

23400 Michigan Avenue, Suite 101
Dearborn, MI 48124
Tel: 1-(866) 534-6177 (toll-free)
Fax: 1-(734) 943-6051
Email: contact@legaleasesolutions.com
www.legaleasesolutions.com

Nevada-Mortgage Laws and Regulations

Introduction

LegalEase was asked to review and summarize any legislation since January of 2007 (including pending legislation) affecting the mortgage industry in Nevada in the following areas:

I. MORTGAGE ORIGINATION

1. Pending legislation since January of 2007

There is no new pending legislation since January of 2007.

2. Legislation since January of 2007

There is no new legislation since January of 2007.

II. MORTGAGE LICENSING

1. Pending legislation since January of 2007

There is no new pending legislation since January of 2007.

2. Legislation since January of 2007

i) Section 645B.0137 added to Chapter 645B- Mortgage Brokers and Mortgage Agents, Nevada Revised Statutes Annotated.

Highlights of the new Section:

- Relates to the requirements that are to be met before the initial licensing of mortgage brokers and mortgage agents.
- Effective since July 1, 2008.
- Nev. Rev. Stat. Ann. § 645B.0137 reads as follows:

1. In addition to any other requirements provided by this chapter, a person who wishes to receive an initial license as a mortgage broker or mortgage agent must:

- (a) Complete education on mortgage lending as required by this chapter; or
- (b) Successfully pass a written examination as determined by the Division.

2. If the applicant for an initial license as a mortgage broker is not a natural person, the applicant must designate a natural person to be the qualified employee of the applicant and meet the requirements of subsection 1.

3. The Division:

- (a) May hire a testing organization to create, administer and score a written examination; and
- (b) May create waivers for a written examination.

4. The Commissioner may adopt regulations to carry out the provisions of this section, including, without limitation, regulations relating to the content of a written examination, the scoring of a written examination or any possible waivers of a written examination.

ii) Amendments to Nev. Rev. Stat. Ann. § 645B.020

Highlights of the amendment:

- Section 645B.020 lists the requirements for the application for license, the application for branch offices and the requirements for issuance of license.
- Effective since October 1, 2007.
- Deleted former subdivision 1(a), which read: "Be verified" and redesignated the subsequent subdivisions accordingly; and inserted "is verified by the Commissioner and" in subdivision 3(a).
- The amended section reads 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. An application for a license as a mortgage broker must:

- (a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the mortgage broker will

conduct business within this State.

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

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

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

(f) 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) Include all information required to complete the application.

(h) 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 at one or more branch offices within this State, the mortgage broker must apply for a license for each such branch office.

3. Except as otherwise provided in this chapter, 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 a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a mortgage broker in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony

relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude.

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

(4) Has not had a license that was issued pursuant to the provisions of this chapter or chapter 645E of NRS suspended or revoked within the 10 years immediately preceding the date of his application.

(5) Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.

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

iii) Section 645B.021 added to Chapter 645B- Mortgage Brokers and Mortgage Agents, Nevada Revised Statutes Annotated.

Highlights of the new Section:

- Requires a mortgage broker who is not natural person to designate natural person as qualified employee, and states its related regulations.
- Effective since July 1, 2008.
- The Section reads as follows:

645B.021.

1. If a mortgage broker is not a natural person, the mortgage broker must designate a natural person as a qualified employee to act on behalf of the mortgage broker.

2. The Division shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:

- (a) A definition for the term "qualified employee";
- (b) Any duties of a qualified employee; and
- (c) Any requirements regarding a qualified employee.

iv) Amendments to Nev. Rev. Stat. Ann. § 645B.410

Highlights of the amendment:

- Section 645B.410 states the qualifications and procedure for issuance of license fees.

- Effective since October 1, 2007.
- Deleted former subdivision 2(a), which read: "Be verified" and redesignated the subsequent subdivisions accordingly
- Inserted "is verified by the Commissioner and" in subdivision 3(a).
- The amended part of the Section reads as follows:

Section 645B.410.

3. Except as otherwise provided in this chapter, the Commissioner shall issue a license as a mortgage agent to an applicant if:

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

v) Amendments to Nev. Rev. Stat. Ann. § 645B.455

Highlights of the amendment:

- Section 645B.455 added to Chapter 645B- Mortgage Brokers and Mortgage Agents, Nevada Revised Statutes Annotated.
- Section 645B.455 deals with the limitations on license and the automatic expiration of license issued on behalf of professional corporation or limited-liability company.
- Effective since July 1, 2007
- The Section reads as follows:

645B.455.

1. Any natural person who meets the qualifications of a mortgage agent and:

(a) Except as otherwise provided in subsection 2, is the sole shareholder of a corporation organized pursuant to the provisions of chapter 89 of NRS; or

(b) Is the manager of a limited-liability company organized pursuant to the provisions of chapter 86 of NRS,

may be licensed on behalf of the corporation or limited-liability company for the purpose of associating with a licensed mortgage broker in the capacity of a mortgage agent.

2. The spouse of the owner of the corporation who has a community interest in any shares of the corporation shall not be deemed a second shareholder of the corporation

for the purposes of paragraph (a) of subsection 1, if the spouse does not vote any of those shares.

3. A license issued pursuant to this section entitles only the sole shareholder of the corporation or the manager of the limited-liability company to act as a mortgage agent, and only as an officer or agent of the corporation or limited-liability company and not on his own behalf. The licensee shall not do or deal in any act, acts or transactions included within the definition of a mortgage broker in NRS 645B.0127, except as that activity is permitted pursuant to this chapter to licensed mortgage agents.

4. The corporation or limited-liability company shall, within 30 days after a license is issued on its behalf pursuant to this section and within 30 days after any change in its ownership, file an affidavit with the Division stating:

(a) For a corporation, the number of issued and outstanding shares of the corporation and the names of all persons to whom the shares have been issued.

(b) For a limited-liability company, the names of members who have an interest in the company.

5. A license issued pursuant to this section automatically expires upon:

(a) The death of the licensed shareholder in the corporation or the manager of the limited-liability company; or

(b) The issuance of shares in the corporation to more than one person other than the spouse.

6. This section does not alter any of the rights, duties or liabilities which otherwise arise in the legal relationship between a mortgage broker or mortgage agent and a person who deals with him.

III. MORTGAGE FEES AND CHARGES:

1. Pending legislation since January of 2007

There is no new pending legislation since January of 2007.

2. Legislation since January of 2007

i) Amendments to Nev. Rev. Stat. Ann. § 645B.050

Highlights of the amendment:

- Section 645B.050 deals with expiration and renewal of Broker's License or Certificate of Exemption, and its related fee.

- Effective since June 1, 2007
- Inserted "not more than" preceding the dollar amount of each fee throughout the section, and substituted "adjust" or variant for "increase" in three places in subsection 9.
- The amended Section reads as follows:

645B.050

1. A license as a mortgage broker issued pursuant to this chapter expires each year on June 30, unless it is renewed. To renew such a license, the licensee must submit to the Commissioner on or before May 31 of each 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; and
- (d) All information required to complete the renewal.

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before May 31 of any year, the license is cancelled as of June 30 of that year. The Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

- (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 before November 30 of each 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; 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 before November 30 of any year, 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:

(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 \$40 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 \$60 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 must be deposited in the Fund 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 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 duties pursuant to this chapter.

ii) Section 645B.305 added to Chapter 645B- Mortgage Brokers and Mortgage Agents, Nevada Revised Statutes Annotated.

Highlights of the amendment:

- Section 645B.305 requires that fee for servicing loan be specified in the loan.
- Effective since October 1, 2007.
- 645B.305 reads as follows:

A mortgage broker shall ensure that each loan secured by a lien on real property for which he engages in activity as a mortgage broker includes a fee for servicing the loan which must be specified in the loan. The fee must be in an amount reasonably necessary to pay the cost of servicing the loan.

iii) Amendments to Nev. Rev. Stat. Ann. § 645E.280

Highlights of the amendment:

- Section 645E.280. deals with the expiration and renewal of License or Certificate of Exemption, and its related fees.
- Effective since June 1, 2007
- Inserted "not more than" preceding each fee amount throughout the section.
- Added subsection 9.
- The amended Section reads 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 before December 31 of each year:

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

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

2. If the licensee fails to submit any item required pursuant to subsection 1 to the Commissioner on or before December 31 of any year, the license is cancelled. The

Commissioner may reinstate a cancelled license if the licensee submits to the Commissioner:

- (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) A reinstatement fee of not more than \$200.

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 before December 31 of each year:

- (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 before December 31 of any year, 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:

- (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) A reinstatement fee of not more than \$100.

5. 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 \$40 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 \$60 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. 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 must be deposited in the Fund 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 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 duties pursuant to this chapter.

IV. CONTINUING EDUCATION FOR MORTGAGE INDUSTRY PROFESSIONALS:

1. Pending legislation since January of 2007

There is no new pending legislation since January of 2007.

2. Legislation since January of 2007

i) Section 645B.0138 added to Chapter 645B- Mortgage Brokers and Mortgage Agents, Nevada Revised Statutes Annotated.

Highlights of the new Section:

- Section 645B.0138 relates to the adoption of regulations by Commissioner regarding courses of continuing education.
- Effective since July 1, 2008.
- 645B.0138. reads as follows:

1. A course of continuing education that is required pursuant to this chapter must meet the requirements set forth by the Commissioner by regulation.

2. The Commissioner shall adopt regulations:

(a) Relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses,

monitoring of such courses and disciplinary action taken regarding such courses.

(b) Allowing for the participation of representatives of the mortgage lending industry pertaining to the creation of regulations regarding such courses.

ii) Section 645B.051 added to Chapter 645B- Mortgage Brokers and Mortgage Agents, Nevada Revised Statutes Annotated.

Highlights of the new Section:

- Section 645B.051 mentions the continuing education that is required for renewal of a Mortgage broker license.
- Effective since July 1, 2008.
- 645B.051 reads as follows:

1. Except as otherwise provided in this section, in addition to the requirements set forth in NRS 645B.050, to renew a license as a mortgage broker:

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

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

2. The Commissioner may provide by regulation that if a person attends more than 10 hours of certified courses of continuing education during a 12-month period, the extra hours may be used to satisfy the requirement for the immediately following 12-month period and for that immediately following 12-month period only.

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

V. OTHER SIGNIFICANT STATUTORY OR REGULATORY EFFECT ON THE MORTGAGE INDUSTRY:

1. Pending legislation since January of 2007

There is no new pending legislation since January of 2007.

2. Legislation since January of 2007

i) Amendments to Nev. Rev. Stat. Ann. § 645B.015

Highlights of the amendment:

- Section 645B.015 deals with the exemptions for certain persons and entities.
- Amends subsection 1 of Section 645B.015
- Effective since June 1, 2007
- Substituted "including, without limitation, a subsidiary or a holding company of such a bank, company, association or union" for "unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required" in subsection 1.
- The amended portion of the Section reads as follows:

645B.015

Except as otherwise provided in NRS 645B.016, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, consumer finance companies, industrial loan companies, credit unions, thrift companies or insurance companies, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

ii) Amendments to Nev. Rev. Stat. Ann. § 645B.016

Highlights of the amendment:

- Section 645B.016 deals with the following: Certificate of exemption required for certain persons and entities; application; fee; automatic expiration; prohibitions; administrative fine.
- Effective since June 1, 2007
- Added "and subsection 2": in the introductory language
- Inserted subdivision (d) and present subsection 2, and redesignated subsections accordingly with related changes.

- Amended § 645B.016 reads as follows:

Except as otherwise provided in subsection 2 and NRS 645B.690:

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

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

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

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645B.015; and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

3. The Commissioner may require a person who claims an exemption from the provisions of this chapter pursuant to subsections 2 to 9, inclusive, of NRS 645B.015 to:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

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

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

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

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

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

(b) Another certificate of exemption.

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

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

(b) Has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted by him, would have rendered the person ineligible to hold a certificate of exemption; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner that applies to a person who is required to apply for a certificate of exemption or who holds a certificate of exemption.

iii) Amendments to Nev. Rev. Stat. Ann. § 645B.060

Highlights of the amendment:

- Section 645B.060 deals with the duties of Commissioner: Regulations; investigations; annual examinations; periodic and special audits; hearings; related fees; biennial examinations.
- Effective since June 1, 2007
- Redesignated subdivision 2(a) as present subdivisions 2(a) and 2(b) in subsection 2. Inserted present subdivisions 2(a)(1) and 2(a)(2), redesignated the subsequent subdivisions, and added the exception at the beginning of present subdivision 2(d).
- Added subsection 4; and made related and stylistic changes.
- The amended Section reads as follows:

645B.060.

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

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

(a) Adopt regulations:

(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must

include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.

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

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

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

(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker. The Commissioner shall adopt regulations prescribing:

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

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

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

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

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

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

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

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

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

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

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

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

iv) Amendments to Nev. Rev. Stat. Ann. § 645B.085

Highlights of the amendment:

- Section 645B.085 relates to: annual financial statement; audit of trust accounts; regulations.
- Amends subsection 1 of § 645B.085
- Effective since June 1, 2007
- Substituted "120 days" for "90 days" in subsection 1.
- The amended portion of the Section reads as follows:

645B.085

1. Except as otherwise provided in this section, not later than 120 days after the last day of each fiscal year for a mortgage broker, the mortgage broker shall submit to the Commissioner a financial statement that:

(a) Is dated not earlier than the last day of the fiscal year; and

(b) Has been prepared from the books and records of the mortgage broker by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.

v) Amendments to Nev. Rev. Stat. Ann. § 645B.092

Highlights of the amendment:

- Section 645B.092 relates to the records of Commissioner.
- Amends subsection 1 of § 645B.092
- Effective since October 1, 2007.
- Inserted "and NRS 239.0115" in subsection 1.
- The amended portion of the Section reads as follows:

645B.092.

1. Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

vi) Section 645B.093 added to Chapter 645B- Mortgage Brokers and Mortgage Agents, Nevada Revised Statutes Annotated.

Highlights of the new Section:

- Section 645B.093 prohibits a mortgage broker from commingling certain money.
- Effective since October 1, 2007.
- Section 645B.093 reads as follows:

645B.093.

1. A mortgage broker who is a broker-dealer or a sales representative licensed pursuant to NRS 90.310 or who is exempt from licensure pursuant to NRS 90.320:

(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and

(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.

2. A mortgage broker who is an investment adviser or a representative of an investment adviser licensed pursuant to NRS 90.330 or exempt from licensure pursuant to NRS 90.340:

(a) Shall not commingle money received for mortgage transactions and money received for securities transactions; and

(b) Shall ensure that all money received for mortgage transactions is accounted for separately from all money received for securities transactions.

vii) Amendments to Nev. Rev. Stat. Ann. § 645B.092

Highlights of the amendment:

- Section 645B.175 deals with Escrows and Trust accounts.
- Effective since June 1, 2007.
- Added subsections 10 and 11.
- The amended Section reads as follows:

645B.175

1. Except as otherwise provided in this section, all money received by a mortgage broker and his mortgage agents from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property must:

(a) Be deposited in:

(1) An insured depository financial institution; or

(2) An escrow account which is controlled by a person who is independent of the parties and subject to instructions regarding the account which are approved by the parties.

(b) Be kept separate from money:

(1) Belonging to the mortgage broker in an account appropriately named to indicate that the money does not belong to the mortgage broker.

(2) Received pursuant to subsection 4.

2. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 1 must be released:

(a) Upon completion of the loan, including proper recordation of the respective interests or release, or upon completion of the transfer of the ownership or beneficial interest therein, to the debtor or his designee less the amount due the mortgage broker for the payment of any fee or service charge;

(b) If the loan or the transfer thereof is not consummated, to each investor who furnished the money held in trust; or

- (c) Pursuant to any instructions regarding the escrow account.
3. The amount held in trust pursuant to subsection 1 must not be released to the debtor or his designee unless:
- (a) The amount released is equal to the total amount of money which is being loaned to the debtor for that loan, less the amount due the mortgage broker for the payment of any fee or service charge; and
 - (b) The mortgage broker has provided a written instruction to a title agent or title insurer requiring that a lender's policy of title insurance or appropriate title endorsement, which names as an insured each investor who owns a beneficial interest in the loan, be issued for the real property securing the loan.
4. Except as otherwise provided in this section, all money paid to a mortgage broker and his mortgage agents by a person in full or in partial payment of a loan secured by a lien on real property, must:
- (a) Be deposited in:
 - (1) An insured depository financial institution; or
 - (2) An escrow account which is controlled by a person who is subject to instructions regarding the account which are approved by the parties.
 - (b) Be kept separate from money:
 - (1) Belonging to the mortgage broker in an account appropriately named to indicate that it does not belong to the mortgage broker.
 - (2) Received pursuant to subsection 1.
5. Except as otherwise provided in this section, the amount held in trust pursuant to subsection 4:
- (a) Must be released, upon the deduction and payment of any fee or service charge due the mortgage broker, to each investor who owns a beneficial interest in the loan in exact proportion to the beneficial interest that he owns in the loan; and
 - (b) Must not be released, in any proportion, to an investor who owns a beneficial interest in the loan, unless the amount described in paragraph (a) is also released to every other investor who owns a beneficial interest in the loan.
6. An investor may waive, in writing, the right to receive one or more payments, or portions thereof, that are released to other investors in the manner set forth in

subsection 5. A mortgage broker or mortgage agent shall not act as the attorney in fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection. Any such written waiver applies only to the payment or payments, or portions thereof, that are included in the written waiver and does not affect the right of the investor to:

(a) Receive the waived payment or payments, or portions thereof, at a later date; or

(b) Receive all other payments in full and in accordance with the provisions of subsection 5.

7. Upon reasonable notice, any mortgage broker described in this section shall:

(a) Account to any investor or debtor who has paid to the mortgage broker or his mortgage agents money that is required to be deposited in a trust account pursuant to this section; and

(b) Account to the commissioner for all money which the mortgage broker and his mortgage agents have received from each investor or debtor and which the mortgage broker is required to deposit in a trust account pursuant to this section.

8. Money received by a mortgage broker and his mortgage agents pursuant to this section from a person who is not associated with the mortgage broker may be held in trust for not more than 45 days before an escrow account must be opened in connection with the loan. If, within this 45-day period, the loan or the transfer therefor is not consummated, the money must be returned within 24 hours. If the money is so returned, it may not be reinvested with the mortgage broker for at least 15 days.

9. If a mortgage broker or a mortgage agent receives any money pursuant to this section, the mortgage broker or mortgage agent, after the deduction and payment of any fee or service charge due the mortgage broker, shall not release the money to:

(a) Any person who does not have a contractual or legal right to receive the money; or

(b) Any person who has a contractual right to receive the money if the mortgage broker or mortgage agent knows or, in light of all the surrounding facts and circumstances, reasonably should know that the person's contractual right to receive the money violates any provision of this chapter or a regulation adopted pursuant to this chapter.

10. If a mortgage broker maintains any accounts described in subsection 1 or subsection 4, the mortgage broker shall, in addition to the annual financial statement audited pursuant to NRS 645B.085, submit to the Commissioner each 6 calendar months a financial statement concerning those trust accounts.

11. The Commissioner shall adopt regulations concerning the form and content required for financial statements submitted pursuant to subsection 10.

viii) Amendments to Nev. Rev. Stat. Ann. § 645B.189

Highlights of the amendment:

- Section 645B.189 states the disclosure requirements in certain advertisements.
- Effective since June 1, 2007
- Amends subsection 3 of § 645B.189
- Inserted "who has received his initial license within the past 12 months" in subsection 3.
- The amended portion of the Section reads as follows:

645B.189

3. Each mortgage broker who has received his initial license within the past 12 months shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

ix) Amendments to Nev. Rev. Stat. Ann. § 645B.310

Highlights of the amendment:

- Section 645B.310 states the requirements for mortgage broker to assign interest in loan.
- Effective since June 1, 2007
- Inserted present subsection 2, redesignated the subsequent subsection accordingly, and made a related change.
- The amended Section reads as follows:

645B.310

A mortgage broker shall not assign all or a part of his interest in a loan secured by a lien on real property, unless the mortgage broker:

1. Obtains a policy of title insurance for the real property;
2. Obtains the approval of the assignment from each investor who has acquired ownership of or a beneficial interest in the loan if, at the time of the assignment, the debtor on the loan has defaulted in making a payment required for the loan or any portion of the loan; and

3. Records the assignment in the office of the county recorder of the county in which the real property is located.

x) Amendments to Nev. Rev. Stat. Ann. § 645E.150

Highlights of the amendment:

- Section 645E.150 deals with the exemptions for certain persons and entities.
- Amends subsection 1 of § 645E.150
- Effective since June 1, 2007.
- Substituted "including, without limitation, a subsidiary or a holding company of such a bank, company, association or union" for "unless the business conducted in this State is not subject to supervision by the regulatory authority of the other jurisdiction, in which case licensing pursuant to this chapter is required" in subsection 1.
- The amended portions of the Section read as follows:

645E.150

Except as otherwise provided in NRS 645E.160, the provisions of this chapter do not apply to:

1. Any person doing business under the laws of this State, any other state or the United States relating to banks, savings banks, trust companies, savings and loan associations, consumer finance companies, industrial loan companies, credit unions, thrift companies or insurance companies, including, without limitation, a subsidiary or a holding company of such a bank, company, association or union.

xi) Amendments to Nev. Rev. Stat. Ann. § 645E.160

Highlights of the amendment:

- Section 645E.160 deals with the certificate of exemption required for certain persons and entities.
- Effective since June 1, 2007
- Added "Except as otherwise provided in subsection 2" in subdivision 1
- Inserted subdivision 1(d) and present subsection 2 and redesignated subsections accordingly.
- The amended Section reads as follows:

645E.160

1. Except as otherwise provided in subsection 2, a person who claims an exemption from the provisions of this chapter pursuant to subsection 1 of NRS 645E.150 must:

(a) File a written application for a certificate of exemption with the Office of the Commissioner;

(b) Pay the fee required pursuant to NRS 645E.280;

(c) Include with the written application satisfactory proof that the person meets the requirements of subsection 1 of NRS 645E.150; and

(d) Provide evidence to the Commissioner that the person is duly licensed to conduct his business and such license is in good standing pursuant to the laws of this State, any other state or the United States.

2. The provisions of subsection 1 do not apply to the extent preempted by federal law.

xii) Amendments to Nev. Rev. Stat. Ann. § 645E.300

Highlights of the amendment:

- Section 645E.300 relates to the duties of Commissioner.
- Effective since June 1, 2007
- Rewrote subdivision 2(a), redesignating it as subdivisions 2(a) and (b), and redesignated the subsequent subdivisions accordingly.
- Added the exception in present subdivision 2(d) and deleted "and proper" following "necessary" in present subdivision 2(e)
- Added subsection 4 and made related changes.
- The amended Section reads as follows:

645E.300.

1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise general supervision and control over mortgage bankers doing business in this State.

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

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

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

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

(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage banker doing business in this State.

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

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

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

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

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

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

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

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

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division.