

**STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF MORTGAGE LENDING**

POSTED 9-22-09

**NOTICE OF INTENT TO ACT ON A REGULATION**

**NOTICE OF PUBLIC HEARING FOR THE AMENDMENT  
AND ADOPTION OF A PERMANENT REGULATION OF  
THE COMMISSIONER OF MORTGAGE LENDING**

**NRS 645B**

**LCB FILE No. R093-09**

The Commissioner of the Division of Mortgage Lending (the "Division") will hold a public hearing at 9:00 a.m. on October 23, 2009, at the Bradley Building, 2501 E. Sahara Avenue, 2<sup>nd</sup> Floor Conference Room, Las Vegas, NV 89104 and the Department of Business & Industry, 788 Fairview Drive, Hearing Room, Carson City, NV 89701. The purpose of the hearing is to receive comments from all interested persons regarding the amendment and adoption of a permanent regulation that pertains to Chapter 645B of the Nevada Administrative Code.

**Friday, October 23, 2009, 9:00 a.m.**

**LAS VEGAS**

**Bradley Building**

**2501 E. Sahara Avenue**

**2<sup>nd</sup> Floor Conference Room**

**Las Vegas, NV 89104**

**CARSON CITY**

**Department of Business & Industry**

**788 Fairview Drive, Hearing Room**

**Carson City, NV 89701**

**HEARINGS WILL BE VIDEO-CONFERENCED**

**Information Regarding Adoption**

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. **The Need For and Purpose of the Proposed Permanent Regulation:** The purpose of and need for the Proposed Permanent Regulation is to implement the provisions of Assembly Bill No. 375 of the 74<sup>th</sup> Session of the Nevada Legislature (AB 375), to adopt regulations, “(r)elating 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”, as codified in NRS 645B.0138. The Division filed temporary regulation T002-09 on April 15, 2009 to implement the provisions of AB 375, which pursuant to law expires on November 1, 2009; the Proposed Permanent Regulation will replace the temporary regulation. AB 375 established pre-licensing education and testing requirements, as codified in NRS 645B.0137, and provides that the Commissioner may draft regulations to carry out the provisions of the section. Additionally, Assembly Bill No. 523 of the 74<sup>th</sup> Session of the Nevada Legislative requires applicants for licensure to complete education *and* pass a test to comply with the provisions of the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act).

2. **How to obtain a Copy of Proposed Permanent Regulation:** Authority: NRS 645B.060

The Proposed Permanent Regulation will be available at the Division’s website at <http://www.mld.nv.gov/> and at the Division offices at 400 West King Street, Suite 101, Carson City, NV 89703 and 7220 Bermuda Road, Suite A, Las Vegas, NV 89119 and also at the main public library of any county in which the Division does not have an office. Additionally, the Proposed Permanent Regulation is available through the Legislative website at <http://www.leg.state.nv.us/register/>.

3. **Statement of Methods Used By Division in Determining Impact on Small Businesses:** The Commissioner has determined through a review of the language of the Proposed Permanent Regulation, and opportunity for comment at the workshop and written submissions, that the Proposed Permanent Regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business.

The Division contacted education providers via e-mail and phone, e-mailed the Proposed Permanent Regulation to the education providers and requested that they review and respond to the same. The responses to the Proposed Permanent Regulation were discussed prior to and during the workshops and suggested changes were considered in an attempt to reduce the impact on small businesses affected by the Proposed Permanent Regulation. Temporary Regulation T002-09 was filed with the Nevada Secretary of State on April 15, 2009 and included a fee for initial and annual approval of courses. R093-09 is the Proposed Permanent Regulation proposed to replace T002-09 upon its expiration on November 1, 2009. All fees contained in T002-09 were removed in this Proposed Permanent Regulation prior to submission to

the Legislative Counsel Bureau for review.

**4. Estimated Economic Effects of the Proposed Permanent Regulation on the Business It Is to Regulate and the Public:**

- a. Both adverse and beneficial effects; and**
- b. Both immediate and long-term effects.**

**(1) ESTIMATED ECONOMIC EFFECTS ON THE PUBLIC**

**a. Adverse and beneficial effects**

The Proposed Permanent Regulation will have no adverse economic effect on the public. Rather, the requirement for applicants to complete pre-licensing and continuing education and demonstrate adequate knowledge by successfully passing a test on state and federal law, ethics and general industry knowledge will help ensure the public is dealing with knowledgeable loan officers for their home loan needs.

**b. Both immediate and long-term effects**

The Proposed Permanent Regulation will have no adverse economic effect on the public in the immediate future or in the long term. In both cases, the public will benefit by education and testing requirements for licensees and oversight by the Division of instructors and the adequacy of course content.

**(2) ESTIMATED ECONOMIC EFFECTS ON REGULATED BUSINESSES**

**a. Adverse and beneficial effects**

The Proposed Permanent Regulation will have an insignificant adverse economic effect on individual mortgage agents related to costs associated with completion of the required education and the test. The cost related to completion of the required 30 hours of pre-licensing education is approximately \$300; the 10 hours of continuing education is approximately \$100. Additionally, there is a \$50 fee to take the required test offered through the Division approved vendor.

The beneficial effect of the Proposed Permanent Regulation on the industry will be increased professionalism, knowledge and standards within the industry.

**b. Both immediate and long-term effects**

The immediate and long-term effects are deemed to be the same and consistent with section "a" above.

- 5. Estimated Cost to the Agency:** The Division provided a fiscal note related to AB 375 indicating there would be no impact related to the Bill. However, since passage of the Bill in 2007, the Division hired an Education Coordinator to administer the

education programs for all licensees licensed pursuant to statutes regulated by the Division, including NRS 645B, NRS 645E, NRS 645E and NRS 645F. There is an estimated cost to the Division of approximately \$80,000 to administer the education section within the Division.

6. **Duplication With Other Agencies:** The Federal S.A.F.E. Act recognizes the Nationwide Mortgage Licensing System and Registry (Registry), and requires residential loan originators to obtain a unique identifier number issued by the Registry. Upon any future participation by Nevada with the Registry, applicants for licensure, as well as existing licensees will be required to furnish the Registry with certain information including information related to education. Additionally, the Registry establishes that courses taken for pre-licensing and continuing education must be approved by the Registry. The Proposed Permanent Regulation includes the Registry as one of the organizations that can certify courses. To that extent, there will be some duplication of information with the federal licensing system (a repository of information) if Nevada joins the Registry. However, licensing requirements, approvals/disapprovals of license applications, enforcement and disciplinary actions continue to remain within the sole province of the Division. The Proposed Permanent Regulation does not otherwise overlap or duplicate any other federal, state or local regulation known to the Division at this time.
7. **Federal Law:** The Federal S.A.F.E. Act established minimum education and testing standards a residential loan originator must meet to originate residential loans. The S.A.F.E. Act requires 20 hours of pre-licensing education and 8 hours of continuing education. The Proposed Permanent Regulation requires 30 hours of pre-licensing education and a test and 10 hours of continuing education; however, the Proposed Permanent Regulation meets all required course subject matter required by the S.A.F.E. Act. Accordingly the Proposed Permanent Regulation is more stringent than the federal law's criteria for the same activity.
8. **New Fee Established:** There are no new fees related to the Proposed Permanent regulation.

### **Comments and Written Submissions**

Persons wishing to comment on the proposed action of the Division may appear at the scheduled public hearings or may address their comments, data, views or arguments, in written form to:

Division of Mortgage Lending  
7220 Bermuda Road, Suite A  
Las Vegas, NV 89119  
Attn: Joseph. L. Waltuch, Commissioner

The Division will receive testimony from all interested persons and consider and take action on the Proposed Permanent Regulation and proposed amendments and/or additions and deletions to Chapter 645B of the Nevada Administrative Code pertaining to mortgage brokers and mortgage agents. If no person who is directly affected by the

proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions. Written submissions must be received by the Division by Friday, October 16, 2009.

**NOTICE:** We are pleased to make reasonable accommodations for members of the public who are disabled and wish to participate. If special arrangements are necessary, please call Supervisory Examiner Sheila Walther at (775) 684-7055 as soon as possible so that suitable arrangements can be conveniently made.

### **Copies of Proposed Permanent Regulation**

A copy of this notice and the Proposed Permanent Regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the Proposed Permanent Regulation will be available on the Division's Web site at <http://www.mld.nv.gov/> and at the following Division offices:

Division of Mortgage Lending  
400 W. King Street, Ste. 101  
Carson City, NV 89703

Division of Mortgage Lending  
7220 Bermuda Road, Suite A  
Las Vegas, NV 89119

In all counties in which an office of the Division is not maintained, copies of the notice and the Proposed Permanent Regulation will be available at the main public library, for inspection and copying by members of the public during business hours. The text of the Proposed Permanent Regulation will include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal. This notice and the text of the Proposed Permanent Regulation are also available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653 and on the Internet at:

<http://www.leg.state.nv.us> and directly at  
<http://www.leg.state.nv.us/register/>

Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

This notice of public hearing has been posted at the following locations on September 22, 2009:

Division of Mortgage Lending  
400 W. King Street, Suite 101  
Carson City, NV 89701

Division of Mortgage Lending  
7220 Bermuda Road, Suite A  
Las Vegas, NV 89119

Elko Conference Center  
700 Moren Way (Silver Room)  
Elko, Nevada

State Library  
100 Stewart Street  
Carson City, Nevada

Churchill County Library

Douglas County Library

553 South Maine Street  
Fallon, Nevada 89406

Elko County Library  
720 Court Street  
Elko, Nevada 89801

Eureka Branch Library  
10190 Monroe Street  
Eureka, Nevada 89316

Lincoln County Library  
93 Main Street  
Pioche, Nevada 89043

Lyon County Library  
20 Nevin Way  
Yerington, Nevada 89447

Tonopah Public Library  
171 Central Street  
Tonopah, Nevada 89049

Washoe County Library  
301 South Center Street  
Reno, Nevada 89505

Battle Mountain Library  
625 Broad Street  
Battle Mountain, Nevada 89820

1625 Library Lane  
Minden, Nevada 89423

Goldfield Public Library  
Fourth & Crook Street  
Goldfield, Nevada 89013

Humboldt County Library  
85 East 5<sup>th</sup> Street  
Winnemucca, Nevada 89445

Storey County Library  
95 South R Street  
Virginia City, Nevada 89440

Mineral County Library  
First & A Street  
Hawthorne, Nevada 89415

Pershing County Library  
1125 Central Avenue  
Lovelock, Nevada 89419

White Pine County Library  
950 Campton Street  
Ely, Nevada 89301