

November 20, 2007

Notice to Licensees

Re: Annual Attorney General Assessment

Pursuant to Nevada Revised Statutes 645F.290, the Division of Mortgage Lending (“Division”) is required to assess and collect from all licensees an amount sufficient for the Division to recover the costs of legal services provided to it by the Attorney General. This year, the bill to the Division for such services was slightly over \$600,000.

Several licensees have questioned the amount they are required to pay, and why fines generally used to offset such fees were so low. A few licensees have also questioned the manner in which the assessment was calculated. The Division wishes to respond to these questions.

By way of background, multiple events occurred last year that made this year’s Attorney General assessment quite large by historical standards. The USA Commercial Mortgage (fka USA Capital) matter, which required the Division to take a prominent role in one of the largest Nevada bankruptcy proceedings in recent memory, along with issues relating to Private Capital, Compass Financial Partners and others, resulted in a much higher utilization of the Attorney General’s services than the Division previously required.

At the same time as costs for legal services increased, revenues that previously offset these legal fees have decreased. Last December the Attorney General’s office issued an opinion that fines collected through the examination and investigation process had to inure to the benefit of the state’s general fund rather than to the Division. The Division is now no longer able to use fines collected to reduce or eliminate the Attorney General assessment as it had been doing. Additionally, the requirement of NRS 645F that the assessment be collected from the licensees negates the ability of the Division to utilize its reserve moneys for that purpose.

Since the Division must collect from its licensees the amount it paid to the Attorney General, the Division this year chose to assess each licensee an equal amount, in accordance with NRS 645B.290(3)(a). Although one or two licensees have requested the Division to recalculate the way it chose to pass through this year’s assessment, the Division will not do so, given that the assessment notice was already sent and many licensees have already paid.

For next year’s assessment, however, the Division is open to suggestions on how licensees believe the assessment should be calculated, if not on an equal basis. For example, should the assessment be based on loan dollar volume, number of loans, number of agents, number of branch offices or otherwise? Any licensee wishing to comment on this matter may send an email to jwaltuch@mld.nv.gov.

The Division hopes that this notice fully responds to the concerns raised by some licensees.

Joseph L. Waltuch
Commissioner