall pay an annual
33 registration fee of \$125. If the person does not pay the annual
34 registration fee, the person shall be deemed to be unregistered for
35 the purposes of this chapter.~~

36 ~~—6.]~~ *5.* A mortgage broker shall not employ a person as a
37 mortgage agent or authorize a person to be associated with the
38 mortgage broker as a mortgage agent if the mortgage broker has not
39 registered the person with the Division pursuant to this section . ~~[or
40 if the person:~~

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

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



1 ~~7.]~~ 6. If a mortgage agent terminates his association or
2 employment with a mortgage broker for any reason, the mortgage
3 broker shall, not later than the third business day following the date
4 of termination:

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

9 (b) Deliver or send by certified mail to the Division:

10 (1) A written statement of the circumstances surrounding the
11 termination; and

12 (2) A copy of the written statement that the mortgage broker
13 delivers or mails to the mortgage agent pursuant to paragraph (a).

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

16 7. As used in this section, "mortgage broker" includes, to the
17 extent consistent with federal law, a person who is required to
18 apply for a certificate of exemption or who holds a certificate of
19 exemption.

20 **Sec. 20.** NRS 645B.620 is hereby amended to read as follows:

21 645B.620 1. Whether or not a complaint has been filed, the
22 Commissioner shall investigate a mortgage broker, *mortgage agent*
23 or other person if, for any reason, it appears that:

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

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

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

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

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

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



- 1 (1) Investigate and prosecute the mortgage broker , *mortgage*
2 *agent* or other person pursuant to NRS 645B.800; and
3 (2) Bring a civil action to:
4 (I) Enjoin the mortgage broker , *mortgage agent* or other
5 person from engaging in the conduct, operating the business or
6 committing the violation; and
7 (II) Enjoin any other person who has encouraged,
8 facilitated, aided or participated in the conduct, the operation of the
9 business or the commission of the violation, or who is likely to
10 engage in such acts, from engaging in or continuing to engage in
11 such acts.
12 3. If the Attorney General brings a civil action pursuant to
13 subsection 2, the district court of any county of this state is hereby
14 vested with the jurisdiction in equity to enjoin the conduct, the
15 operation of the business or the commission of the violation and
16 may grant any injunctions that are necessary to prevent and restrain
17 the conduct, the operation of the business or the commission of the
18 violation. During the pendency of the proceedings before the district
19 court:
20 (a) The court may issue any temporary restraining orders as may
21 appear to be just and proper;
22 (b) The findings of the Commissioner shall be deemed to be
23 prima facie evidence and sufficient grounds, in the discretion of the
24 court, for the ex parte issuance of a temporary restraining order; and
25 (c) The Attorney General may apply for and on due showing is
26 entitled to have issued the court's subpoena requiring forthwith the
27 appearance of any person to:
28 (1) Produce any documents, books and records as may
29 appear necessary for the hearing of the petition; and
30 (2) Testify and give evidence concerning the conduct
31 complained of in the petition.
32 **Sec. 21.** NRS 645B.670 is hereby amended to read as follows:
33 645B.670 Except as otherwise provided in NRS 645B.690:
34 1. For each violation committed by an applicant ~~§~~ *for a*
35 *license pursuant to this chapter*, whether or not he is issued a
36 license, the Commissioner may impose upon the applicant an
37 administrative fine of not more than \$10,000, if the applicant:
38 (a) Has knowingly made or caused to be made to the
39 Commissioner any false representation of material fact;
40 (b) Has suppressed or withheld from the Commissioner any
41 information which the applicant possesses and which, if submitted
42 by him, would have rendered the applicant ineligible to be licensed
43 pursuant to the provisions of this chapter; or
44 (c) Has violated any provision of this chapter, a regulation
45 adopted pursuant to this chapter or an order of the Commissioner in



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

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

8 (a) Is insolvent;

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

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

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

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

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

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

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

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

36 (j) Has been convicted of, or entered a plea of nolo contendere
37 to, a felony or any crime involving fraud, misrepresentation or
38 moral turpitude;

39 (k) Has refused or failed to pay, within a reasonable time, any
40 fees, assessments, costs or expenses that the licensee is required to
41 pay pursuant to this chapter or a regulation adopted pursuant to this
42 chapter;

43 (l) Has failed to satisfy a claim made by a client which has been
44 reduced to judgment;



- 1 (m) Has failed to account for or to remit any money of a client
2 within a reasonable time after a request for an accounting or
3 remittal;
- 4 (n) Has commingled the money or other property of a client
5 with his own or has converted the money or property of others to his
6 own use;
- 7 (o) Has engaged in any other conduct constituting a deceitful,
8 fraudulent or dishonest business practice;
- 9 (p) Has repeatedly violated the policies and procedures of the
10 mortgage broker;
- 11 (q) Has failed to exercise reasonable supervision over the
12 activities of a mortgage agent as required by NRS 645B.460;
- 13 (r) Has instructed a mortgage agent to commit an act that would
14 be cause for the revocation of the license of the mortgage broker,
15 whether or not the mortgage agent commits the act;
- 16 (s) Has employed a person as a mortgage agent or authorized a
17 person to be associated with the licensee as a mortgage agent at a
18 time when the licensee knew or, in light of all the surrounding facts
19 and circumstances, reasonably should have known that the person:
- 20 (1) Had been convicted of, or entered a plea of nolo
21 contendere to, a felony or any crime involving fraud,
22 misrepresentation or moral turpitude; or
- 23 (2) Had a financial services license or registration suspended
24 or revoked within the immediately preceding 10 years; or
- 25 (t) Has not conducted verifiable business as a mortgage broker
26 for 12 consecutive months, except in the case of a new applicant.
27 The Commissioner shall determine whether a mortgage broker is
28 conducting business by examining the monthly reports of activity
29 submitted by the licensee or by conducting an examination of the
30 licensee.
- 31 **Sec. 22.** NRS 645B.680 is hereby amended to read as follows:
32 645B.680 1. If the Commissioner receives a copy of a court
33 order issued pursuant to NRS 425.540 that provides for the
34 suspension of all professional, occupational and recreational
35 licenses, certificates and permits issued to a person who is the
36 holder of a license as a mortgage broker ~~or~~ *or mortgage agent*, the
37 Commissioner shall deem the license issued to that person to be
38 suspended at the end of the 30th day after the date on which the
39 court order was issued unless the Commissioner receives a letter
40 issued to the holder of the license by the district attorney or other
41 public agency pursuant to NRS 425.550 stating that the holder of the
42 license has complied with the subpoena or warrant or has satisfied
43 the arrearage pursuant to NRS 425.560.
- 44 2. The Commissioner shall reinstate a license as a mortgage
45 broker *or mortgage agent* that has been suspended by a district



1 court pursuant to NRS 425.540 if the Commissioner receives a letter
2 issued by the district attorney or other public agency pursuant to
3 NRS 425.550 to the person whose license was suspended stating
4 that the person whose license was suspended has complied with the
5 subpoena or warrant or has satisfied the arrearage pursuant to
6 NRS 425.560.

7 **Sec. 23.** NRS 645B.690 is hereby amended to read as follows:
8 645B.690 1. If a person offers or provides any of the services
9 of a mortgage broker *or mortgage agent* or otherwise engages in,
10 carries on or holds himself out as engaging in or carrying on the
11 business of a mortgage broker *or mortgage agent* and, at the time:

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

14 (b) The person's license was suspended or revoked pursuant to
15 this chapter,
16 the Commissioner shall impose upon the person an administrative
17 fine of not more than \$10,000 for each violation and, if the person
18 has a license, the Commissioner shall revoke it.

19 2. If a person is exempt from the provisions of this chapter
20 pursuant to subsection 6 of NRS 645B.015 and the person, while
21 exempt, maintains, offers to maintain or holds himself out as
22 maintaining any accounts described in subsection 1 of NRS
23 645B.175 or otherwise engages in, offers to engage in or holds
24 himself out as engaging in any activity that would remove the
25 person from the exemption set forth in subsection 6 of NRS
26 645B.015, the Commissioner shall impose upon the person an
27 administrative fine of not more than \$10,000 for each violation and
28 the Commissioner shall revoke the person's exemption. If the
29 Commissioner revokes an exemption pursuant to this subsection, the
30 person may not again be granted the same or a similar exemption
31 from the provisions of this chapter. The person may apply for a
32 license pursuant to this chapter unless otherwise prohibited by
33 specific statute.

34 3. If a mortgage broker violates any provision of subsection 1
35 of NRS 645B.080 and the mortgage broker fails, without reasonable
36 cause, to remedy the violation within 20 business days after being
37 ordered by the Commissioner to do so or within such later time as
38 prescribed by the Commissioner, or if the Commissioner orders a
39 mortgage broker to provide information, make a report or permit an
40 examination of his books or affairs pursuant to this chapter and the
41 mortgage broker fails, without reasonable cause, to comply with the
42 order within 20 business days or within such later time as prescribed
43 by the Commissioner, the Commissioner shall:

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



- 1 (b) Suspend or revoke the license of the mortgage broker; and
- 2 (c) Conduct a hearing to determine whether the mortgage broker
- 3 is conducting business in an unsafe and injurious manner that may
- 4 result in danger to the public and whether it is necessary for the
- 5 Commissioner to take possession of the property of the mortgage
- 6 broker pursuant to NRS 645B.630.

7 **Sec. 24.** NRS 645B.900 is hereby amended to read as follows:
8 645B.900 It is unlawful for any person to offer or provide any
9 of the services of a mortgage broker *or mortgage agent* or otherwise
10 to engage in, carry on or hold himself out as engaging in or carrying
11 on the business of a mortgage broker *or mortgage agent* without
12 first obtaining ~~{a license as a mortgage broker}~~ *the applicable*
13 *license* pursuant to this chapter, unless the person:

- 14 1. Is exempt from the provisions of this chapter; and
- 15 2. Complies with the requirements for that exemption.

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

17 **Sec. 26.** 1. On October 1, 2003, the Commissioner of
18 Financial Institutions may begin accepting applications for, and
19 issuing, licenses as mortgage agents pursuant to section 5 of this act.
20 Any such license issued on or before July 1, 2004:

- 21 (a) Becomes effective on July 1, 2004; and
- 22 (b) Notwithstanding the provisions of section 6 of this act to the
23 contrary, expires on a date between July 1, 2004, and June 30, 2005,
24 as specified in a written notice provided with the license to the
25 mortgage agent. The Board for the Regulation of Mortgage Brokers
26 and Mortgage Agents shall direct the Commissioner of Financial
27 Institutions to provide various expiration dates for the licenses
28 issued on or before July 1, 2004, as needed to allow for the efficient
29 administration of the requirements of this act. The fee required for
30 such a license that is effective for less than one year must be
31 prorated in an appropriate manner as determined by the Board for
32 the Regulation of Mortgage Brokers and Mortgage Agents.

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

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

39 **Sec. 27.** 1. Notwithstanding any provision to the contrary in
40 section 8 of this act, the initial members and Chairman of the Board
41 for the Regulation of Mortgage Brokers and Mortgage Agents
42 created by section 8 of this act must be appointed pursuant to this
43 section not later than January 1, 2004.

44 2. The Governor shall appoint to the Board:



1 (a) One member who holds a license as a mortgage broker or
2 mortgage agent and whose term expires on July 1, 2005.

3 (b) One member who is a representative of the general public
4 and whose terms expires on July 1, 2005.

5 (c) One member who holds a license as a mortgage broker or
6 mortgage agent and whose term expires on July 1, 2006.

7 3. The Speaker of the Assembly and the Majority Leader of the
8 Senate shall each appoint to the Board one member who must
9 possess knowledge of the field of financial services and whose term
10 expires on July 1, 2006.

11 4. Not later than January 1, 2004, the Governor shall appoint a
12 Chairman from among the initial members of the Board.

13 **Sec. 28.** 1. This section becomes effective upon passage and
14 approval.

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

22 (a) Sections 1 and 3 of this act become effective on October 1,
23 2003, for all other purposes.

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

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

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

34 (b) Are in arrears in the payment for the support of one or more
35 children,
36 are repealed by the Congress of the United States.

37 4. Section 16 of this act becomes effective on the date on
38 which the provisions of 42 U.S.C. § 666 requiring each state to
39 establish procedures under which the State has authority to withhold
40 or suspend, or to restrict the use of professional, occupational and
41 recreational licenses of persons who:

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



1 (b) Are in arrears in the payment for the support of one or more
2 children,
3 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.

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