

CHAPTER.....

AN ACT relating to mortgage lending; revising provisions governing the licensing and regulation of escrow agents, escrow agencies, mortgage brokers, mortgage agents and mortgage bankers; authorizing a wholesale lender from outside this State to conduct business in this State; providing for the licensure and regulation of such a wholesale lender as a mortgage broker or mortgage banker; increasing certain fees relating to escrow agents, escrow agencies, mortgage brokers, mortgage agents and mortgage bankers; requiring the Commissioner of Mortgage Lending to prescribe by regulation the requirements for the licensing, regulation and discipline of mortgage servicers; revising provisions governing the administration of the Division of Mortgage Lending of the Department of Business and Industry; revising certain provisions relating to thrift companies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Division of Mortgage Lending within the Department of Business and Industry and authorizes the Division to license and regulate escrow agents, escrow agencies, mortgage brokers, mortgage agents, mortgage bankers, foreclosure consultants and loan modification consultants. (Chapters 645A, 645B, 645E and 645F of NRS) Existing law establishes the Commissioner of Mortgage Lending, and makes the Commissioner the chief of the Division. (NRS 232.520, 645A.010)

Sections 3-10 of this bill revise various provisions governing the licensing and regulation of escrow agents and escrow agencies. **Sections 15-15.8** of this bill authorize a wholesale lender from outside this State to operate in this State as a mortgage broker. **Sections 16 and 17** of this bill increase certain fees related to mortgage brokers.

Sections 18-18.8 of this bill authorize a wholesale lender from outside this State to operate in this State as a mortgage banker. **Section 19** of this bill increases certain fees related to mortgage bankers.

Sections 86.2-86.7 of this bill provide for the licensure, regulation and discipline of mortgage servicers through regulations adopted by the Commissioner of Mortgage Lending.

Sections 89 and 92 of this bill revise certain provisions related to the powers and duties of the Commissioner. **Sections 101.3 and 101.7** revise certain provisions relating to thrift companies. **Section 102** of this bill repeals two sections of existing law that are made redundant by other provisions of this bill.



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

Section 1. NRS 645.8725 is hereby amended to read as follows:

645.8725 “Escrow” has the meaning ascribed to it in ~~subsection 4 of~~ NRS 645A.010.

Sec. 2. NRS 645.8731 is hereby amended to read as follows:

645.8731 “Escrow agent” has the meaning ascribed to it in ~~subsection 6 of~~ NRS 645A.010.

Sec. 3. Chapter 645A of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

Sec. 4. 1. *The Commissioner may require that any application, fee, fine, form or filing required pursuant to this chapter be submitted to the Commissioner through the Registry and that the applicant or licensee pay any costs associated with the use of the Registry.*

2. All fees, assessments or penalties received by the Commissioner pursuant to this chapter are in addition to any costs or fees that may be required by the Registry and are nonrefundable. All fees, assessments and penalties received by the Commissioner pursuant to this chapter must be deposited in the Account for Mortgage Lending created by NRS 645F.270.

Sec. 5. 1. *An escrow agent shall not act as or provide the services of an escrow agent on behalf of any escrow agency other than an escrow agency that has notified the Commissioner pursuant to subsection 2 that the escrow agent is employed by and associated with that escrow agency.*

2. Before employing or associating with an escrow agent to administer escrows on its behalf, an escrow agency must:

(a) File with the Commissioner, on a form and in a manner prescribed by the Commissioner, a request to associate with the escrow agent; and

(b) Pay the fee required by NRS 645A.040.

3. An escrow agent shall not associate or begin employment with an escrow agency until the Commissioner has provided notice to the escrow agency of acceptance of the request to associate with the escrow agent.

4. An escrow agent shall not directly or indirectly receive any compensation, remuneration or fees related to the business of administering escrows from any escrow agency that the escrow



agent is not associated with and employed by pursuant to this section.

Sec. 6. NRS 645A.010 is hereby amended to read as follows:

645A.010 As used in this chapter, unless the context otherwise requires:

1. *“Business of administering escrows” or “administering escrows” means the process of managing, conducting or supervising an escrow or escrow-related transaction as an escrow agent or escrow agency.*

2. *“Client” means a person that has engaged an escrow agent or escrow agency to administer an escrow related to a transaction.*

3. “Commissioner” means the Commissioner of Mortgage Lending.

~~12-1~~ 4. “Construction control” has the meaning ascribed to it in NRS 627.050.

~~13-1~~ 5. *“Control person” means an executive officer, director, general partner, trustee, member or shareholder of an applicant or a licensee, or a person, who has the authority to participate in the direction, directly or indirectly through one or more other persons, of the management or policies of an applicant or a licensee.*

6. “Division” means the Division of Mortgage Lending of the Department of Business and Industry.

~~14-1~~ 7. “Escrow” means any transaction wherein one person, for the purpose of effecting *or closing* the sale, *purchase, exchange,* transfer, encumbering or leasing of real or personal property to another person ~~or persons,~~ delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person *to be held by such third person* until the happening of a specified event or the performance of a prescribed condition, when it is then to be delivered by such third person, *in compliance with instructions under which he or she is to act,* to a grantee, grantor, promisee, promisor, obligee, obligor, *lessee, lessor,* bailee, bailor or any agent or employee ~~of any of the latter.] thereof.~~ The term includes ~~the collection of payments and the performance of related services by a third person in connection with a loan secured by a lien on real property and~~ the performance of the services of a construction control.

~~15-1~~ 8. “Escrow agency” means:

- (a) Any person who employs one or more escrow agents; or
- (b) An escrow agent who administers escrows on his or her own behalf.



~~16.~~ 9. “Escrow agent” means any *natural* person *employed by and associated with an escrow agency* engaged in the business of administering escrows for compensation.

10. “Registry” *has the meaning ascribed to it in NRS 645B.0128.*

Sec. 7. NRS 645A.015 is hereby amended to read as follows:

645A.015 ~~{The provisions of this chapter do not apply to:}~~

1. *Except as otherwise provided in subsection 2, it shall be unlawful for any person to engage in or carry on, or hold himself or herself out as engaging in or carrying on, the business of administering escrows or to act in the capacity of an escrow agent or escrow agency within this State or with respect to any transaction involving real or personal property located in this State without first obtaining a license as an escrow agent or escrow agency issued by the Commissioner pursuant to the requirements of this chapter.*

2. *The licensing requirements of this chapter do not apply to:*

(a) Any person ~~†~~

~~—(a) Doing† doing~~ business under the laws of this State or the United States relating to banks, mutual savings banks, trust companies, savings and loan associations, common and consumer finance companies or industrial loan companies; ~~†or†~~

(b) ~~†Licensed†~~ *Any person licensed* pursuant to chapter 692A of NRS ~~†~~

~~—2. An attorney at law rendering services in the performance of his or her duties as attorney at law, except an attorney actively engaged in conducting an escrow agency.~~

~~—3.† ;~~

(c) *Any person licensed to practice law in this State if:*

(1) *The escrow transaction is performed by the attorney while engaged in the practice of law, or by employees of the law firm under the direct supervision of the attorney while engaged in the practice of law;*

(2) *The escrow transaction is performed under the name of a person or entity identified and operated as a law firm; and*

(3) *Any money provided to the attorney related to the escrow, other than money designated for attorney’s fees and costs, is deposited into, maintained within and disbursed from a client trust account that complies with rules of this State governing the conduct of attorneys;*

(d) Any firm or corporation which lends money on real or personal property and is subject to licensing, supervision or auditing by an agency of the United States or of this State ~~†~~



~~4.] ; or~~

(e) Any person doing any act under order of any court.

3. *As used in this section, "law firm" has the meaning ascribed to it in NRS 38.435.*

Sec. 8. NRS 645A.020 is hereby amended to read as follows:

645A.020 1. ~~{A person who wishes to be licensed as an escrow agent or agency must file a written application in the Office of the Commissioner.}~~ *An application for, or renewal of, a license as an escrow agency or escrow agent shall be made in writing to the Commissioner on a form and in a manner prescribed by the Commissioner.*

2. ~~{The application must:~~

~~(a) Be verified.~~

~~(b) Be accompanied by the appropriate fee prescribed in NRS 645A.040.~~

~~(c) State the location of the applicant's principal office and branch offices in the State and residence address.~~

~~(d) State the name under which the applicant will conduct business.~~

~~(e) List the names, residence and business addresses of all persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each.~~

~~(f) Indicate the general plan and character of the business.~~

~~(g) State the length of time the applicant has been engaged in the escrow business.~~

~~(h) Require a financial statement of the applicant.~~

~~(i) Require such other information as the Commissioner determines necessary.~~

~~(j) If for an escrow agency, designate a natural person to receive service of process in this State for the agency.~~

~~(k) Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the escrow agency as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.~~

~~(l) Include all information required to complete the application.}~~ *An applicant shall include in an application for an initial license:*

(a) Any application fee required pursuant to NRS 645A.040;



(b) All content required to be included in the application by the Commissioner;

(c) Written consent authorizing the Commissioner to conduct a background investigation of the applicant and, if applicable, each control person of the applicant, including, without limitation, authorization to obtain:

(1) An independent credit report from a consumer reporting agency described in section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f);

(2) A criminal history report from the Federal Bureau of Investigation or any criminal history repository of any state, national or international governmental agency or entity; and

(3) Information related to any administrative, civil or criminal proceedings in any jurisdiction in which the applicant, or a control person of the applicant, is or has been a party;

(d) A complete set of fingerprints of the applicant or, if the applicant is not a natural person, a complete set of fingerprints of each control person of the applicant to forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(e) Any other information required by this chapter, the Commissioner, an order of the Commissioner or requested in connection with the evaluation and investigation of the qualifications and suitability of the applicant for licensure.

3. The applicant shall include in an application for renewal of an existing license:

(a) Any renewal fee required pursuant to NRS 645A.040;

(b) All content required by the Commissioner in the application form; and

(c) Any other information required by this chapter, the Commissioner, an order of the Commissioner or requested in connection with the evaluation and investigation of the qualifications and suitability of the applicant for licensure.

*4. If the Commissioner determines, after investigation, that the experience, character, financial condition, business reputation and general fitness of the applicant, or the control persons of the applicant, are such as to command the confidence of the public and to warrant the belief that the business conducted will protect and safeguard the public, the Commissioner shall issue or renew a license to the applicant as an escrow agent or *escrow* agency.*

~~*4. The Commissioner may waive the investigation required by subsection 3 if the applicant submits with the application satisfactory proof that the applicant, in good standing, currently*~~



~~holds a license, or held a license, within 1 year before the date the applicant submits his or her application, which was issued pursuant to the provisions of NRS 692A.103.~~

5. An ~~escrow agent or agency shall immediately notify~~ applicant for a license, and a licensee upon the issuance or renewal of a license, shall have a continuing obligation to provide written notification to the Division of any material change in the information contained in the application ~~for an initial license or renewal of an existing license.~~

6. A person may not be licensed as an escrow agent or agency or be a ~~principal, partner, officer, director or trustee~~ control person of an escrow agency if the person is the holder of an active license issued pursuant to chapter 645 of NRS.

7. If the Commissioner finds that additional information is required to consider the application, the Commissioner shall send a letter to the applicant which specifies the additional requirements that the applicant must satisfy within 30 days after receiving the letter to obtain a license. If the applicant does not satisfy all additional requirements set forth in the letter within 30 days after receipt of the letter, the application will be deemed to have been denied, and the applicant must reapply to obtain a license. The Commissioner may, for good cause, extend the 30-day period prescribed in this subsection.

Sec. 9. NRS 645A.032 is hereby amended to read as follows:

645A.032 1. The Division shall issue to each licensee a license which:

(a) Shows the name and address of the licensee, and in the case of an escrow agent, the name of the *licensed* escrow agency with whom the escrow agent will be *employed and* associated ~~for~~; and

(b) ~~Has imprinted thereon the seal of the Division.~~
~~(c)~~ Contains any additional ~~matter~~ *information* prescribed by the ~~Division.~~ *Commissioner.*

2. No escrow agent may be associated with ~~for~~ *and* employed by more than one escrow agency at the same time.

Sec. 10. NRS 645A.036 is hereby amended to read as follows:

645A.036 1. Every escrow agency shall maintain a definite place of business, ~~within the State,~~ which must be a room or rooms used for the transaction of escrows, or such business and any allied businesses, and which must serve as the office for the transaction of business pursuant to the authority granted in the license.

2. The place of business must be specified in the application for the license and so designated on the license.



3. A license does not authorize the licensee to transact business from any office other than that designated in the license.

Sec. 11. (Deleted by amendment.)

Sec. 11.5. NRS 645A.041 is hereby amended to read as follows:

645A.041 1. Except as otherwise provided in NRS 645A.042, as a condition to doing business in this State, each escrow agency shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 4, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the escrow agency and all escrow agents employed by ~~for~~ **and** associated with the escrow agency.

2. At the time of filing an application for a license as an escrow agent, the applicant shall file with the Commissioner proof that the applicant is named as a principal on the corporate surety bond deposited with the Commissioner by the escrow agency with whom he or she is associated ~~for~~ **and** employed.

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

Know All Persons by These Presents, that, as principal, and, as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of any of the provisions of chapter 645A of NRS, in the sum of, lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that: Whereas, the principal has been issued a license as an escrow agency or escrow agent by the Commissioner of Mortgage Lending of the Department of Business and Industry of the State of Nevada and is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, his or her agents and employees, strictly, honestly and faithfully comply with the provisions of chapter 645A of NRS, and pay all damages suffered by any person because of a violation of any of the provisions of chapter 645A of NRS, or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the



provisions of chapter 645A of NRS, then this obligation is void; otherwise it remains in full force.

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

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

..... (Seal)

Principal

..... (Seal)

Surety

By

Attorney-in-fact

.....
Nevada Licensed Insurance Agent

4. Each escrow agency shall deposit a corporate surety bond that complies with the provisions of this section or a substitute form of security that complies with the provisions of NRS 645A.042 in the following amount based upon the average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160:

AVERAGE MONTHLY BALANCE	AMOUNT OF BOND OR SECURITY REQUIRED
\$50,000 or less.....	\$20,000
More than \$50,000 but not more than \$250,000	50,000
More than \$250,000 but not more than \$500,000	100,000
More than \$500,000 but not more than \$750,000	150,000
More than \$750,000 but not more than \$1,000,000	200,000
More than \$1,000,000	250,000



The Commissioner shall determine the appropriate amount of the surety bond or substitute form of security that must be deposited initially by the escrow agency based upon the expected average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160. After the initial deposit, the Commissioner shall, on a semiannual basis, determine the appropriate amount of the surety bond or substitute form of security that must be deposited by the escrow agency based upon the average monthly balance of the trust account or escrow account maintained by the escrow agency pursuant to NRS 645A.160.

5. A bond used to satisfy the requirements of NRS 627.180 or a substitute for that bond which satisfies the requirements of NRS 627.183 may be used to satisfy the requirements of this section if:

(a) The amount required by NRS 627.180 for a bond is not less than the amount required by this section for a bond; or

(b) The amount required by NRS 627.180 for a bond is less than the amount required by this section for a bond, and the escrow agency deposits an additional bond in an amount not less than the difference between the amount required by NRS 627.180 and the amount required by this section.

Sec. 11.7. NRS 645A.196 is hereby amended to read as follows:

645A.196 1. Whenever an escrow agent terminates, for any reason, his or her employment with the escrow agency with whom the escrow agent was associated, the escrow agency shall:

(a) Immediately deliver or send by certified mail to the Division the escrow agent's license, together with a written statement of the circumstances surrounding the termination.

(b) At the time of delivering or mailing the license to the Division, address a communication to the last known residence address of the escrow agent, advising the escrow agent that his or her license has been delivered or mailed to the Division. A copy of the communication must accompany the license when delivered or mailed to the Division.

2. An escrow agent shall not perform either directly or indirectly any act for which a license is required pursuant to this chapter:

(a) On or after the date the Division receives the escrow agent's license from the escrow agency until the license is transferred or reissued or until a new license is issued.

(b) Without being associated with ~~for~~ *and* employed by a licensed escrow agency.



Sec. 12. NRS 645A.221 is hereby amended to read as follows:

645A.221 If a person, or any general partner, director, officer, agent or employee of a person, violates the provisions of NRS ~~645A.210~~ **645A.015** or 645A.220:

1. Any contracts entered into by that person for the escrow transaction are voidable by the other party to the contract; and

2. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$50,000.

Sec. 13. NRS 645A.222 is hereby amended to read as follows:

645A.222 In addition to any other remedy or penalty, if a person violates the provisions of NRS ~~645A.210~~ **645A.015** or 645A.220, the respective parties to the escrow transaction may bring a civil action against the person for:

1. Actual and consequential damages;

2. Punitive damages, which are subject to the provisions of NRS 42.005;

3. Reasonable attorney's fees and costs; and

4. Any other legal or equitable relief that the court deems appropriate.

Sec. 14. NRS 645A.230 is hereby amended to read as follows:

645A.230 Any person who violates:

1. NRS **645A.015**, 645A.160 ~~645A.210~~ or 645A.220 is guilty of a gross misdemeanor.

2. Any other provision of this chapter is guilty of a misdemeanor.

Sec. 15. Chapter 645B of NRS is hereby amended by adding thereto a new section to read as follows:

"Wholesale lender" means a person who:

1. Holds himself or herself out:

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

(b) As being able to make loans secured by liens on real property; or

(c) As being able to buy or sell notes secured by liens on real property; and

2. Does not directly:

(a) Take or receive an application from a borrower for a loan which will be secured by a lien on real property; or

(b) Negotiate any terms with a borrower relating to a loan which will be secured by a lien on real property.



Sec. 15.4. NRS 645B.010 is hereby amended to read as follows:

645B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0104 to 645B.0135, inclusive, *and section 15 of this act* have the meanings ascribed to them in those sections.

Sec. 15.6. NRS 645B.0127 is hereby amended to read as follows:

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

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

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

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

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

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

2. *The term includes a wholesale lender.*

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

Sec. 15.8. NRS 645B.020 is hereby amended to read as follows:

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

(a) State the name, residence address and business address of the applicant and *, if the applicant is a mortgage broker other than a wholesale lender,* the location of each principal office and branch office at which the mortgage broker will conduct business within this State. ~~[, including, without limitation,]~~



(b) State the location of any principal office, office or other place of business located outside this State from which the mortgage broker will conduct business in this State and any office or other place of business which the applicant maintains as a corporate or home office.

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



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

645B.050 1. A license as a mortgage broker issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or after November 1 and on or before December 31 of each year, or on a date otherwise specified by the Commissioner by regulation:

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051; and
- (d) All information required by the Commissioner or, if applicable, required by the Registry to complete the renewal.

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

- (a) An application for renewal;
- (b) The fee required to renew the license pursuant to this section;
- (c) The information required pursuant to NRS 645B.051;
- (d) Except as otherwise provided in this section, a reinstatement fee of not more than \$200; and
- (e) All information required to complete the reinstatement.

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

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

4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or after November 1 and on or before December 31 of any year, unless a different date is specified by the Commissioner by regulation, the certificate of exemption is cancelled as of December 31 of that year. Except as otherwise provided in NRS 645B.016, the Commissioner may reinstate a



cancelled certificate of exemption if the person submits to the Commissioner on or before February 28 of the following year:

(a) An application for renewal that includes satisfactory proof that the person meets the requirements for an exemption from the provisions of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of not more than \$100.

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

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

(b) To be issued a license, not more than \$1,000 for the principal office and not more than ~~\$600~~ \$100 for each branch office.

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

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

(a) To file an application for a certificate of exemption, not more than \$200.

(b) To renew a certificate of exemption, not more than \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than \$10.

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

9. The Commissioner may, by regulation, adjust any fee or date set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his or her duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount determined to be necessary for the Commissioner to carry out his or her duties pursuant to this chapter.

10. The Commissioner may require a licensee to submit an item or pay a fee required by this section directly to the Commissioner or, if the licensee is required to register or voluntarily



registers with the Registry, to the Commissioner through the Registry.

Sec. 17. NRS 645B.430 is hereby amended to read as follows:

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

(a) An application for renewal;

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

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

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

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

(b) At least 2 hours relating to ethics.

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

(a) An application for renewal;

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

(c) A reinstatement fee of \$75.



4. To change the mortgage broker with whom the mortgage agent is associated, a person must pay a fee ~~of \$10.~~ *in an amount prescribed by regulation of the Commissioner, not to exceed \$50.*

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

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

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

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

Sec. 18. Chapter 645E of NRS is hereby amended by adding thereto a new section to read as follows:

1. "Wholesale lender" means a person who:

(a) Directly or indirectly holds himself or herself out as being able to:

(1) Buy or sell notes secured by liens on real property; or

(2) Make loans secured by liens on real property using his or her own money;

(b) Does not directly:

(1) Take or receive an application from a borrower for a loan which will be secured by a lien on real property; or

(2) Negotiate any terms with a borrower relating to a loan which will be secured by a lien on real property; and

(c) Does not engage in any other act or transaction described in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

2. For the purposes of this section, a person does not make a loan secured by a lien on real property using his or her own money if any portion of the money that is used to make the loan is provided by another person who acquires ownership of or a beneficial interest in the loan.

Sec. 18.4. NRS 645E.010 is hereby amended to read as follows:

645E.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645E.020 to



645E.105, inclusive, *and section 18 of this act* have the meanings ascribed to them in those sections.

Sec. 18.6. NRS 645E.100 is hereby amended to read as follows:

645E.100 1. "Mortgage banker" means any of the following:

(a) A person who, directly or indirectly:

(1) Holds himself or herself out as being able to:

(I) Buy or sell notes secured by liens on real property; or

(II) Make loans secured by liens on real property using his or her own money; and

(2) Does not engage in any other act or transaction described in the definition of "mortgage broker," as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

(b) A person who, directly or indirectly:

(1) Negotiates, originates or makes or offers to negotiate, originate or make commercial mortgage loans as an agent for or on behalf of an institutional investor; and

(2) Does not engage in any other act or transaction described in the definition of "mortgage broker," as set forth in NRS 645B.0127, unless the person is also licensed as a mortgage broker pursuant to chapter 645B of NRS.

2. *The term includes a wholesale lender.*

3. For the purposes of this section, a person does not make a loan secured by a lien on real property using his or her own money if any portion of the money that is used to make the loan is provided by another person who acquires ownership of or a beneficial interest in the loan.

Sec. 18.8. NRS 645E.200 is hereby amended to read as follows:

645E.200 1. A person who wishes to be licensed as a mortgage banker must file a written application for a license with the Office of the Commissioner and pay the fee required pursuant to NRS 645E.280. An application for a license as a mortgage banker must:

(a) Be verified.

(b) State the name, residence address and business address of the applicant and, *if the applicant is a mortgage banker other than a wholesale lender*, the location of each principal office and branch office at which the mortgage banker will conduct business in this State. ~~+, including, without limitation, +~~

(c) *State the location of any principal office*, office or other place of business located outside this State from which the mortgage



banker will conduct business in this State and any office or other place of business which the applicant maintains as a corporate or home office.

~~(e)~~ (d) State the name under which the applicant will conduct business as a mortgage banker.

~~(d)~~ (e) If the applicant is not a natural person, list the name, residence address and business address of each person who will have an interest in the mortgage banker as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person.

~~(e)~~ (f) Indicate the general plan and character of the business.

~~(f)~~ (g) State the length of time the applicant has been engaged in the business of a mortgage banker.

~~(g)~~ (h) Include a financial statement of the applicant.

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

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

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

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

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

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

(1) Has demonstrated financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly and efficiently for the purposes of this chapter. For the purposes of this subparagraph, the factors considered in determining whether a person has demonstrated financial responsibility include, without limitation:

(I) Whether the person's personal credit history indicates any adverse material items, including, without limitation, liens,



judgments, disciplinary action, bankruptcies, foreclosures or failures to comply with court-approved payment plans;

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

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

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

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

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

(5) Has not violated any provision of this chapter or chapter 645B of NRS, a regulation adopted pursuant thereto or an order of the Commissioner.

4. If an applicant is a partnership, corporation or unincorporated association, the Commissioner may refuse to issue a license to the applicant if any member of the partnership or any officer or director of the corporation or unincorporated association has committed any act or omission that would be cause for refusing to issue a license to a natural person.

5. A person may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant or a subsidiary or affiliate of the applicant has a license issued pursuant to this chapter for an office or other place of business located in this State ***or if the applicant will conduct business in this State only as a wholesale lender,*** and ~~if~~ the applicant submits with the application for a license a statement signed by the applicant which states that the applicant agrees to:

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



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

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

Sec. 19. NRS 645E.280 is hereby amended to read as follows:

645E.280 1. A license issued to a mortgage banker pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a license, the licensee must submit to the Commissioner on or after November 1 and on or before December 31 of each year, or on a date otherwise specified by the Commissioner by regulation:

(a) An application for renewal that complies with the requirements of this chapter;

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

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

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

(a) An application for renewal that complies with the requirements of this chapter;

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

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

(d) All information required to complete the reinstatement.

3. Except as otherwise provided in NRS 645E.160, a certificate of exemption issued pursuant to this chapter expires each year on December 31, unless it is renewed. To renew a certificate of exemption, a person must submit to the Commissioner on or after November 1 and on or before December 31 of each year, or on a date otherwise specified by the Commissioner by regulation:

(a) An application for renewal that complies with the requirements of this chapter; and

(b) The fee required to renew the certificate of exemption.



4. If the person fails to submit any item required pursuant to subsection 3 to the Commissioner on or after November 1 and on or before December 31 of any year, unless a different date is specified by the Commissioner by regulation, the certificate of exemption is cancelled. Except as otherwise provided in NRS 645E.160, the Commissioner may reinstate a cancelled certificate of exemption if the person submits to the Commissioner on or before February 28 of the following year:

(a) An application for renewal that complies with the requirements of this chapter;

(b) The fee required to renew the certificate of exemption; and

(c) Except as otherwise provided in this section, a reinstatement fee of not more than \$100.

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

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

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

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

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

(a) To file an application for a certificate of exemption, not more than \$200.

(b) To renew a certificate of exemption, not more than \$100.

7. To be issued a duplicate copy of any license or certificate of exemption, a person must make a satisfactory showing of its loss and pay a fee of not more than \$10.

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

9. The Commissioner may, by regulation, adjust any fee set forth in this section if the Commissioner determines that such an adjustment is necessary for the Commissioner to carry out his or her duties pursuant to this chapter. The amount of any adjustment in a fee pursuant to this subsection must not exceed the amount



determined to be necessary for the Commissioner to carry out his or her duties pursuant to this chapter.

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

Sec. 20. Chapter 645F of NRS is hereby amended by adding thereto the provisions set forth as sections 21 to 86.7, inclusive, of this act.

Secs. 21-86. (Deleted by amendment.)

Sec. 86.2. *“Mortgage servicer” means a person who directly services a mortgage loan, or who is responsible for interacting with a borrower, managing a loan account on a daily basis, including, without limitation, collecting and crediting periodic loan payments, managing any escrow account or enforcing the note and security instrument, either as the current owner of the promissory note or as the authorized agent of the current owner of the promissory note. The term includes a person providing such services by contract as a subservicing agent to a master servicer by contract. The term does not include a trustee under a deed of trust, or the trustee’s authorized agent, acting under a power of sale pursuant to a deed of trust.*

Sec. 86.3. *Except as otherwise provided in section 86.7 of this act, a person shall not engage in the business of a mortgage servicer or hold himself or herself out as a mortgage servicer in this State without a license issued pursuant to this chapter.*

Sec. 86.4. 1. The Commissioner:

(a) Shall adopt regulations establishing the requirements for the licensure and supervision of mortgage servicers in this State.

(b) May adopt any other regulations necessary to carry out the provisions of sections 86.3 to 86.7, inclusive, of this act.

2. The regulations adopted pursuant to subsection 1 must:

(a) Prescribe the form and contents of an application for the initial issuance and renewal of a license as a mortgage servicer.

(b) Prescribe the manner in which an application may be approved or denied.

(c) Prescribe the grounds and procedures for the revocation, suspension, denial or nonrenewal of a license.

(d) Establish reasonable fees for an application, the initial issuance of a license and the renewal of a license.

(e) Establish the manner in which the Commissioner may take appropriate disciplinary action, including, without limitation, the imposition of an administrative fine, against any person for a



violation of any regulation adopted pursuant to subsection 1 or any provision of sections 86.3 to 86.7, inclusive, of this act.

Sec. 86.5. *1. A mortgage servicer shall comply with:*

(a) The relevant provisions of 12 C.F.R. Part 1024, commonly known as Regulation X, and 12 C.F.R. Part 1026, commonly known as Regulation Z, as those regulations are amended by the Final Servicing Rules issued by the Consumer Financial Protection Bureau in 78 Federal Register 10696 and 10902 on February 14, 2013, and any amendments thereto.

(b) Any other applicable federal or state law or regulation or any order of the Commissioner.

2. The Commissioner shall conduct any examination or investigation of a mortgage servicer or applicant for the issuance of a license as a mortgage servicer as may be necessary to ensure compliance with the provisions of sections 86.3 to 86.7, inclusive, of this act, and any regulations adopted pursuant thereto.

3. If the Commissioner, upon examination or investigation of a mortgage servicer or applicant for the issuance of a license as a mortgage servicer, determines that the mortgage servicer or applicant has violated any applicable provision of section 86.3 to 86.7, inclusive, of this act, or any regulations adopted pursuant thereto, the Commissioner may take such disciplinary action against the mortgage servicer or applicant as may be authorized by regulation of the Commissioner.

Sec. 86.6. *1. Except as otherwise provided in NRS 645F.267 and 645F.293, the Commissioner shall require a person to submit to the Commissioner through the Registry:*

(a) An application for the initial issuance or the renewal of a license as a mortgage servicer, including any fees related to the issuance or renewal of a license.

(b) Any form or filing that a mortgage servicer is otherwise required to submit to the Commissioner.

(c) Any administrative fine assessed against the person pursuant to the regulations adopted pursuant to section 86.4 of this act.

(d) Any costs associated with the submittal of any document, information, fee or fine through the Registry.

2. Any fees and costs received pursuant to subsection 1 are nonrefundable.

3. Except as otherwise provided in this chapter, all fees and costs received pursuant to sections 86.3 to 86.7, inclusive, of this act are in addition to any fee or cost required to be paid to the



Registry and must be deposited in the Account for Mortgage Lending created by NRS 645F.270.

Sec. 86.7. *The provisions of sections 86.3 to 86.7, inclusive, of this act do not apply to:*

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

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

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

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

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

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

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

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

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

Sec. 87. NRS 645F.010 is hereby amended to read as follows:

645F.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645F.020 to 645F.065, inclusive, *and section 86.2 of this act* have the meanings ascribed to them in those sections.

Sec. 88. NRS 645F.160 is hereby amended to read as follows:

645F.160 The Commissioner shall not, either directly or indirectly, be interested in any *mortgage servicer*, escrow agency, mortgage broker or mortgage banker to which *this chapter and*



chapters 645A, 645B and 645E of NRS apply, nor engage in business as a personal loan broker.

Sec. 89. NRS 645F.180 is hereby amended to read as follows:

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

2. The Commissioner may employ or contract with a certified public accountant to review and conduct independent audits and examinations of escrow agencies, mortgage brokers, *mortgage servicers* and mortgage bankers. The Commissioner shall levy an assessment upon each licensed escrow agency, mortgage broker, *mortgage servicer* and mortgage banker to cover all the costs related to the employment of or the contract with the certified public accountant and the performance of the audits and examinations.

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

Sec. 90. (Deleted by amendment.)

Sec. 91. NRS 645F.267 is hereby amended to read as follows:

645F.267 1. A mortgage agent, mortgage banker, ~~or~~ mortgage broker *or mortgage servicer* or an employee of a mortgage banker, ~~or~~ mortgage broker *or mortgage servicer* is not required to register or renew with the Registry, or provide reports of financial condition to the Registry, if the mortgage agent, mortgage banker, mortgage broker *or mortgage servicer* or employee:

(a) Is not a residential mortgage loan originator or the supervisor of a residential mortgage loan originator; and

(b) Is not required to register pursuant to the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. A mortgage agent, mortgage banker, ~~or~~ mortgage broker *or mortgage servicer* or an employee of a mortgage banker, ~~or~~ mortgage broker *or mortgage servicer* who, pursuant to subsection 1, is not required to register or renew with the Registry and who voluntarily registers or renews with the Registry shall comply with all requirements of the federal Secure and Fair Enforcement for



Mortgage Licensing Act of 2008, and any regulations adopted pursuant thereto.

3. As used in this section, “residential mortgage loan originator” has the meaning ascribed to it in NRS 645B.01325.

Sec. 92. NRS 645F.280 is hereby amended to read as follows:

645F.280 1. The Commissioner shall establish by regulation rates to be paid by all persons licensed by the Commissioner ~~for the Division~~ for supervision and examinations by the Commissioner or the Division.

2. In establishing a rate *for examinations* pursuant to subsection 1, the Commissioner shall consider:

(a) The complexity of the various examinations to which the rate applies;

(b) The skill required to conduct the examinations;

(c) The expenses associated with conducting the examination and preparing a report; and

(d) Any other factors the Commissioner deems relevant.

Sec. 93. NRS 645F.293 is hereby amended to read as follows:

645F.293 1. The Commissioner shall adopt regulations to carry out the provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

2. The regulations must include, without limitation:

(a) A method by which to allow for reporting regularly violations of the relevant provisions of chapter 645B or 645E of NRS, enforcement actions and other relevant information to the Registry; and

(b) A process whereby a person may challenge information reported to the Registry by the Commissioner.

3. The regulations must not require a mortgage agent, mortgage banker, ~~+~~ mortgage broker *or mortgage servicer* or an employee of a mortgage banker, ~~+~~ mortgage broker *or mortgage servicer* to register with the Registry if the mortgage agent, mortgage banker, mortgage broker, *mortgage servicer* or employee is exempt from registration pursuant to subsection 1 of NRS 645F.267.

Sec. 94. NRS 645H.040 is hereby amended to read as follows:

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

1. A bank, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 86.2 of this act*, credit



union, thrift company or savings and loan association, or any subsidiary thereof which is authorized to transact business in this State;

2. A mortgage holding entity chartered by Congress; or
3. A federal, state or local governmental entity.

Sec. 95. NRS 645H.060 is hereby amended to read as follows:
645H.060 “Client” means:

1. A bank, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 86.2 of this act*, credit union, thrift company or savings and loan association, or any subsidiary thereof that is authorized to transact business in this State;

2. A mortgage holding entity chartered by Congress; or
3. A federal, state or local governmental entity,

↳ for whom an asset management company provides asset management.

Sec. 96. NRS 645H.160 is hereby amended to read as follows:
645H.160 The provisions of this chapter do not apply to:

1. A person who is a regular, full-time employee of a bank, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 86.2 of this act*, credit union, thrift company or savings and loan association, or any subsidiary thereof.

2. A person who takes possession of property from a defendant in connection with a judicial proceeding for eminent domain brought pursuant to chapter 37 of NRS.

Sec. 97. NRS 40.750 is hereby amended to read as follows:

40.750 1. As used in this section, “financial institution” means a bank, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 86.2 of this act*, credit union, thrift company or savings and loan association, or any subsidiary or affiliate of a bank, mortgage broker, mortgage banker, *mortgage servicer*, credit union, thrift company or savings and loan association, which is authorized to transact business in this State and which makes or acquires, in whole or in part, any loan of the kind described in subsection 2.

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



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

4. The cause of action provided by this section:

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

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

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

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

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

Sec. 98. NRS 205.372 is hereby amended to read as follows:

205.372 1. A person who is a participant in a mortgage lending transaction and who:

(a) Knowingly makes a false statement or misrepresentation concerning a material fact or knowingly conceals or fails to disclose a material fact;

(b) Knowingly uses or facilitates the use of a false statement or misrepresentation made by another person concerning a material fact or knowingly uses or facilitates the use of another person's concealment or failure to disclose a material fact;

(c) Receives any proceeds or any other money in connection with a mortgage lending transaction that the person knows resulted from a violation of paragraph (a) or (b);

(d) Conspires with another person to violate any of the provisions of paragraph (a), (b) or (c); or

(e) Files or causes to be filed with a county recorder any document that the person knows to include a misstatement, misrepresentation or omission concerning a material fact,

↳ commits the offense of mortgage lending fraud which is a category C felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.



2. A person who engages in a pattern of mortgage lending fraud or conspires or attempts to engage in a pattern of mortgage lending fraud is guilty of a category B felony and, upon conviction, shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 20 years, or by a fine of not more than \$50,000, or by both fine and imprisonment.

3. Each mortgage lending transaction in which a person violates any provision of subsection 1 constitutes a separate violation.

4. Except as otherwise provided in this subsection, if a lender or any agent of the lender is convicted of the offense of mortgage lending fraud in violation of this section, the mortgage lending transaction with regard to which the fraud was committed may be rescinded by the borrower within 6 months after the date of the conviction if the borrower gives written notice to the lender and records that notice with the recorder of the county in which the mortgage was recorded. A mortgage lending transaction may not be rescinded pursuant to this subsection if the lender has transferred the mortgage to a bona fide purchaser.

5. The Attorney General may investigate and prosecute a violation of this section.

6. In addition to the criminal penalties imposed for a violation of this section, any person who violates this section is subject to a civil penalty of not more than \$5,000 for each violation. This penalty must be recovered in a civil action, brought in the name of the State of Nevada by the Attorney General. In such an action, the Attorney General may recover reasonable attorney's fees and costs.

7. The owner or holder of the beneficial interest in real property which is the subject of mortgage lending fraud may bring a civil action in the district court in and for the county in which the real property is located to recover any damages suffered by the owner or holder of the beneficial interest plus reasonable attorney's fees and costs.

8. As used in this section:

(a) "Bona fide purchaser" means any person who purchases a mortgage in good faith and for valuable consideration and who does not know or have reasonable cause to believe that the lender or any agent of the lender engaged in mortgage lending fraud in violation of this section.

(b) "Mortgage lending transaction" means any transaction between two or more persons for the purpose of making or obtaining, attempting to make or obtain, or assisting another person



to make or obtain a loan that is secured by a mortgage or other lien on residential real property. The term includes, without limitation:

- (1) The solicitation of a person to make or obtain the loan;
 - (2) The representation or offer to represent another person to make or obtain the loan;
 - (3) The negotiation of the terms of the loan;
 - (4) The provision of services in connection with the loan;
- and

(5) The execution of any document in connection with making or obtaining the loan.

(c) "Participant in a mortgage lending transaction" includes, without limitation:

- (1) A borrower as defined in NRS 598D.020;
- (2) An escrow agent as defined in NRS 645A.010;
- (3) A foreclosure consultant as defined in NRS 645F.320;
- (4) A foreclosure purchaser as defined in NRS 645F.330;
- (5) An investor as defined in NRS 645B.0121;
- (6) A lender as defined in NRS 598D.050;
- (7) A loan modification consultant as defined in NRS 645F.365;
- (8) A mortgage agent as defined in NRS 645B.0125;
- (9) A mortgage banker as defined in NRS 645E.100; ~~and~~
- (10) A mortgage broker as defined in NRS 645B.0127 ~~†~~ ;

and

(11) A mortgage servicer as defined in section 86.2 of this act.

(d) "Pattern of mortgage lending fraud" means one or more violations of a provision of subsection 1 committed in two or more mortgage lending transactions which have the same or similar purposes, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics.

Sec. 99. (Deleted by amendment.)

Sec. 100. NRS 675.035 is hereby amended to read as follows:

675.035 The provisions of this chapter apply to any person who:

1. Makes installment loans that are not subject to regulation pursuant to chapter 604A of NRS;

2. Is an affiliate, subsidiary or holding company of a bank, national banking association, savings bank, trust company, savings and loan association, credit union, mortgage broker, mortgage banker, *mortgage servicer as that term is defined in section 86.2 of this act*, thrift company or insurance company; and



3. Seeks to evade its application by any device, subterfuge or pretense, including, without limitation:

(a) Calling a loan by any other name;

(b) Using any agents, affiliates or subsidiaries in an attempt to avoid the application of the provisions of this chapter; or

(c) Having any affiliation or other business arrangement with an entity that is exempt from the provisions of this chapter pursuant to subsection 1 of NRS 675.040, the effect of which is to evade the provisions of this chapter, including, without limitation, making a loan while purporting to be the agent of such an exempt entity where the purported agent holds, acquires or maintains a material economic interest in the revenues generated by the loan.

Sec. 101. (Deleted by amendment.)

Sec. 101.3. NRS 677.241 is hereby amended to read as follows:

677.241 **1.** Subject to the prior approval of the Commissioner, a licensee may, by a majority vote of its board of directors:

~~††~~ **(a)** Enter into a contract, incur an obligation and perform other acts necessary to obtain a membership or other benefit that is available to a thrift company or its customers, stockholders, conservators, receivers or liquidators pursuant to the provisions of:

~~††~~ **(1)** The Federal Deposit Insurance Act, ~~††~~ 12 U.S.C. §§ 1811 et seq.; ~~†~~

~~—(b)†~~

(2) The National Housing Act, ~~††~~ 12 U.S.C. §§ 1701 to 1743, inclusive ~~†~~

~~—2.† ; or~~

(3) *A contract for the insurance of deposits that is issued by a private insurer and approved by the Commissioner and the Commissioner of Insurance.*

(b) Subscribe for and acquire any stock, debentures, bonds or other types of securities of the Federal Deposit Insurance Corporation.

2. *The Commissioner shall adopt regulations prescribing the requirements that must be complied with before a contract issued pursuant to subparagraph (3) of paragraph (a) of subsection 1 will be approved by the Commissioner.*

Sec. 101.7. NRS 677.247 is hereby amended to read as follows:

677.247 **1.** ~~†~~ ~~Except as otherwise provided in subsection 2, an~~ **An** applicant for an authorization to engage in the business regulated pursuant to this chapter must obtain:



(a) The insurance of deposits provided pursuant to the provisions of the Federal Deposit Insurance Act , ~~12~~ 12 U.S.C. §§ 1811 et seq. ; ~~1~~; ~~or~~

(b) The insurance of deposits provided pursuant to the provisions of the National Housing Act , ~~12~~ 12 U.S.C. §§ 1701 to 1743, inclusive ~~1~~;

~~2. A person who:~~

~~(a) Is licensed pursuant to this chapter before October 1, 1997; and~~

~~(b) Has not obtained the insurance of deposits provided in subsection 1;~~

~~may obtain a~~ ; *or*

(c) A contract for the insurance of deposits that is issued by a private insurer ~~1. The contract must be~~ *and* approved by the Commissioner and the Commissioner of Insurance.

~~3. 2.~~ The Commissioner shall adopt regulations prescribing the requirements that must be complied with before a contract issued pursuant to *paragraph (c) of* subsection ~~2~~ 1 will be approved by ~~him or her~~ *the Commissioner.*

Sec. 102. NRS 645A.210 and 645F.265 are hereby repealed.

Sec. 103. 1. This section and sections 101.3 and 101.7 of this act become effective upon passage and approval.

2. Sections 1 to 101, inclusive, and section 102 of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2016, for all other purposes.



