

**STUDY OF LAWS, REGULATIONS
AND POLICIES WHICH AFFECT
FINANCIAL INSTITUTIONS**



Bulletin No. 87-28

**LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA**

August 1986

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AND POLICIES WHICH AFFECT
FINANCIAL INSTITUTIONS

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LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

August 1986

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Senate Concurrent Resolution No. 43—Committee on Commerce and Labor

FILE NUMBER...121

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study the laws, regulations and policies which affect financial institutions.

WHEREAS, Federal deregulation of financial institutions is creating rapidly changing controls which affect the state's banks, savings and loan associations, thrift companies, mortgage companies and other regulated financial institutions; and

WHEREAS, Differing laws and regulations create inequities on different licensed financial institutions which are providing essentially the same services; and

WHEREAS, Nevada has experienced a succession of failures of thrift and mortgage companies; and

WHEREAS, Residents of Nevada who live in rural areas have experienced difficulty in receiving adequate banking services and other financial services; and

WHEREAS, Our financial institutions may be placed in financial jeopardy by not being able to react promptly to competition from other states because of our restrictive laws which are only subject to biennial legislative revision; now, therefore, be it

RESOLVED BY THE SENATE OF THE STATE OF NEVADA, THE ASSEMBLY CONCURRING, That the legislative commission is hereby directed to study the federal and state laws, regulations and policies which affect Nevada's financial institutions; and be it further

RESOLVED, That the legislative commission include in its study the causes of failures of thrift and mortgage companies and methods of minimizing losses by investors; and be it further

RESOLVED, That the legislative commission report the results of the study and recommendations for any changes in policies on interstate banking and necessary or desirable statutory or regulatory changes to the 64th session of the legislature.

19  25

REPORT OF THE LEGISLATIVE COMMISSION

TO THE MEMBERS OF THE 64TH SESSION OF THE NEVADA LEGISLATURE:

This report is submitted in compliance with Senate Concurrent Resolution No. 43 of the 63rd session of the Nevada Legislature, which directs the Legislative Commission to study the federal and state laws, regulations and policies which affect Nevada's financial institutions.

In order to conduct the study the Legislative Commission, under the auspices of the Joint Interim Committee on Commerce and Labor, appointed a subcommittee to conduct the study and recommend appropriate action. The members of the subcommittee were:

Senator Robert E. Robinson, Chairman
Assemblyman John E. Jeffrey, Vice Chairman
Senator Raymond C. Shaffer
Senator Randolph J. Townsend
Assemblyman John B. DuBois

The subcommittee has attempted, in this report, to present its findings and recommendations briefly and concisely. A great deal of data was gathered in the course of the study. All of the data and the minutes of the subcommittee's meetings are on file with the Legislative Counsel Bureau and are available to any member.

This report is transmitted to the members of the 64th session of the Nevada Legislature for their consideration and appropriate action.

Respectfully submitted,

Legislative Commission
Legislative Counsel Bureau
State of Nevada

Carson City, Nevada
August 1986

* * * * *

LEGISLATIVE COMMISSION

Assemblyman Louis W. Bergevin, Chairman

Senator James H. Bilbray	Assemblyman Bob L. Kerns
Senator Helen A. Foley	Assemblyman Robert M. Sader
Senator Lawrence E. Jacobsen	Assemblyman James W. Schofield
Senator Kenneth K. Redelsperger	Assemblyman Danny L. Thompson
Senator Sue Wagner	Assemblyman Barbara A. Zimmer

SUMMARY OF RECOMMENDATIONS

1. Create a position for a certified public accountant in the Division of Financial Institutions and, if possible, fill the position with a person who has worked for financial institutions. Eliminate the requirement that mortgage companies pay for such an accountant. Request the Research Division of the Legislative Counsel Bureau to determine the cost of hiring the accountant full time or on a contract basis. (BDR 55-160)

2. License sales representatives of mortgage companies in the same manner as real estate agents, that is, tie their licenses to the companies for which they work. (BDR 54-163)

3. Request the Administrator of Financial Institutions to clarify the effect on construction loans of the requirement that mortgage companies only hold money in trust for 45 days.

4. Clarify the kinds of trust accounts a company can maintain while remaining exempt from licensing as a mortgage company. (BDR 54-166)

5. Clarify that a license as a mortgage company entitles the holder to engage only in the activities authorized in the licensing statutes. (BDR 54-166)

6. Require title insurance and recording of all assignments of interests in mortgages. (BDR 10-161)

7. Require that a request to a trustee from a beneficiary for reconveyance of secured property be notarized and recorded. Require that the notary public not have a financial interest in the reconveyance. (BDR 10-162)

8. Authorize additional personnel for the Division of Financial Institutions but don't increase the fees paid by financial institutions. Urge the Senate Finance Committee and the Assembly Ways and Means Committee to pay for the additional personnel out of the money the division brings into the State General Fund which is being used for other purposes.

9. Establish a uniform rate for special examinations conducted by the Division of Financial Institutions and for other examinations which are not covered by other fees or assessments paid by financial institutions. (BDR 55-158)

10. Make it a deceptive trade practice for a person to charge a fee for advice with respect to investing money without disclosing what product he is selling and what licenses he holds. (BDR 52-159)

11. License persons who loan large amounts of money secured by personal property. (BDR 54-157)

12. License persons who appraise real property. Do not exempt employees of financial institutions or real estate agencies. (BDR 54-164)

13. Clarify that only an active real estate license precludes a person from being licensed as an escrow agent or agency. (BDR 54-156)

REPORT TO THE LEGISLATIVE
COMMISSION FROM THE SUBCOMMITTEE
TO STUDY LAWS, REGULATIONS AND POLICIES
WHICH AFFECT FINANCIAL INSTITUTIONS

I. INTRODUCTION

In 1985 the 63rd Session of the Nevada Legislature adopted Senate Concurrent Resolution No. 43 which required the Legislative Commission to study federal and state laws, regulations and policies which affect Nevada's financial institutions. The Legislative Commission, under the auspices of the Joint Interim Committee on Commerce and Labor, appointed a subcommittee to conduct the study. The members of the subcommittee were:

Senator Robert E. Robinson, Chairman
Assemblyman John E. Jeffrey, Vice Chairman
Senator Raymond C. Shaffer
Senator Randolph J. Townsend
Assemblyman John B. DuBois

The subcommittee held four meetings. The first meeting was held in Carson City, and was devoted to reviewing the legislation relating to financial institutions from the 1985 session and the effect of that legislation. The second meeting was held in Las Vegas, and was devoted to a review of mortgage companies. The subcommittee toured the Citibank facility after the meeting. The third meeting, held in Carson City, included discussion of various topics, but focused upon regulation of financial institutions and persons who work in the financial community. The subcommittee made its findings and recommendations at its fourth meeting, which was also held in Carson City.

The subcommittee heard testimony from representatives of all types of financial institutions, their state regulators, and interested citizens. The subcommittee was greatly aided by the representatives of the Division of Financial Institutions, who lent their time and expertise to help the subcommittee to understand its complex subject of study.

II. FINDINGS AND RECOMMENDATIONS

A. MORTGAGE COMPANIES

The subcommittee reviewed the laws passed by the Nevada Legislature in 1985 relating to mortgage companies and considered what further changes were necessary. The subcommittee

heard testimony from several licensed mortgage brokers and the Administrator of Financial Institutions. Most of the recommendations concerned minor adjustments to the laws.

The major objection raised by mortgage companies was that they are paying too much for regulation to remain competitive in the financial market. Some mortgage companies are required to pay for an audit of their accounts, the salary of an accountant for the Division of Financial Institutions, and an assessment for the Fund for Mortgage Investors. Even the Administrator of Financial Institutions testified that mortgage companies were overburdened. The subcommittee, therefore, recommends:

Eliminating the requirement that mortgage companies pay the salary and expenses of a certified public accountant for the Division of Financial Institutions of the Department of Commerce. (BDR 55-160)

The subcommittee considered the problems which may be caused by sales representatives of mortgage companies. Though mortgage companies must be licensed, their representatives are virtually unregulated. These representatives can engage in activities which are damaging to members of the public and to the mortgage companies themselves. A representative who is fired by one mortgage company is free to work for another or to use the information he obtained through his employment for his own gain. The subcommittee, therefore, recommends:

Licensing sales representatives of mortgage companies in the same manner as real estate agents-- tie their licenses to the companies for which they work. (BDR 54-163)

The subcommittee was urged to prohibit mortgage companies from making collections on loans. However, almost all of the testimony on this point was in opposition to this idea. The subcommittee rejected the idea for two reasons. First, requiring the use of an escrow company does not prevent misuse of money, it merely shifts the potential misuse from the mortgage company to the escrow company. Second, many mortgage companies offer to make collections for investors as part of the service provided. Without this service, these companies may lose business.

The remaining recommendations concerning mortgage companies are minor clarifications. Some mortgage companies expressed doubts about the applicability to construction loans of the statute prohibiting mortgage companies from holding money in

trust for more than 45 days before an escrow account is opened in connection with a loan. The subcommittee, therefore, recommends:

That the Administrator of Financial Institutions clarify the effect on construction loans of the requirement that mortgage companies only hold money in trust for 45 days. (See Appendix A)

There is also confusion concerning the kinds of trust accounts a company can maintain without losing its exemption from licensing as a mortgage company. Companies which are approved by the Federal National Mortgage Association, the Department of Housing and Urban Development and the Veteran's Administration are exempt from licensing unless they maintain certain kinds of accounts. The statutes allow these companies to maintain impound trust accounts, but not collection accounts, an apparent contradiction. The subcommittee, therefore, recommends:

Clarifying the kinds of trust accounts a company can maintain while remaining exempt from licensing as a mortgage company. (BDR 54-166)

The Administrator of Financial Institutions testified that the statute which limits the powers of mortgage companies should be clarified. The statute provides that mortgage companies may engage in the activities authorized by the licensing statutes, but does not specifically limit mortgage companies to those activities. The subcommittee, therefore, recommends:

Clarifying that a license as a mortgage company entitles the holder to engage only in the activities authorized in the licensing statutes (BDR 54-166)

B. BANKS AND INTERSTATE BANKING

The subcommittee reviewed the proposed language for the ballot question concerning the Nevada constitution which would provide that banks be taxed in the same manner as other financial institutions. The subcommittee expressed its concern that the proposed language, which emphasized the fact that shares of stock in banking corporations would become exempt, would guarantee the defeat of the measure (Appendix B). The subcommittee suggested that the question emphasize the goal (fair and equal taxation of financial institutions) rather than the method by which it is attained (providing banks with the same exemption as other financial institutions).

The subcommittee did not receive any recommendations for new laws relating to banks, but did hear reports of the results of Nevada's interstate and regional banking laws. The regional banking bill¹ passed by the Nevada Legislature last session has already resulted in an acquisition. Zion's First National Bank of Utah purchased Nevada State Bank pursuant to the law which allows acquisitions of depository institutions among designated western states which pass reciprocal legislation. The law also provides for the phasing in of unrestricted interstate banking. As the subcommittee did not receive any recommendations regarding this law, it appears that the law is accomplishing its purposes without any substantial problems.

The interstate banking bill² passed at the special session in 1984 has had even greater success. Citibank opened a regional center for its credit card operations in Las Vegas soon after the law was passed. The subcommittee toured the facility and saw the results of the legislation. In the short time that Citibank has been in southern Nevada it has made a large contribution to the economy of the area. The subcommittee and other legislators who participated in the tour were shown the statistics regarding Citibank's impact on Nevada (Appendix C), and were equally impressed with Citibank's interest in the quality of life in Nevada and its commitment to being a positive force in the community.

C. CAUSES OF FAILURES OF FINANCIAL INSTITUTIONS

The subcommittee studied the factors which lead to the failure of mortgage companies, thrift companies and other financial institutions. While some failures may be the result of poor investments and natural economic forces, the principal cause of these failures is fraud. A law may require honesty, but it cannot ensure that people will comply. The subcommittee's recommendations focus on two areas. First, address specific instances of fraudulent practices. Second, give state regulators the manpower needed to enforce the laws.

The first specific instance of fraud addressed by the subcommittee concerns the beneficial interest in a mortgage. Current law requires mortgage companies to record assignments of its interest in a mortgage and obtain title insurance for the mortgaged property.³ This prevents a mortgage company from assigning the beneficial interest in a mortgage to more than one person. There is no reason that this prohibition should be limited to mortgage companies. The subcommittee, therefore, recommends:

Requiring title insurance and recording of all assignments of interest in mortgages. (BDR 10-161)

Another practice brought to the attention of the subcommittee concerns requests for reconveyance. When the debt secured by a deed of trust is satisfied, the holder of the beneficial interest directs the trustee to reconvey the property to the grantor or his successor in interest. If the signature of the beneficiary is forged, the property can be mortgaged or conveyed even though the debt has not been satisfied. One way to ensure the validity of a signature is to require notarization. If a notarized request for reconveyance is required to be recorded, clear title to property subject to a deed of trust could not be conveyed unless the request is on file. To ensure that the notary public is impartial, the law should prohibit him from having a financial interest in the reconveyance. The subcommittee, therefore, recommends:

Requiring that a request for reconveyance of secured property be notarized and recorded and that the notary public not have a financial interest in the reconveyance. (BDR 10-162)

The subcommittee feels that the best way to prevent fraud is to improve the ability of state regulators to detect violations of law and enforce those laws. The subcommittee was surprised to learn that the Division of Financial Institutions of the Department of Commerce does not have a certified public accountant who is employed full time. The division is required to employ a certified public accountant to review mortgage companies,⁴ but an accountant would be valuable to the division in the regulation of all financial institutions. The subcommittee has requested the Fiscal Analysis Division of the Legislative Counsel Bureau to determine the cost of employing a certified public accountant full time or on a contract basis. (Appendix D) The subcommittee also believes that it would be beneficial to hire an accountant who has experience working for financial institutions. The subcommittee therefore, recommends:

Creating a position for a certified public accountant in the Division of Financial Institutions of the Department of Commerce and, if possible, filling the position with an accountant who has worked for financial institutions. (BDR 55-160)

The subcommittee was urged to expand the Division of Financial Institutions by both regulators and the institutions regulated. The Division of Financial Institutions raises almost twice as much money as it spends. The excess is used for other purposes. As cutbacks on the federal level shift more responsibility for regulation to the states, it is essential that we provide our regulators with sufficient personnel to examine our financial institutions. It is not necessary to raise any fees or impose any new tax to finance the additional personnel because the division already raises enough revenue in fees and assessments. The subcommittee, therefore, recommends:

Authorizing additional personnel for the Division of Financial Institutions without increasing the fees paid by financial institutions. (A letter to the Senate Finance Committee and the Assembly Ways and Means Committee is attached as Appendix E)

D. REGULATION OF FINANCIAL INSTITUTIONS; NEW REGULATION

Each type of financial institution pays different fees and assessments. As a result, the fee for an examination is not based upon the amount of work which goes into the examination, but the type of institution examined. The costs of standard examinations are often covered by annual fees paid by the institutions, but the cost of special examinations should be standardized. The subcommittee, therefore, recommends:

Establishing a uniform rate for special examinations conducted by the Division of Financial Institutions and for other examinations which are not covered by other fees or assessments. (BDR 55-158)

The subcommittee also considered the need for regulation of certain businesses and professions. A new occupation which substantially affects financial institutions is financial planning. The problem is that in the absence of regulation, anybody can call themselves a financial planner. Persons who use this or other similar titles often do not provide a full range of options to their customers. They may claim to provide comprehensive service when in fact they are only licensed to provide a single product, such as insurance or stocks. The subcommittee does not believe that licensing would solve the problem. It is almost impossible to define this service, and most planners are already regulated with respect to the product they sell. The subcommittee concluded that full disclosure of the product offered and the planner's qualifications would adequately protect the public. The subcommittee, therefore, recommends:

Making it a deceptive trade practice for a person to charge a fee for advice with respect to investing money without disclosing what product he is selling and what licenses he holds. (BDR 52-159)

Persons who make small loans which are secured by personal property must be licensed pursuant to chapter 675 of NRS.⁵ Persons who make loans secured by real property must be licensed pursuant to chapter 645B of NRS.⁶ But the statutes do not regulate persons who make loans of more than \$10,000 which are secured by personal property. In California these people are separately regulated as personal property brokers. It was recommended that Nevada adopt a comparable statute. The subcommittee, therefore, recommends:

Licensing persons who loan large amounts of money secured by personal property. (BDR 54-157)

The subcommittee also considered the licensing of appraisers of real property. Poor appraisals can result in bad investments by financial institutions and losses by investors. The Department of Taxation certifies appraisers,⁷ but this is only for the purpose of tax appraisals. The subcommittee concluded that the Department of Taxation should license appraisers of real property for all purposes. Many states exempt employees of financial institutions and real estate agents from licensing as appraisers. The subcommittee decided not to adopt these exceptions: an appraisal which does not reflect the value of property can harm investors and financial institutions, regardless of whether the appraiser is employed by a financial institution or real estate agent. The subcommittee, therefore, recommends:

Licensing persons who appraise real property without exempting employees of financial institutions or real estate agencies. (BDR 54-164)

E. MISCELLANEOUS

The subcommittee was informed that there is an ambiguity in the laws governing escrow agencies. The law prohibits a real estate licensee from being licensed as an escrow agent or agency, but does not specify whether the prohibition applies to inactive real estate licenses.⁸ The subcommittee, therefore, recommends:

Clarifying that only an active real estate license precludes a person from being licensed as an escrow agent or agency. (BDR 54-156)

III. FOOTNOTES

1. Chapter 656, Statutes of Nevada 1985 at p. 2147.
2. Chapter 2, Statutes of Nevada 1984 at p. 1.
3. NRS 645B.193.
4. NRS 645B.052. See also "A. Mortgage Companies," infra.
5. NRS 675.060.
6. NRS 645B.210.
7. NRS 361.221.
8. NRS 645A.020.

IV. APPEARANCES

The following is a list of the names of persons who appeared before the subcommittee:

Robert Barengo
Attorney at Law
Reno, Nevada

David Bianci
Past President
Nevada Association of Life Underwriters
Reno, Nevada

David Boyer
President
United Mortgage Company
Las Vegas, Nevada

Richard Brew
Household Finance
Reno, Nevada

John P. Comeaux
Executive Director
Department of Taxation
Carson City, Nevada

Leo Davenport
Consolidated Mortgage
Las Vegas, Nevada

Ted L. Golem
Las Vegas, Nevada

Harley Harmon
Harley Harmon Mortgage Company
Las Vegas, Nevada

Jim Johnson
Nevada Banker's Association
Reno, Nevada

Fred R. Kassler
All Western Mortgage
Las Vegas, Nevada

Lynn Luman
Administrator
Real Estate Division
Department of Commerce
Carson City, Nevada

Roy Nickson
Vice President
Nevada Taxpayers Association
Carson City, Nevada

Reese Perkins
President
Eagle Service Corporation
Reno, Nevada

Hank Shank
Mortgage Broker
Las Vegas, Nevada

Mary Short
Deputy Administrator
Division of Financial Institutions
Department of Commerce
Carson City, Nevada

Sidney Stern
Nevada First Thrift
Reno, Nevada

Glen Walquist
Deputy Administrator
Division of Financial Institutions
Department of Commerce
Las Vegas, Nevada

Scott Walshaw
Administrator
Division of Financial Institutions
Department of Commerce
Carson City, Nevada

Bob Weise
First Interstate Bank
Carson City, Nevada

Janet White
Assured Real Estate Investments and Loans
Reno, Nevada

Harvey Whittemore
Attorney at Law
Citibank
Las Vegas, Nevada

Susan Wilson
Las Vegas, Nevada

APPENDICES

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STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

APPENDIX A

LEGISLATIVE COMMISSION (702) 885-5627
LOUIS W. BERGEVIN, *Assemblyman, Chairman*
Donald A. Rhodes, *Director, Secretary*
INTERIM FINANCE COMMITTEE (702) 885-5640
JAMES I. GIBSON, *Senator, Chairman*
Daniel G. Miles, *Fiscal Analyst*
Mark W. Stevens, *Fiscal Analyst*



DONALD A. RHODES, *Director*
(702) 885-5627

LINDA S. JESSEN, *Legislative Counsel* (702) 885-5627
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5622
ROBERT E. ERICKSON, *Research Director* (702) 885-5637

September 17, 1986

Scott L. Walshaw
Administrator
Division of Financial Institutions
Department of Commerce
Carson City, Nevada

Dear Mr. Walshaw:

As you are aware, the Legislative Commission's Subcommittee Studying Laws, Regulations and Policies which Affect Financial Institutions heard testimony from representatives of mortgage companies who were unsure of the effect of the "45-day rule" on construction loans. The rule prohibits a mortgage company from holding money in trust for more than 45 days before an escrow account is opened in connection with a loan. The subcommittee has asked me to request that you clarify, by regulation or otherwise, the circumstances under which the rule applies to such loans. The subcommittee agrees that legislation is not needed in this area, and hopes that you will be able to resolve any questions to the satisfaction of the affected mortgage companies.

Very truly yours,

Lorne J. Malkiewich
Principal Deputy
Legislative Counsel

LJM:dc

LEGISLATIVE COUNSEL BUREAU

LOUIS W. BERGEVIN, *Assemblyman, Chairman*
Donald A. Rhodes, *Director, Secretary*

LEGISLATIVE BUILDING

CAPITOL COMPLEX

CARSON CITY, NEVADA 89710

INTERIM FINANCE COMMITTEE (702) 885-5640

JAMES I. GIBSON, *Senator, Chairman*
Daniel G. Miles, *Fiscal Analyst*
Mark W. Stevens, *Fiscal Analyst*DONALD A. RHODES, *Director*
(702) 885-5627LINDA S. JESSEN, *Legislative Counsel* (702) 885-5627
JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5622
ROBERT E. ERICKSON, *Research Director* (702) 885-5637

January 22, 1986

To: The legislative commission and its subcommittee which is reviewing proposed language for questions to be submitted to the voters at the 1986 general election.

From: The legislative commission's subcommittee studying laws, regulations and policies affecting Nevada's financial institutions.

Subject: Condensation of the question presented by Senate Joint Resolution No. 3 of the 62nd Session.

On behalf of our subcommittee, I wish to extend our concern regarding the proposed condensation of S.J.R. 3. We believe that language which refers to "exempting shares of stock from taxation" is ambiguous and would guarantee the defeat of the measure. Such language focuses the reader's attention on the proposed exemption instead of on the intended result--the taxation of all financial institutions in the same manner. The mere reference to the fact that other shares of stock are exempt is not sufficient to clarify the language. Such a reference allows the reader to speculate that there is some fundamental difference in shares of stock of banking corporations which justifies discriminatory taxation. There is no justification for distinguishing between a bank and its competitors, many of which enjoy a broader range of powers.

Our subcommittee suggests that the condensation focus on the result of the proposed constitutional amendment. This approach was endorsed by the state's department of taxation and the Nevada Taxpayers Association at our subcommittee's meeting on January 17. We urge you to work with representatives of the department and the association to develop language for the condensation which will give the proposal a fair chance on election day. You may also wish to consult with the administrator of financial institutions and the Nevada Bankers Association.

Legislative Commission and its Subcommittee
January 22, 1986
Page 2

Our subcommittee believes that the condensation of S.J.R. 3 should emphasize the goal of the constitutional amendment by stating "Shall the Nevada constitution be amended to provide that banking corporations be taxed in the same manner as other financial institutions?", or by using similar language which clearly states that the result of approving the measure will be fair and equitable taxation of all financial institutions. We believe that any reference to exempting banks from taxation, no matter how clearly stated, will ensure the defeat of this measure without regard to its merits.

Very truly yours,

Senator Robert E. Robinson,
Chairman

RER:msb

cc: Linda S. Jessen
Robert E. Erickson

APPENDIX C

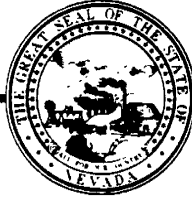
FACT SHEET
CBNV

- CITIBANK (NEVADA), NATIONAL ASSOCIATION
 - CHARTERED APRIL 15, 1985
 - \$1.8 BILLION IN ASSETS; \$480 MILLION IN DEPOSITS
 - 507 FTE's
 - 86 OUT-OF-STATE EXTERNAL HIRES PRINCIPALLY IN TECHNICAL AREAS
 - 15 TRANSFERS FROM OTHER CITICORP LOCATIONS
 - 35% MEN
 - 65% WOMEN
 - 15.3% MINORITIES
 - 22.6% COLLEGE GRADUATES
 - 11,500 TOTAL ACTIVE JOB APPLICATIONS ON FILE WITH NO LOCAL ADVERTISING
- CAPITAL EXPENDITURES \$50.9 MILLION
 - \$14.3 MILLION LAND AND BUILDINGS
 - 14.9 MILLION MISCELLANEOUS EQUIPMENT AND FURNISHINGS
 - 1.8 MILLION TELEPHONE EQUIPMENT
 - 19.9 MILLION COMPUTER AND EQUIPMENT
- ANNUALIZED PAYROLL 1986 - \$11.5 MILLION
- CHARITABLE CONTRIBUTIONS 1985/86 - \$380 THOUSAND
 - STAFF ACTIVE IN 17 COMMUNITY ORGANIZATIONS
- 1985 NEW HOME PURCHASES - 99
- POST OFFICE IMPACT:
 - 1986 PIECES OF MAIL OUT - 36 MILLION
 - 1986 POSTAGE - \$6 MILLION
- TELEPHONE BILLINGS 1986 - \$1,950,000
- GROWTH IS CONTINUING TO MEET OUR ORIGINAL GOAL OF 1,000 EMPLOYEES IN 3-5 YEARS.

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

APPENDIX D



LEGISLATIVE COMMISSION (702) 885-5627
LOUIS W. BERGEVIN, *Assemblyman, Chairman*
Donald A. Rhodes, *Director, Secretary*
INTERIM FINANCE COMMITTEE (702) 885-5640
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ROBERT E. ERICKSON, *Research Director* (702) 885-5637

September 17, 1986

Kevin Welsh
Fiscal Analyst
Legislative Counsel Bureau
Capitol Complex
Carson City, Nevada 89710

Dear Kevin:

The Legislative Commission's Subcommittee Studying Laws, Regulations and Policies which Affect Financial Institutions has recommended that the Division of Financial Institutions of the Department of Commerce hire a certified public accountant. In connection with this recommendation, the subcommittee would like the following information to be compiled:

1. How much would it cost the Division of Financial Institutions to hire a certified public accountant?
2. How much more would it cost to hire an accountant who has worked for financial institutions?
3. How much would it cost to hire an accountant on a contract basis, using the services only when needed?

The subcommittee would appreciate it if you could prepare this information for the Legislature for when it considers BDR 55-160. I'm sure that Scott Walshaw, Administrator of Financial Institutions, would be glad to provide any assistance you need with this request.

Very truly yours,

Lorne J. Malkiewich
Principal Deputy
Legislative Counsel

LJM:dc

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
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January 19, 1987

To: Senate Finance Committee

From: Legislative Commission's Subcommittee Studying Laws,
Regulations and Policies Which Affect Financial
Institutions

Re: Funding of the Division of Financial Institutions of
the Department of Commerce

Our subcommittee has recommended that the staff of the Division of Financial Institutions be expanded. As federal cutbacks shift more regulatory responsibility to the states, it is essential that we increase the ability of our state to examine and regulate financial institutions. The devastating effects of failing to detect problems at the earliest possible time are all too familiar to Nevadans. We also feel that the increased staff should not require any new fee or tax. The division produces a great deal of revenue for the state in fees and assessments, far more than it spends. We understand that many state agencies produce more money than they spend, but we feel that there are few other uses as important as ensuring the stability of our banks, savings and loan associations, thrift companies, credit unions, small loan companies and mortgage companies. The cost is slight compared to the potential damage. We therefore urge that you increase funding for the Division of Financial Institutions and that you do so without increasing any fees or assessments.

Very truly yours,

Robert E. Robinson
Chairman

RER:dc

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January 19, 1987

To: Assembly Ways and Means Committee

From: Legislative Commission's Subcommittee Studying Laws,
Regulations and Policies Which Affect Financial
Institutions

Re: Funding of the Division of Financial Institutions of
the Department of Commerce

Our subcommittee has recommended that the staff of the Division of Financial Institutions be expanded. As federal cutbacks shift more regulatory responsibility to the states, it is essential that we increase the ability of our state to examine and regulate financial institutions. The devastating effects of failing to detect problems at the earliest possible time are all too familiar to Nevadans. We also feel that the increased staff should not require any new fee or tax. The division produces a great deal of revenue for the state in fees and assessments, far more than it spends. We understand that many state agencies produce more money than they spend, but we feel that there are few other uses as important as ensuring the stability of our banks, savings and loan associations, thrift companies, credit unions, small loan companies and mortgage companies. The cost is slight compared to the potential damage. We therefore urge that you increase funding for the Division of Financial Institutions and that you do so without increasing any fees or assessments.

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APPENDIX F

Suggested Legislation

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SUMMARY---Permits inactive real estate licensee to be licensed as escrow agent or agency. (BDR 54-156)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

AN ACT relating to real estate brokers and salesmen; permitting the holder of an inactive license to be licensed as an escrow agent or agency; and providing other matters properly relating thereto.

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

Section 1. 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 administrator.

2. The application must:

- (a) Be verified.
- (b) State the location of the applicant's principal office and branch offices in the state and residence address.
- (c) State the name under which the applicant will conduct business.
- (d) 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.
- (e) Indicate the general plan and character of the business.
- (f) State the length of time the applicant has been engaged in the escrow business.
- (g) Require a financial statement of the applicant.
- (h) Require such other information as the administrator determines necessary.

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

3. If the administrator determines, after investigation, that the experience, character, financial condition, business reputation and general fitness 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, he shall issue a license to the applicant as an escrow agent or agency.

4. An escrow agent or agency shall immediately notify the division of any material change in the information contained in the application.

5. No person may be licensed as an escrow agent or agency or be a principal officer, director or trustee of an escrow agency if he is [a] the holder of [a] :

(a) An active license issued pursuant to chapter 645 [or] of NRS; or

(b) A license issued pursuant to chapter 645B of NRS.

SUMMARY---Provides for regulation of personal property brokers. (BDR 54-157)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to personal property brokers; providing in skeleton form for their regulation; and providing other matters properly relating thereto.

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. As used in this chapter, unless the context otherwise requires:

1. "Administrator" means the administrator of financial institutions.
2. "Personal property broker" means any person who, directly or indirectly, is engaged in the business of lending money in amounts of more than \$10,000 and taking as security for the loan any contract or obligation involving the forfeiture of rights in or to personal property, the use and possession of which is retained by a person other than the lender.

Sec. 3. The provisions of this chapter do not apply to:

1. A person 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, industrial loan companies, credit unions, thrift companies, insurance companies or pawnbrokers.
2. A cooperative association engaged exclusively in the business of marketing agricultural, horticultural, apicultural or dairy products on a cooperative, nonprofit basis, in loaning or advancing money to members of the association or in connection with the business.

3. A person doing an act under order of any court.
4. Any one natural person, or husband and wife, who provides money for investment in loans secured by a lien on personal property, on his own account.
5. An agency of the United States, this state or its political subdivisions, including the public employees' retirement system.
6. A seller of personal property who offers credit secured by a lien on the property sold.

Sec. 4. It is unlawful for any person to engage in or carry on, or hold himself out as engaging in or carrying on, the business of a personal property broker unless he first obtains a license as a personal property broker from the administrator.

Sec. 5. 1. A license as a personal property broker may be obtained by filing a written application in the office of the administrator.

2. The application must:

- (a) Be verified.
 - (b) State the location of the applicant's principal office and branch offices in the state.
 - (c) State the name under which the applicant will conduct business.
 - (d) List the names, residence and business addresses of all persons having an interest in the business as principals, partners, officers, trustees and directors, specifying the capacity and title of each.
 - (e) Indicate the general plan and character of the business.
 - (f) State the length of time the applicant has been engaged in business as a personal property broker.
 - (g) Include a financial statement of the applicant.
 - (h) Include such other information as the administrator determines necessary.
3. If the administrator determines after investigation that the experience, character,

financial condition, business reputation and general fitness of the applicant are such as to command the confidence of the public, he shall issue a license to the applicant as a personal property broker. A license entitles the holder to engage only in the activities authorized by this chapter.

Sec. 6. 1. A licensee shall post each license in a conspicuous place in the office to which it pertains.

2. A license may not be transferred or assigned unless the administrator gives his written approval.

Sec. 7. 1. Subject to the administrative control of the director of the department of commerce, the administrator shall exercise general supervision and control over personal property brokers doing business in this state.

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

(a) Adopt such regulations as may be necessary for the enforcement of this chapter.

(b) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter.

(c) Conduct such examinations, periodic or special audits, investigations and hearings as may be necessary and proper for the efficient administration of the laws of this state regarding personal property brokers.

(d) 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 the legislative auditor.

(e) Conduct such examinations and investigations as are necessary to ensure that personal property brokers 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.

Sec. 8. 1. A personal property broker shall keep and maintain at all times in each place of business complete and suitable records of all transactions made at that location, together with all original books, papers and data clearly reflecting the financial condition of the business of the broker.

2. The administrator may adopt regulations:

(a) Requiring periodic reports on the business conducted by a personal property broker; and

(b) Prescribing accounting procedures for personal property brokers.

Sec. 9. A person doing business in this state as a personal property broker on July 1, 1987, must obtain a license from the administrator of financial institutions on or before January 1, 1988.

SUMMARY---Requires establishment of uniform rate for certain examinations of financial institutions. (BDR 55-158)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to financial institutions; requiring the administrator of financial institutions to establish a uniform rate for certain examinations of financial institutions; and providing other matters properly relating thereto.

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

Section 1. Chapter 658 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The administrator shall establish an hourly rate to be paid by banks and other financial institutions for examinations by the administrator or the division of financial institutions.

2. In establishing a rate pursuant to subsection 1, the administrator 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 administrator deems relevant.

Sec. 2. NRS 658.096 is hereby amended to read as follows:

658.096 1. The administrator shall charge and collect the following fees in connection with his official duties:

(a) For examination of state banks:

(1) A fee of \$100 for each parent bank, payable on June 30 and December 31 of each year.

(2) A fee of \$25 for each branch bank, payable on June 30 and December 31 of each year.

(3) Based upon the total assets of all banks, payable semiannually on the basis of the call report of condition as of June 30 and December 31 of each year, a fee of 10 cents per \$1,000 for the first \$500,000,000, 4 cents per \$1,000 for the next \$500,000,000, and 2 cents per \$1,000 for amounts over \$1,000,000,000.

(b) For applications for new branch banks, a nonrefundable fee of \$250 for the application and survey to be paid by the applicant at the time of making the application. The applicant shall also pay such additional expenses incurred in the process of investigation as the administrator deems necessary. All money received by the administrator pursuant to this paragraph must be placed in the investigative fund created by NRS 232.285.

(c) For special [bank] examinations and the examination of trust departments of state banks, a [reasonable] fee for each man-hour expended in conducting the examination and in preparing and typing the report of the examination [.] at the rate established pursuant to section 1 of this act.

2. Except as otherwise provided in paragraph (b) of subsection 1, all money collected under this section must be paid into the state general fund.

Sec. 3. NRS 669.250 is hereby amended to read as follows:

669.250 1. For each examination of a trust company's books and records required or authorized under this chapter, the administrator shall charge and collect from the trust company a [reasonable] fee for each man-hour expended in conducting the examination and in preparing and typing the report of the examination [.] at the rate established pursuant to section 1 of this act.

2. All money collected under this section must be paid into the state general fund.

Sec. 4. NRS 670.250 is hereby amended to read as follows:

670.250 1. The administrator shall examine the corporation as often as he deems necessary.

2. The corporation shall make reports of its condition at least annually to the administrator and more frequently upon the order of the administrator. The administrator shall furnish copies of these reports to the commissioner of insurance and the governor. The corporation shall also furnish such other information as may [from time to time] be required by the administrator or the secretary of state.

3. The corporation shall pay a [reasonable cost] fee for each hour expended by an examiner of financial institutions in conducting the examination and preparing the [examination report.] report of the examination at the rate established pursuant to section 1 of this act.

4. The administrator shall exercise the same supervisory authority over corporations organized under this chapter as he [now] exercises over banks and trust companies chartered by the state.

Sec. 5. NRS 670A.260 is hereby amended to read as follows:

670A.260 1. The administrator shall examine the corporation as often as he deems necessary.

2. The corporation shall make reports of its condition at least annually to the administrator and more frequently upon the order of the administrator. The administrator shall furnish copies of these reports to the commissioner of insurance and the governor. The corporation shall also furnish such other information as may [from time to time] be required by the administrator or the secretary of state.

3. The corporation shall pay a [reasonable cost] fee for each hour expended by a state examiner in conducting the examination and preparing the [examination report.] report of the examination at the rate established pursuant to section 1 of this act.

4. The administrator shall exercise the same supervisory authority over corporations organized under this chapter as he [now] exercises over banks and trust companies chartered by the state.

Sec. 6. NRS 671.120 is hereby amended to read as follows:

671.120 1. Except as provided in subsection 4, once each year the administrator shall examine the financial accounts of each licensee and any other documents relevant to the conduct of the licensee's business, and the administrator may conduct such examinations at additional times.

2. For the purpose of the examinations, the administrator may enter upon any of the business premises of a licensee or his agents and obtain access to the relevant documents. Any obstruction or denial of such an entry or access is a violation of this chapter.

3. For each examination the administrator shall charge and collect from the licensee a [reasonable] fee for each man-hour expended in conducting the examination and in preparing and typing the report [.] at the rate established pursuant to section 1 of this act.

4. The administrator may accept a report of an audit of the licensee which covers the most recent fiscal year in lieu of conducting an examination.

Sec. 7. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the director of the department of commerce, the administrator shall exercise general supervision and control over mortgage companies doing business in this state.

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

(a) Adopt reasonable regulations as may be necessary for making effective this chapter, except as to loan brokerage fees.

(b) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter.

(c) Conduct such examinations, periodic or special audits, investigations and hearings, in addition to those specifically provided for by law, as may be necessary and proper for the efficient administration of the laws of this state regarding mortgage companies.

(d) 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 the legislative auditor.

(e) Conduct such examinations and investigations as are necessary to ensure that mortgage companies 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 examination a mortgage company shall pay a fee based on the hourly rate established pursuant to section 1 of this act.

Sec. 8. NRS 649.295 is hereby amended to read as follows:

649.295 1. A nonrefundable fee of \$250 for the application and survey must accompany each new application for a collection agency license. The applicant shall also pay such additional expenses incurred in the process of investigation as the administrator deems necessary. All money received by the administrator pursuant to this subsection must be placed in the investigative fund created by NRS 232.285.

2. A fee of not less than \$100 nor more than \$300, prorated on the basis of the licensing year as provided by the administrator, must be charged for each original collection agency license issued. A fee of \$200 must be charged for each annual renewal of such a license.

3. A fee of \$10 must be charged for each duplicate or location transfer license issued.

4. A nonrefundable investigation fee of \$75 must accompany each application for a manager's certificate unless the applicant is the holder of or an applicant for a collection agency license.

5. A fee of \$20 must be charged for each manager's certificate issued and for each annual renewal of such a certificate.

6. A fee of \$30 must be charged for the reinstatement of a manager's certificate.

7. A fee of \$5 must be charged for each day an application for the renewal of a license or certificate, or a required report, is filed late, unless the fee or portion thereof is excused by the administrator for good cause shown.

8. For each examination the administrator shall charge and collect from the licensee a [reasonable] fee for each man-hour expended in conducting the examination and in preparing and typing the report of the examination [.] at the rate established pursuant to section 1 of this act.

9. Except as otherwise provided in subsection 1, all money received by the administrator under this chapter must be deposited in the state treasury for credit to the state general fund.

Sec. 9. NRS 673.430 is hereby amended to read as follows:

673.430 1. Each association doing business in this state shall file annually with the administrator on or before March 1, a sworn statement in two sections.

2. One section of the annual report must contain, in such form and detail as the administrator may prescribe, the following:

(a) The amount of authorized capital by classes and the par value of each class of stock.

(b) A statement of its assets, liabilities and capital accounts as of the immediately preceding December 31.

(c) Any other facts which the administrator may require.

This section must be furnished in duplicate, one certified copy to be returned, for publication at least two times in a newspaper having a general circulation in each county in which the association maintains an office. Publication must be completed on or before May 1, and proof of publication must be filed in the office of the administrator.

3. One section of the annual report must contain such other information as the administrator may require to be furnished. This section need not be published and must be treated as confidential by the administrator.

4. Every association shall pay to the administrator for supervision and examination:

(a) An annual fee of \$200 for its home office, and \$100 for each branch office open as of the immediately preceding December 31.

(b) An annual assessment computed as of the immediately preceding December 31 at the rate of 15 cents per \$1,000 of total assets.

For special examinations the association shall pay a fee based on the hourly rate established pursuant to section 1 of this act.

5. The administrator shall determine from the annual statement the amount due from each association and submit a bill to the association for the amount by March 15. A penalty of 10 percent of the fee payable must be charged for each month or part of a month that the fees are not paid after April 15 of each year.

6. All sums so received by the administrator must be delivered to the state treasurer and paid into the state general fund.

Sec. 10. NRS 675.400 is hereby amended to read as follows:

675.400 1. At least once each year, the administrator or his authorized representatives shall make an examination of the place of business of each licensee and of the loans, transactions, books, papers and records of the licensee so far as they pertain to the business licensed under this chapter.

2. For each examination the administrator shall charge and collect from the licensee a [reasonable] fee for each man-hour expended in conducting the examination and preparing and typing the [examination report.] report of the examination at the rate established pursuant to section 1 of this act.

3. All money collected by the administrator pursuant to subsection 2 must be deposited in the state general fund.

Sec. 11. NRS 676.270 is hereby amended to read as follows:

676.270 1. For the purpose of discovering violations of this chapter or of securing information lawfully required under this chapter, the administrator or his authorized representative may at any time and shall, at least once each year, investigate the business and examine the books, accounts, papers and records of any licensee.

2. For the purpose of examination the administrator or his authorized representatives must be allowed free access to the offices, files, safes and vaults of such licensees.

3. For each examination the administrator shall charge and collect from the licensee a [reasonable] fee for each man-hour expended in conducting the examination and in preparing and typing the [examination report.] report of the examination at the rate established pursuant to section 1 of this act.

Sec. 12. NRS 677.430 is hereby amended to read as follows:

677.430 1. At least once each year, the administrator or his authorized representatives shall make an examination of the place of business of each licensee and

of the loans, transactions, books, papers and records of such licensee so far as they pertain to the business licensed under this chapter.

2. For each examination the administrator shall charge and collect from the licensee a [reasonable] fee for each man-hour expended in conducting the examination and preparing and typing the [examination report.] report of the examination at the rate established pursuant to section 1 of this act.

Sec. 13. NRS 678.790 is hereby amended to read as follows:

678.790 1. The division shall annually conduct or cause to be conducted an examination of each credit union organized under the provisions of this chapter. For the purpose of performing the examination, the personnel of the division may:

- (a) Subpena witnesses and documents;
- (b) Administer oaths; and
- (c) Compel the giving of testimony.

2. The report of the examination must contain comments to the members relative to the management of the affairs of the credit union and the general condition of the assets. Within 30 days following the receipt of the report, the directors shall call a general meeting of key personnel to consider matters contained in the report.

3. The division shall forward a copy of the report to the chairman of each credit union within 30 days after it is completed. The board of directors shall inform the members of the credit union of its general condition at the next annual meeting.

4. For each examination the credit union shall pay a fee based on the hourly rate established pursuant to section 1 of this act.

5. The board of directors may engage a certified public accountant to perform such an examination in lieu of the division staff. In such cases, the examination must be equivalent to the type of examination made by the division and the expense must be borne by the credit union being inspected.

SUMMARY---Requires certain disclosures by person who charges fee for advice concerning investment of money. (BDR 52-159)

FISCAL NOTE: Effect on Local Government: Yes.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to financial planning; requiring certain disclosures by a person who charges a fee for advice concerning investment of money; and providing other matters properly relating thereto.

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

Section 1. NRS 598.412 is hereby amended to read as follows:

598.412 A person engages in a "deceptive trade practice" when in the course of his business or occupation he:

1. Knowingly fails to identify goods damaged by water.
2. Solicits by telephone or door to door as a seller, unless the seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.
3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.
4. Fails to make delivery of a product within a reasonable time or to make a refund for the product, if he allows refunds.
5. Advertises or offers an opportunity for investment and:
 - (a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know, is false or misleading;
 - (b) Represents that the investment will earn a rate of return which he knows or has reasons to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the state to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose

(a) That he is selling a product and, if he is, its identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments, or holds any other license related to the service he is providing.

SUMMARY---Requires administrator of financial institutions to employ certified public accountant. (BDR 55-160)

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

AN ACT relating to financial institutions; requiring the administrator of financial institutions to employ a certified public accountant; and providing other matters properly relating thereto.

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

Section 1. NRS 658.055 is hereby amended to read as follows:

658.055 1. The administrator may appoint deputy administrators of financial institutions, examiners, assistants, clerks, stenographers and other employees necessary to assist him in the performance of his duties under this Title, Title 56 of NRS or under any other law.

[2.] These employees shall perform such duties as may be assigned to them by the administrator.

2. The administrator shall employ a certified public accountant to review and conduct independent audits of financial institutions.

Sec. 2. NRS 645B.052 is hereby repealed.

Sec. 3. 1. This section and section 2 of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective on July 1, 1987.

SUMMARY---Requires title insurance for and recording of assignment of interest in mortgage. (BDR 10-161)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

AN ACT relating to mortgages; requiring title insurance for and the recording of an assignment of an interest in a mortgage; and providing other matters properly relating thereto.

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

Section 1. Chapter 111 of NRS is hereby amended by adding thereto a new section to read as follows:

A person shall not assign all or a part of his interest in a mortgage unless he:

1. Obtains title insurance for the mortgaged property; and
2. Records the assignment in the office of the county recorder of the county in which the property is located.

Sec. 2. NRS 106.210 is hereby amended to read as follows:

106.210 1. Any assignment of a mortgage of real property, or of a mortgage of personal property or crops recorded [prior to] before March 27, 1935, [and] or any assignment of the beneficial interest under a deed of trust [may be recorded, and] which is recorded operates from the time [any of the same are so] it is filed for record [shall operate] as constructive notice of the contents thereof to all persons.

2. [Each] The recorder shall properly index each such filing or recording . [shall be properly indexed by the recorder.]

Sec. 3. NRS 645B.193 is hereby repealed.

SUMMARY---Requires request for reconveyance of encumbered property to be notarized and recorded. (BDR 10-162)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to deeds of trust; requiring a request for reconveyance of encumbered property to be notarized and recorded; and providing other matters properly relating thereto.

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

Section 1. Chapter 107 of NRS is hereby amended by adding thereto a new section to read as follows:

A request by the holder of a beneficial interest in encumbered property to the trustee for the reconveyance of that interest to the original grantor or his successor in interest must be:

1. Authenticated by a notary public who does not have a pecuniary interest in the encumbered property or the reconveyance; and
2. Recorded in the office of the county recorder of the county in which the property is located.

SUMMARY---Requires licensing of agents for mortgage companies: (BDR 54-163)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to mortgage companies; requiring licensing of agents; specifying the powers and duties of the administrator of financial institutions with respect to agents; and providing other matters properly relating thereto.

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

Section 1. Chapter 645B of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. An agent's license issued pursuant to the provisions of this chapter expires 1 year after the date of issuance if it is not renewed. A license may be renewed by filing an application for renewal and paying the annual fee for the succeeding year.

2. The administrator shall establish the fees for issuance and renewal of an agent's license.

3. An agent's license automatically expires if the license of the mortgage company with whom he is associated expires and is not renewed.

Sec. 3. An agent's license issued pursuant to this chapter is not transferable to any other person. The license is valid only so long as the licensee remains associated with the mortgage company specified in the license.

Sec. 4. It is unlawful to engage in the business of an agent without first obtaining a license as an agent.

Sec. 5. NRS 645B.010 is hereby amended to read as follows:

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

1. "Administrator" means the administrator of financial institutions.
2. "Agent" means any person who, as an employee or as an independent contractor, is associated with a mortgage company which is licensed pursuant to this chapter, and who engages in any of the acts included within the definition of a "mortgage company."
3. "Depository financial institution" means a bank, savings and loan association, thrift company or credit union.
- [3.] 4. "Mortgage company" means any person who, directly or indirectly:
 - (a) Holds himself 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 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 out as being able to make loans secured by liens on real property, unless the loans are made pursuant to subsection 6 or 8 of NRS 645B.015; or
 - (d) Holds himself out as being able to buy or sell notes secured by liens on real property.

Sec. 6. NRS 645B.020 is hereby amended to read as follows:

- 645B.020 1. A license as a mortgage company or an agent may be obtained by filing a written application in the office of the administrator.
2. [The] An application for a license as a mortgage company must:
- (a) Be verified.
 - (b) State the location of the applicant's principal office and branch offices in the state.
 - (c) State the name under which the applicant will conduct business.
 - (d) List the names, residence and business addresses of all persons having an

interest in the business as principals, partners, officers, trustees and directors, specifying the capacity and title of each.

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

(f) State the length of time the applicant has been engaged in the mortgage company business.

(g) Include a financial statement of the applicant.

(h) Include such other information as the administrator determines necessary.

3. An application for a license as an agent must:

(a) Be verified.

(b) State the name of the mortgage company with which the applicant will be associated.

(c) Include such other information as the administrator considers necessary.

4. If the administrator determines after investigation that the experience, character, financial condition, business reputation and general fitness of the applicant are such as to command the confidence of the public and to warrant the belief that the handling of money deposited for taxes and insurance premiums or otherwise held in escrow or trust accounts as provided in this chapter will protect and safeguard the public, he shall issue a license to the applicant as a mortgage company [.] or as an agent. A license entitles the holder to engage in the activities authorized by this chapter.

Sec. 7. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the director of the department of commerce, the administrator shall exercise general supervision and control over agents and mortgage companies doing business in this state.

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

(a) Adopt reasonable regulations as may be necessary for making effective this chapter, except as to loan brokerage fees.

(b) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter.

(c) Conduct such examinations, periodic or special audits, investigations and hearings, in addition to those specifically provided for by law, as may be necessary and proper for the efficient administration of the laws of this state regarding mortgage companies [.] and agents.

(d) 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 the legislative auditor.

(e) Conduct such examinations and investigations as are necessary to ensure that mortgage companies and 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.

Sec. 8. NRS 645B.100 is hereby amended to read as follows:

645B.100 1. Grounds for refusing to license any person as a mortgage company or agent and grounds for suspending any license are that the applicant or licensee:

(a) Is insolvent;

(b) Is of bad business reputation or has demonstrated his unworthiness to transact the business of an agent or a mortgage company;

(c) Does not conduct his business in accordance with law or has violated any provisions of this chapter;

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

(e) Has been guilty of fraud in connection with any transaction governed by this chapter;

(f) Has made any misrepresentations or false statement to, or concealed any essential or material fact from, any person in the course of his business;

(g) Has knowingly made or caused to be made to the administrator any false representation of material fact or has suppressed or withheld from the administrator any information which the applicant or licensee possesses, and which if submitted by him would have rendered the applicant or licensee ineligible to be licensed under this chapter;

(h) Has failed to account to persons interested for all money received for the impound trust account;

(i) Has refused to permit an examination of a mortgage company by the administrator of [his] its books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the administrator under the provisions of this chapter;

(j) Has been convicted of a felony or any misdemeanor of which an essential element is fraud;

(k) Has refused or failed to pay, within a reasonable time, those expenses assessed to the mortgage company pursuant to NRS 645B.050 or 645B.070;

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

(m) Has not conducted verifiable business as a mortgage company for 12 consecutive months, except in the case of a new applicant. The administrator shall determine whether a company is conducting business by examining the monthly reports of activity submitted by the licensee or by conducting an examination of the licensee.

2. It is sufficient cause for refusal or revocation of a license in the case of a partnership or corporation or any unincorporated association that any member of the partnership or any officer or director of the corporation or association has been guilty

of any act or omission which would be cause for refusing or revoking the registration of a natural person.

3. The administrator may impose an administrative fine, not to exceed \$500 for each violation, if a mortgage company or agent intentionally or repeatedly commits any violation enumerated in paragraphs (a) to (i), inclusive, (k), (l) or (m) of subsection 1.

Sec. 9. NRS 645B.120 is hereby amended to read as follows:

645B.120 1. The administrator may investigate either upon complaint or otherwise when it appears that an agent is conducting his business or a mortgage company is conducting its business in an unsafe and injurious manner or in violation of this chapter or the regulations promulgated thereunder by the administrator, or when it appears that any person is engaging in the business of a mortgage company [business] or is acting as an agent without being licensed under the provisions of those sections.

2. If upon investigation it appears that [such] a person or company is so conducting its business or that an unlicensed person is engaged in the business of a mortgage company [business,] or is acting as an agent, the administrator may:

(a) Advise the district attorney of the county in which the business is conducted, and the district attorney shall cause the appropriate legal action to be taken to enjoin the operation of the business or prosecute the violations of this chapter; and

(b) Bring suit in the name and on behalf of the State of Nevada against such a person and any other person concerned in or in any way participating in or about to participate in such unsafe or injurious practices or action in violation of this chapter or regulations thereunder to enjoin any such person from continuing such practices or engaging therein or doing any such act.

3. If the administrator brings suit, the district court of any county of this state is hereby vested with the jurisdiction in equity to restrain unsafe, injurious or illegal

practices or transactions and may grant injunctions to prevent and restrain such practices or transactions. The court may, during the pendency of the proceedings before it, issue such temporary restraining orders as may appear to be just and proper . [; and the] The findings of the administrator shall be deemed to be prima facie evidence and sufficient grounds, in the discretion of the court, for the issue ex parte of a temporary restraining order. In any such court proceedings the administrator may apply for and on due showing is entitled to have issued the court's subpoena requiring forthwith the appearance of any defendant and his employees and the production of documents, books and records as may appear necessary for the hearing of [such] the petition, to testify and give evidence concerning the acts or conduct or things complained of in [such] the application for injunction.

Sec. 10. A person who is required by the provisions of this act to be licensed as an agent must submit an application to the administrator of financial institutions on or before June 1, 1988.

Sec. 11. 1. This section and sections 1, 2, 3 and 5 to 10, inclusive, of this act, become effective on January 1, 1988.

2. Section 4 of this act becomes effective on July 1, 1988.

SUMMARY---Provides for licensure of appraisers of real estate. (BDR 54-164)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: Yes.

AN ACT relating to appraisers of real estate; providing for licensing by the department of taxation; establishing a board of appraisers; prescribing the powers and duties of the board; and providing other matters properly relating thereto.

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

Section 1. Title 54 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act, have the meanings ascribed to them in those sections.

Sec. 3. "Appraise" means to:

1. Estimate the value of property; or
2. Predict the amount of money which property may produce.

Sec. 4. "Board" means the board of appraisers.

Sec. 5. "Department" means the department of taxation.

Sec. 6. "Executive director" means the executive director of the department.

Sec. 7. "Property" means real property as that term is defined in NRS 361.035.

The term does not include personal property.

Sec. 8. A person shall not appraise property for compensation unless he is licensed by the department. For the purposes of this section, a person who appraises property in the course of his employment appraises property for compensation.

Sec. 9. 1. There is hereby established a board of appraisers consisting of five members appointed by the governor. The board must include:

(a) Four members who have been actively engaged in the profession of appraising property for at least 5 years preceding the date of their appointment. A person who ceases to be so engaged becomes disqualified for office.

(b) One member who is a representative of the general public not licensed under this chapter or in the employ of a licensee.

2. The board shall advise the executive director on any matter pertaining to the licensing and continuing education of appraisers.

Sec. 10. Each member of the board is entitled to a salary of not more than \$60 per day, as fixed by the board, and the per diem allowance and travel expenses provided for state officers and employees generally while attending meetings of the board. The salaries and expenses of the board must be paid from the appraisers' licensing account in the state general fund.

Sec. 11. An applicant for a license as an appraiser must:

1. Submit an application to the executive director together with the fee prescribed by the board.

2. Furnish evidence satisfactory to the executive director that he:

(a) Is a resident of this state or is a member of a corporation or partnership registered in this state which performs appraisals and which has an office in the state, or is regularly employed in that office;

(b) Is of good moral character and has a reputation for honesty and integrity; and

(c) Meets the criteria for education and experience established pursuant to this chapter.

3. Pass a written examination in such subjects as the board prescribes.

Sec. 12. The board shall, by regulation:

1. Prescribe standards for education and experience for licensed appraisers. In determining the standards the board shall consider the standards adopted by the American Institute of Real Estate Appraisers.

2. Establish a schedule of fees for the issuance and renewal of a license.

The board may adopt other regulations necessary for the administration of this chapter.

Sec. 13. The executive director shall deposit all fees received into the state treasury for credit to the appraisers' licensing account which is hereby created in the state general fund for the use of the department in the administration of this chapter. All claims against the fund must be paid in the manner that claims against the state are paid.

Sec. 14. A person shall not:

1. Obtain or attempt to obtain a license or renewal thereof by bribery or fraudulent representation.

2. Knowingly make a false statement in connection with any application for a license or for a renewal of a license.

3. Permit his signature to be affixed to any report of an appraisal not prepared by him or under his personal supervision.

4. Accept an engagement to appraise a property if his employment or fee is contingent upon the appraised value of the property or is otherwise contingent upon a finding he is to report.

5. In a case involving money damages, make his compensation as an appraiser contingent upon the amount of damages which may be agreed upon or finally decreed.

6. Testify as an expert witness as to any matter concerning an appraisal in any action or proceeding in this state without possessing a license issued pursuant to this chapter.

Sec. 15. 1. Every person who holds an appraiser's license shall complete in each fiscal year at least 36 hours of appropriate training approved by the board. College or university courses may be substituted upon approval by the board.

2. Any approved hours of training accumulated in any 1 fiscal year in excess of the 36-hour minimum must be carried forward and applied against the training requirements of the following 3 years. The annual requirement must be waived for any person:

(a) Attaining a professional designation, license or certification recognized by the board; or

(b) Accumulating 180 hours of accepted training.

Such persons must complete 36 hours during every 5-year period.

Sec. 16. 1. A license expires 1 year after it is issued unless renewed. A licensee may renew his license by paying the fee for renewal and submitting proof that he has met the requirements for training for the previous year.

2. The board shall ascertain whether the licensee has met the requirements for training for the preceding fiscal year. Upon the recommendation of the board, the executive director shall not renew the license of any person who fails to complete or have carried forward the minimum number of approved hours for that year or to pay the required fee for renewal.

Sec. 17. The executive director may, after notice and hearing, refuse to grant or renew a license, or may suspend or revoke a license, for any of the following reasons:

1. Conviction of a felony involving moral turpitude;
2. Using fraud or deception in connection with services rendered as an appraiser or in establishing needed qualifications under this chapter;
3. Gross negligence, incompetency or misconduct in the practice of appraising;

4. Knowingly aiding or abetting a person not licensed as an appraiser, in representing such a person as an appraiser licensed in this state; or

5. Other conduct prohibited by this chapter.

A person whose license has been suspended or revoked may appeal the decision to the board. The decision of the board is final for the purposes of judicial review.

Sec. 18. NRS 323.100 is hereby amended to read as follows:

323.100 1. The state land registrar may exchange state lands for any lands of equal value belonging to private persons. The values of the lands which are to be exchanged must be established by an appraisal conducted by an appraiser who is [certified pursuant to NRS 361.221.] licensed pursuant to sections 2 to 17, inclusive, of this act.

2. Upon effecting an exchange, the state land registrar shall deliver to the transferee proper conveyances of title to the state lands exchanged and shall require similar conveyances of title to the state of the lands received pursuant to the exchange.

Sec. 19. NRS 361.221, 361.222, 361.223 and 361.224 are hereby repealed.

Sec. 20. A person who on January 1, 1988, holds a valid appraiser's certificate issued by the department of taxation is not required to obtain an original license as an appraiser but is subject to all other requirements of this act. An appraiser's certificate held on January 1, 1988, becomes a license under sections 2 to 17, inclusive, of this act, on that date, and must be renewed thereafter in accordance with sections 2 to 17, inclusive, of this act.

Sec. 21. 1. This section and section 20 of this act become effective on July 1, 1987.

2. Sections 1 to 19, inclusive, of this act become effective on January 1, 1988.

SUMMARY---Clarifies permissible activities of licensed mortgage companies and certain companies exempt from licensing. (BDR 54-166)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State or on Industrial Insurance: No.

AN ACT relating to mortgage companies; allowing certain companies which are exempt from the requirement of licensing of mortgage companies to maintain accounts for repayment of loans; clarifying authorized activities of licensed mortgage companies; and providing other matters properly relating thereto.

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

Section 1. NRS 645B.015 is hereby amended to read as follows:

645B.015 The provisions of this chapter do not apply to:

1. Any person 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, industrial loan companies, credit unions, thrift companies, insurance companies or real estate investment trusts as defined in 26 U.S.C. § 856.
2. An attorney at law rendering services in the performance of his duties as attorney at law.
3. A real estate broker rendering services in the performance of his duties as a real estate broker.
4. Except as otherwise provided in this subsection, any firm or corporation:
 - (a) Whose principal purpose or activity is lending money on real property which is secured by means of a mortgage;

(b) Approved by the Federal National Mortgage Association as a seller or servicer:
and

(c) Approved by the Department of Housing and Urban Development and the Veteran's Administration.

A firm or corporation is not exempt from the provisions of this chapter pursuant to this subsection if it maintains any accounts described in subsection 1 [or 3] of NRS 645B.175. A firm or corporation which is exempted pursuant to this subsection must submit annually as a condition of its continued exemption a certified statement by an independent certified public accountant that the firm or corporation does not maintain any such accounts. This subsection does not prohibit an exempt firm or corporation from maintaining accounts described in NRS 645B.170 [.] and subsection 3 of NRS 645B.175.

5. Any person doing any act under order of any court.

6. Any one natural person, or husband and wife, who provides funds for investment in loans secured by a lien on real property, on his own account.

7. Agencies of the United States and of this state and its political subdivisions, including the public employees' retirement system.

8. A seller of real property who offers credit secured by a mortgage of the property sold.

Sec. 2. NRS 645B.020 is hereby amended to read as follows:

645B.020 1. A license as a mortgage company may be obtained by filing a written application in the office of the administrator.

2. The application must:

(a) Be verified.

(b) State the location of the applicant's principal office and branch offices in the state.

- (c) State the name under which the applicant will conduct business.
 - (d) List the names, residence addresses and business addresses of all persons having an interest in the business as principals, partners, officers, trustees and directors, specifying the capacity and title of each.
 - (e) Indicate the general plan and character of the business.
 - (f) State the length of time the applicant has been engaged in the business of a mortgage company . [business.]
 - (g) Include a financial statement of the applicant.
 - (h) Include such other information as the administrator determines necessary.
3. If the administrator determines after investigation that the experience, character, financial condition, business reputation and general fitness of the applicant are such as to command the confidence of the public and to warrant the belief that the handling of money deposited for taxes and insurance premiums or otherwise held in escrow or trust accounts as provided in this chapter will protect and safeguard the public, he shall issue a license to the applicant as a mortgage company. A license entitles the holder to engage only in the activities authorized by this chapter.