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SECRETARY OF STATE
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Form for Filing
Administrative Regulations

LCB File No. R178-18

Agency: **Department of Business & Industry,**
Division of Mortgage Lending

FOR EMERGENCY
REGULATIONS ONLY

Effective date _____

Expiration date _____

Governor's signature

Classification: ☐ PROPOSED ☒ ADOPTED BY AGENCY ☐ EMERGENCY

Brief description of action: To comply with the statutory duty of the Nevada Division of Mortgage Lending ("Division") to ensure the effectiveness of NRS 645B and to carry out the provisions of NRS 645B; to conform with and implement revisions as necessitated by the statutory changes to NRS 622 resulting from passage of Senate Bill 69 in the 79th Session (2017) of the Nevada Legislature (as codified in NRS 622.530, requiring that regulatory bodies authorized to license and regulate the professions and occupations organized under Title 54 of the NRS adopt regulations providing for the issuance of a license by endorsement to engage in such professions and occupations); to revise existing requirements for the filing of monthly activity reports by a mortgage broker and revise continuing education requirements for renewal of a mortgage broker license and mortgage agent license (reflecting the corresponding and governing statutory amendments already made to NRS 645B pursuant to passage of Senate Bill 498 of the 2017 Session of the Nevada Legislature); and to ensure that its regulations are written clearly and concisely.

The proposed regulations amend NAC 645B to:

- Establish the prerequisites, requirements, conditions, and manner of submission by a natural person, of his or her initial application for license by endorsement to the Division, to engage in the activities of a mortgage broker or mortgage agent in Nevada where such person: 1) holds a comparable license issued by the District of Columbia or any state or territory of the United States; (2) possesses qualifications that are equal to or substantially similar to the qualifications required for issuance of a license to engage in such activities in the state of Nevada; and (3) satisfies other requirements as directed or authorized by Senate Bill 69 as adopted by the 79th Session (2017) of the Nevada Legislature (as codified in NRS 622.530).

- Establish a timeline for the Commissioner of the Division to request additional information related to an application, approve an application, and issue a license by endorsement.
- Provide the grounds or basis upon which the Commissioner of the Division may deny an application for license by endorsement.
- Establish that a person who has been issued a license by endorsement is subject to the same duties, restrictions, penalties, liabilities, conditions and limitations that apply to a person who has been issued a license which is not a license by endorsement, including those provisions of law relating to the expiration and renewal of a license.
- Permit the Commissioner of the Division discretion to waive certain requirements of a mortgage broker to submit a particular, monthly activity report if substantially similar information is available to the Commissioner from another source.
- Reduce from 10 hours to 8 hours, the number of continuing education hours which must be completed by a mortgage broker or mortgage agent for renewal of licensure, on an annual basis.
- Eliminate from the annual continuing education requirements for renewal of a mortgage broker license and mortgage agent license, the requirement that a mortgage broker or mortgage agent complete three hours of Nevada laws and regulations, to instead require that a mortgage broker or mortgage agent complete one hour in an approved *elective* course (except that a *qualified employee* is required to complete one hour of Nevada laws and regulations in lieu of one hour of an elective course).

Authority citation other than NRS 233B: NRS 645B.0137; NRS 645B.0138; NRS 645B.050; NRS 645B.051; NRS 645B.060; NRS 645B.080; NRS 645B.430; §3 of Senate Bill 69 adopted into law during the 79th Session (2017) of the Nevada Legislature (NRS 622.530); §§1, 2, and 3.5 of Senate Bill 498 adopted into law during the 79th Session (2017) of the Nevada Legislature (amending NRS 645B.051(1)-(2); NRS 645B.080(2)-(5); and NRS 645B.430(1)-(2)).

Notice date: January 28, 2019

Date of Adoption by Agency:

Hearing date: March 7, 2019

March 7, 2019

**APPROVED REGULATION OF
THE COMMISSIONER OF MORTGAGE LENDING**

LCB File No. R178-18

Effective June 26, 2019

EXPLANATION – Matter in *italics* is new; matter in brackets [~~omitted material~~] is material to be omitted.

AUTHORITY: §§1-4, NRS 622.530 and 645B.060; §5, NRS 645B.060 and 645B.080; §6, NRS 645B.0138 and 645F.292.

A REGULATION relating to mortgage lending; prescribing the requirements for licensure by endorsement as a mortgage broker or mortgage agent; revising provisions governing certain monthly reports filed by mortgage brokers; revising continuing education requirements for mortgage brokers and mortgage agents; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain regulatory bodies to adopt regulations providing for the issuance of a license by endorsement to engage in an occupation or profession in this State to any natural person who: (1) holds a corresponding valid and unrestricted license to engage in that occupation or profession in the District of Columbia or any state or territory of the United States; (2) possesses qualifications that are substantially similar to the qualifications required for issuance of a license to engage in that occupation or profession in this State; and (3) meets certain other requirements. (NRS 622.530) Under existing law, the Commissioner of Mortgage Lending has the authority to regulate mortgage brokers and mortgage agents. (NRS 645B.060)

Section 2 of this regulation establishes standards for the licensure by endorsement of a natural person as a mortgage broker or mortgage agent. **Section 3** of this regulation establishes a timeline for the Commissioner to request additional information related to an application, approve an application and issue a license by endorsement. **Section 3** also establishes grounds for the Commissioner to deny an application for licensure by endorsement. **Section 4** of this regulation establishes that a natural person who has been issued a license by endorsement is subject to the same duties, restrictions, penalties, liabilities, conditions and limitations that apply to a natural person who has been issued a license which is not a license by endorsement, including those provisions of law relating to the expiration and renewal of a license.

Existing law requires a mortgage broker to submit to the Commissioner a monthly report of his or her activity for the previous month which includes, without limitation, the volume of loans arranged by the mortgage broker for the month. Existing law authorizes the Commissioner to waive this requirement if substantially similar information is available from another source. (NRS 645B.080) **Section 5** of this regulation revises existing regulations governing the monthly report submitted by a mortgage broker to provide that a mortgage broker is not required to file the monthly report if the Commissioner has waived the requirement pursuant to existing law.

Existing law requires a mortgage broker or a mortgage agent to complete at least 8 hours of continuing education each year to renew his or her license. (NRS 645B.051, 645B.430) Existing law further requires the Commissioner to adopt regulations relating to the annual continuing education requirements for mortgage brokers and mortgage agents. (NRS 645B.0138) **Section 6** of this regulation reduces from 10 hours to 8 hours the annual continuing education required to be completed by a mortgage broker or mortgage agent. **Section 6** also eliminates the requirement for a mortgage broker or mortgage agent to complete 3 hours of continuing education in Nevada laws and regulations and, instead, requires a mortgage broker or mortgage agent to complete 1 hour in an elective course approved by the National Mortgage Licensing System and Registry, except for a qualified employee designated by a mortgage broker, who is required to complete 1 hour of continuing education in Nevada laws and regulations rather than the 1 hour in an elective course approved by the Registry.

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

Sec. 2. *The Commissioner may issue a license by endorsement as a mortgage broker or mortgage agent to a natural person who holds a corresponding valid and unrestricted license to engage in the activities of a mortgage broker or mortgage agent, as applicable, in the District of Columbia or any state or territory of the United States if the natural person:*

1. Submits to the Commissioner all of the following:

(a) An application on a form prescribed by the Commissioner. The applicant shall include in the application his or her social security number.

(b) Proof satisfactory to the Commissioner that he or she:

(1) Holds a corresponding valid and unrestricted license to engage in the activities of a mortgage broker or mortgage agent, as applicable, in the District of Columbia or any state or territory of the United States and has held such a license for a period of at least 5 continuous years immediately preceding the date on which the application is submitted;

(2) Possesses qualifications that are equal to or substantially similar to the qualifications required for issuance of a license as a mortgage broker or mortgage agent, as applicable, in this State, including, without limitation, proof satisfactory to the Commissioner that the applicant has successfully completed the education and training required for the issuance of the applicant's license to engage in the activities of a mortgage broker or mortgage agent, as applicable, in the District of Columbia or any state or territory of the United States and that such education and training provided instruction that is, as determined by the Commissioner, equivalent to the instruction required for initial licensure pursuant to NAC 645B.363 and 645B.367;

(3) Has at least 2 years of verifiable experience in the business of lending money for real estate or mortgages, as defined in NAC 645B.016, in the District of Columbia or any state or territory of the United States within the 5 years immediately preceding the date on which the application is submitted;

(4) Has passed the National S.A.F.E. Mortgage Loan Originator Test with Uniform State Content developed by the Nationwide Mortgage Licensing System and Registry pursuant to and in the manner provided for in section 1505(b)(5) of the S.A.F.E. Mortgage Licensing Act;

(5) Has met the requirements imposed by the S.A.F.E. Mortgage Licensing Act;

(6) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(7) Has not been disciplined by the corresponding regulatory authority of the District of Columbia or any state or territory of the United States in which the applicant currently holds or has held a license to engage in the activities of a mortgage broker or mortgage agent, as applicable;

(8) Has not been held civilly or criminally liable in the District of Columbia or any state or territory of the United States for misconduct relating to his or her license to engage in the activities of a mortgage broker or mortgage agent, as applicable;

(9) Has not had a license to engage in the activities of a mortgage broker or mortgage agent, as applicable, suspended or revoked in the District of Columbia or any state or territory of the United States;

(10) Has not been refused a license to engage in the activities of a mortgage broker or mortgage agent, as applicable, in the District of Columbia or any state or territory of the United States for any reason; and

(11) Does not have pending any disciplinary action concerning his or her license to engage in the activities of a mortgage broker or mortgage agent, as applicable, in the District of Columbia or any state or territory of the United States.

(c) A complete set of his or her fingerprints, submitted directly or through the Registry, and written permission authorizing the Commissioner to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or proof that the applicant has previously passed a comparable

criminal background check within the 6 months immediately preceding the date on which the application is submitted.

(d) The statement required by NRS 645B.023 or 645B.420, as applicable.

(e) If the applicant is applying for a license as a mortgage agent, proof that the applicant is named as a principal on any corporate surety bond deposited with the Commissioner pursuant to NRS 645B.042 by the mortgage broker with whom he or she is associated or employed.

(f) If the applicant is applying for a license as a mortgage broker:

(1) An audited financial statement that is prepared using the records of the activities of a mortgage broker engaged in by the applicant in the District of Columbia or any state or territory of the United States by a certified public accountant who holds a certificate to engage in the practice of public accounting;

(2) Proof satisfactory to the Commissioner that the applicant is in such financial condition that the applicant can continue in business with safety to his or her customers;

(3) If the mortgage broker maintains or intends to maintain any accounts described in NRS 645B.175, proof satisfactory to the Commissioner that the applicant is in such financial condition that the applicant can maintain continuously the minimum net worth required by NRS 645B.115; and

(4) Proof that the applicant is named as a principal on a corporate surety bond deposited with the Commissioner pursuant to NRS 645B.042 that is in full force and effect and satisfies all of the requirements of NRS 645B.042.

(g) An affidavit stating that the information contained in the application and any accompanying material is true and complete.

(h) Any other information required by the Commissioner.

2. Pays the applicable fees:

(a) To apply for and be issued a license as a mortgage broker, as provided by NRS 645B.050; or

(b) To apply for and be issued a license as a mortgage agent, as provided by NRS 645B.410.

Sec. 3. 1. Not later than 21 business days after receiving an application for a license by endorsement as a mortgage broker or mortgage agent pursuant to section 2 of this regulation, the Commissioner will provide written notice to the applicant of any additional information required by the Commissioner to consider the application. Unless the Commissioner denies the application pursuant to subsection 2, the Commissioner will approve the application and issue a license by endorsement as a mortgage broker or mortgage agent, as applicable, to the applicant not later than:

(a) Sixty days after receiving the application;

(b) Fifteen days after the Commissioner receives the report from the Federal Bureau of Investigation or proof that the applicant has previously passed a comparable criminal background check within the 6 months immediately preceding the date on which the application is submitted, pursuant to paragraph (c) of subsection 1 of section 2 of this regulation; or

(c) If the application is for licensure as a mortgage broker, 15 days after depositing with the Commissioner the corporate surety bond required by NRS 645B.042,

↪ whichever occurs latest.

2. The Commissioner may deny an application for licensure by endorsement submitted pursuant to section 2 of this regulation if:

(a) The applicant willfully fails to comply with the requirements of paragraph (c) of subsection 1 of section 2 of this regulation;

(b) The report from the Federal Bureau of Investigation indicates that the applicant has been convicted of a crime that would be grounds for taking disciplinary action against the applicant as a licensee and the Commissioner has not previously taken disciplinary action against the applicant based on that conviction; or

(c) The Commissioner finds that he or she would have grounds to deny the application if the application was not an application for licensure by endorsement.

Sec. 4. 1. Except as otherwise provided in section 2 of this regulation, a person who has been issued a license by endorsement as a mortgage broker or mortgage agent pursuant to section 3 of this regulation is subject to the same duties, restrictions, penalties, liabilities, conditions and limitations that would apply under the laws of this State to a person issued a license as a mortgage broker or mortgage agent, as applicable, who did not obtain his or her license by endorsement pursuant to section 3 of this regulation.

2. A license by endorsement issued pursuant to section 3 of this regulation expires and is subject to renewal as provided by NRS 645B.050 or 645B.430, as applicable, on the same terms as a license which was not issued by endorsement.

Sec. 5. NAC 645B.070 is hereby amended to read as follows:

645B.070 1. Each mortgage broker shall submit, for each month, on a form approved by the Commissioner, a report on the volume of loans arranged in that month ~~+~~, unless the

Commissioner waives the requirement pursuant to subsection 3 of NRS 645B.080. If the mortgage broker is performing loan servicing and maintains any accounts described in subsection 4 of NRS 645B.175, the monthly report must include the information required pursuant to subsections 2 and 3. ~~{The}~~ *Unless the requirement to submit a monthly report is waived by the Commissioner pursuant to subsection 3 of NRS 645B.080, the* monthly report must be submitted to the Commissioner by the 15th day of the month following the month for which the report was made. If no loans were arranged in that month, the report must state that fact.

2. If, on the last day of any month, a debtor has failed to make two or more consecutive payments in accordance with the terms of the loan, a mortgage broker who is performing loan servicing and maintains any accounts described in subsection 4 of NRS 645B.175 shall:

(a) Include in his or her report to the Commissioner:

- (1) The name, address and telephone number of the debtor;
- (2) The total number and amount of any payments made on the current delinquency;
- (3) The outstanding balance of the loan and any accrued interest on the last day of the month for which the report is submitted;
- (4) A statement of whether the loan has been declared to be in default and, if so, the nature of any actions that have been taken because of the default;
- (5) The date on which the mortgage broker sent the notice to investors required pursuant to paragraph (b) of this subsection and paragraph (b) of subsection 1 of NRS 645B.260; and
- (6) If the loan is an insider loan, a statement disclosing that fact.

(b) Mail a notice containing the following information to the last known address of each investor who owns a beneficial interest in the loan not later than 15 days after the last day of each such month:

- (1) The name, address and telephone number of the debtor;
- (2) The total number of months and days that the debtor has failed to make a payment;
- (3) The outstanding balance of the loan and any accrued interest on the last day of the month for which the notice is submitted; and
- (4) A statement of whether the loan has been declared to be in default and, if so, the nature of any actions that have been taken because of the default.

3. If the mortgage broker is not servicing any loans in which a debtor has failed to make two or more consecutive payments in accordance with the terms of the loan, the monthly report required pursuant to subsection 1 must state that fact.

4. The mortgage broker must comply with the provisions of subsection 2 each month until:

(a) The debtor or his or her designee remedies the delinquency in payments and any default;

or

(b) The lien securing the loan is extinguished.

5. The Commissioner may refuse to renew the license of a mortgage broker who has not submitted a monthly report required by subsection 1 for 1 or more of the preceding 12 months.

6. As used in this section, "insider loan" has the meaning ascribed to it in NAC 645B.038.

Sec. 6. NAC 645B.373 is hereby amended to read as follows:

645B.373 1. To satisfy the requirements for continuing education provided for in subsection 1 of NRS 645B.051 or subsection 1 of NRS 645B.430, a mortgage agent or mortgage

broker must complete at least ~~10~~ 8 hours of approved courses of continuing education during the 12 months immediately preceding the date on which the license expires. The ~~10~~ 8 hours of approved courses must be comprised of:

- (a) Three hours of federal laws and regulations relating to mortgage lending;
- (b) Two hours of ethics, which must include, without limitation, instruction on fraud, consumer protection and fair lending issues;
- (c) Two hours of training relating to lending standards for nontraditional mortgage products; and
- (d) ~~Three hours of Nevada laws and regulations, as set forth in NAC 645B.363.~~ *Except as otherwise provided in subsection 6, 1 hour of any elective course approved by the Registry.*

2. The Commissioner may accept any hours of training completed in fulfillment of the requirements for a license for another state as hours of training for continuing education in this State if the Commissioner determines that those hours of training meet the requirements of this State.

3. Nothing in this section precludes any approved course that is provided by the employer of the mortgage agent or mortgage broker, an entity which is affiliated with the mortgage agent or mortgage broker by an agency contract, or any subsidiary or affiliate of such employer or entity.

4. A licensed mortgage agent or mortgage broker may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

5. A licensed mortgage agent or mortgage broker who is an approved instructor of an approved course may receive credit for the licensed mortgage agent's or mortgage broker's own annual continuing education requirement at the rate of 2 hours of credit for every 1 hour taught.

6. In lieu of the elective course required by paragraph (d) of subsection 1, a qualified employee shall complete 1 hour in an approved course in Nevada laws and regulations, as set forth in NAC 645B.363.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066**

Informational Statement

LCB FILE NO. R178-18

The following statement is submitted for adopted amendments to Nevada Administrative Code (“NAC”) Chapter 645B.

1. A clear and concise explanation of the need for the adopted regulation.

To comply with the Division’s statutory duty to ensure the effectiveness of Chapter 645B of the Nevada Revised Statutes (“NRS”), to carry out the provisions of NRS 645B, and to conform with and implement revisions as necessitated by certain statutory changes made to NRS 645B, as well as NRS 622, resulting from passage of Senate Bill 498 and Senate Bill 69, respectively, in the 79th Session (2017) of the Nevada Legislature. Under existing law, specifically at NRS 645B.060, the Commissioner of the Nevada Division of Mortgage Lending (“the Commissioner”) has the authority to regulate mortgage brokers and mortgage agents.

The statutory amendments made to NRS 622 require that the state regulatory bodies authorized to license and regulate the professions and occupations organized under Title 54 of the NRS adopt regulations providing for the issuance of a license by endorsement to engage in such professions and occupations. Following its enactment, the pertinent provisions of Senate Bill 69 were codified in NRS 622.530. Accordingly, pursuant to NRS 622, the adopted regulation adds to and amends NAC 645B to:

- Establish the prerequisites, requirements, conditions, and manner of submission by a natural person, of his or her initial application for license by endorsement to the Division, to engage in the activities of a mortgage broker or mortgage agent in Nevada, where such person: 1) holds a comparable license issued by the District of Columbia or any state or territory of the United States; (2) possesses qualifications that are equal to or substantially similar to the qualifications required for issuance of a license to engage in such activities in the state of Nevada; and (3) satisfies other requirements as directed or authorized by Senate Bill 69 as adopted by the 2017 Session of the Nevada Legislature.
- Provide the standards for licensure by endorsement of a natural person as a mortgage broker or mortgage agent.

- Provide the timeline for the Commissioner to request additional information related to an application, approve an application, and issue a license by endorsement.
- Establish grounds for the Commissioner to deny an application for licensure by endorsement.
- Establish that a person who has been issued a license by endorsement is subject to the same duties, restrictions, penalties, liabilities, conditions and limitations that apply to a natural person who has been issued a license which is not a license by endorsement, including those provisions of law relating to the expiration and renewal of a license.

To conform with the statutory amendments made to NAC 645B resulting from passage of Senate 498 concerning a mortgage broker's required reporting of certain monthly activity report(s), as well as the continuing education requirements for renewal of a mortgage broker license or mortgage agent license, the adopted regulation additionally includes respective amendments to the following existing provisions:

- NAC 645B.070, to authorize the Commissioner of the Division to waive the required reporting by a mortgage broker of certain monthly activity report(s) if substantially similar information is available to the Commissioner from another source.
- NAC 645B.073, to reduce the total number of continuing education which must be completed by a mortgage broker or mortgage agent on an annual basis, from 10 hours to 8 hours, eliminates the previous requirement that the hours of continuing education which must be completed include 3 hours concerning Nevada laws and regulations (instead requiring that such education include one hour of any elective course approved by the Nationwide Mortgage Licensing System and Registry), but that as applied to *qualified employees*, that person must complete one hour of an approved course in Nevada laws and regulations in lieu of an elective course.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Copies of the text of the proposed regulation, notice of workshop (as combined with the workshop noticed for NAC 645E (governing mortgage bankers as subject of LCB File No. R179-18)), small business impact statement, and notice of intent to act upon the regulation were e-mailed to Division licensees and other interested parties on the Division's mailing list

as well as any persons who had specifically requested such notice. These documents were also made available at the Division of Mortgage Lending's Website at <http://www.mld.nv.gov> and the Nevada Public Notice Website at <http://notice.nv.gov>. Further, in addition to the Nevada Legislature's website at <https://www.leg.state.nv.us/App/Notice/A/>, such documents were posted at prominent Nevada offices which included the Nevada State Business Center in Las Vegas, the Division's office in Las Vegas, the Office of the Department of Business and Industry in Carson City, and the Nevada State Library and Archives in Carson City. As also publicly noticed in the same manner as stated above, the Revised Proposed Regulation R178-18 as drafted by the Legislative Counsel Bureau ("LCB") dated January 4, 2019, the notice of intent to act upon the regulation, and small business statement, were additionally provided to all county libraries in Nevada at which the Division does not maintain an office, for posting. Notice of intent to act upon the regulation, as accompanied by the LCB's draft of revised proposed regulation and the Division's small business statement, was further submitted to the LCB for posting on the Nevada Legislative website.

In May 2018, in anticipation of the Division's workshop to be held in this matter, the Division e-mailed approximately 9,200 of its licensees under NRS 645B as well as other interested parties concerning the proposed regulation amendments, in which it solicited comments concerning whether these would impose a direct and significant economic burden upon a small business, or directly restrict the formation operation, or expansion of a small business. Further, in addition, to solicitation of such comments through its website, the Division reached out to a variety of stakeholders, including the Nevada Mortgage Lenders Association and the Advisory Council on Mortgage Investments and Mortgage Lending.

In response to these solicitations of input, the Division received a total of four e-mailed comments. Three of such comments, as submitted to the Division prior to its June 7, 2018 issuance of the Small Business Impact Statement regarding the proposed additions and amendments to NAC 645B, addressed only the proposed criteria and/or process for issuance of a license by endorsement under the provisions of NAC 645B. One additional e-mail, as received by the Division after issuance of its Small Business Impact Statement but prior to the scheduled workshop, expressed concern as limited to application of the continuing education requirements to a mortgage broker, who engaged only in the commercial-lending business.

As reflected in the Division's issued and publicly noticed workshops scheduled for June 26, 2018 (to be held in the identified Las Vegas, Nevada, location and video-conferenced to the identified Carson City, Nevada location), the Division subsequently solicited additional receipt of written comments, testimony, or documentary evidence, and advised that oral comments on the proposed regulations may be made at the meeting. No public response was received.

The duly-noticed workshops (as combined with that duly-noticed for NAC 645E) were held on June 26, 2018 in Las Vegas and video-conferenced to Carson City. Minutes of the workshops are attached hereto as “Exhibit A, Part I” and “Exhibit A, Part II.” In conformance with its noticed public workshop and agenda, the Commissioner conducted a 9:00 a.m. proceeding on this date to describe an introduction of the regulatory amendments to both NAC 645B and NAC 645B, as well as to the other chapters of the Nevada Administrative Code over which the Commission has jurisdiction (NAC 645A and NAC 645F), as the requirements of Senate Bill 69 concerning licensure by endorsement apply to all of these chapters in the same fashion. In conformance with its noticed public workshop and agenda as issued on June 7, 2018, the Commissioner conducted a 10:00 a.m. proceeding on June 26, 2018, to specifically address the proposed regulatory amendments to NAC 645B and to NAC 645E, even though these generally “mirror” the same revisions as proposed to be made to the other NAC Chapters under the Division’s jurisdiction as addressed at the noticed 9:00 a.m. introductory proceeding. None of the attendees at these proceedings provided any written or verbal comments.

Thereafter, on January 28, 2019, with respect to NAC 645B only, the Commissioner issued and posted a Notice of Intent to Act Upon a Regulation based upon the LCB Draft of Revised Proposed Regulation R178-18, dated January 4, 2019 as stated above, again soliciting comments. No public response was received. The Division further issued and posted, on February 11 and February 12, 2019, its Notice of Public Meetings with the Agendas for adoption hearings to be held on March 7, 2019, including adoption of the proposed amendments to NAC 645B.

As duly-noticed, the public hearing for adoption of the proposed regulation was held on March 7, 2019, in Las Vegas and video-conferenced to Carson City. Minutes of the public hearing are attached hereto as “Exhibit B.” While one member of the public appeared at the Las Vegas location for the hearing, he did not provide any verbal or written comments at the hearing.

A copy of the summary of the public response which was received concerning the proposed regulation may be obtained from the Division of Mortgage Lending, 3300 W. Sahara Avenue, Suite 285, Las Vegas, Nevada, 89102, or by e-mailing a request to krailey@mld.nv.gov.

3. The number of persons from the public who:

	<u>Carson City</u>	<u>Las Vegas</u>
Attended <i>June 26, 2018</i> workshops—		
9:00 a.m. proceeding:	1	8
10:00 a.m. proceeding:	0	6
Testified at the <i>June 26, 2018</i> workshop:	0	0

Attended March 7, 2019 adoption hearing: 0 1

Testified at the March 7, 2019 adoption hearing: 0 0

Submitted written comments: 4 emails were received (3 prior to issuance of the small business impact statement and 1 after issuance of the small business statement, but all being received prior to the scheduled workshop)

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented (if provided to the agency), for each person who testified at each hearing and submitted to the agency written statements.

No member of the public who appeared at the workshops and/or adoption hearing, at either the noticed Las Vegas or Carson City locations for such, either testified or submitted written statements to the agency. However, prior to the noticed and scheduled workshops as combined for NAC 645B and NAC 645E, the Division received four e-mails concerning the proposed regulations, three of which addressed concerns related to the licensure by endorsement provisions proposed in NAC 645B, and one of which addressed the continuing education requirements for a mortgage broker under NAC 645B who engaged only in the commercial-lending business.

Pursuant to e-mailed transmission, the Division received four written statements prior to the workshop, but none of the persons who made such statements appeared and testified at either the workshop or adoption hearing as noticed to occur in Las Vegas and video-conferenced with Carson City.

Testified at workshop: 0 Testified at adoption hearing: 0

Submitted to the Division written (e-mailed) comments: 4

(a) *Doris Mitchell*, (NMLS #342436), Lone Mortgage, 5275 Durango Drive, Las Vegas NV 89113, 702-838-9922 (business phone number), 702-596-1511 (cell number), 702-947-6739 (fax number), doris.mitchell@lonemortgage.com [<mailto:kf7nsk@gmail.com>]

(b) *Allyson Harr*, Licensing Manager, DHI Mortgage (Company NMLS #14622), 10700 Pecan Park Blvd., Ste 450, Austin TX 78750 (business address), 512-219-3414 (business phone number), 512-202-5843 (cell number), 800-605-0256 (fax number), ADHarr@drhorton.com

(c) *Dee Hontz* (individual NMLS #281675), Principal of Capline Mortgage (Company NMLS #1559619), 702-562-4077 (whether company phone number, cell number, home number, or fax number, unspecified), 7251 W. Lake Mead Blvd., Suite 300, Las Vegas, NV 89128, dh@caplinemortgage.com

(d) *Christopher Funai*, Newmark Realty Capital, LLC (Nevada MLD #452), 8716 Spanish Ridge Avenue, Suite 100, Las Vegas, NV 89148, 702-304-0437 (direct phone number), 702-325-8197 (cell number), 702-341-6935 (fax number), cfunai@newmarkrealtycapital.com / newmarkrealtycapital.com

5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public as provided in response to Item #2, above.

Ms. Mitchell expressly submitted her “thoughts on the proposed changes” as limited to the licensure by endorsement provisions. She believed that “the additions of letting a mortgage Broker license/Mortgage Agent license go to a non-citizen, or otherwise “Legal right” to work in the United States, opens the door to fraud.” She contended that the current licensing requirements didn’t need any adjustments, that the NMLS [“Nationwide Multistate System & Registry”] existed to “provide the integrity of back round [sic] check and previous fraud check,” and that “State licensing should not be permitted to supersede the NMLS.” She questioned the proposal to add regulatory changes.

Ms. Harr, also referring only to the licensure by endorsement provisions of the proposed regulations, expressed worry or concern that the continuous 5-year period of required licensure in another jurisdiction, which the Division included among the express conditions which must be satisfied in order to obtain a mortgage broker license or mortgage agent by endorsement in Nevada, could serve to eliminate many persons from applying for such licensure.

Ms. Hontz, further addressing only the licensure by endorsement provisions, requested clarification concerning the meaning of the language contained in Section 2, paragraph (1)(c) of the proposed regulations [the Division’s draft version of the proposed language at that time], which provided that among the prerequisites for submission for an initial license by endorsement, the applicant must possess “qualifications that are equal to or substantially similar to the qualifications required for issuance of a license to engage in the activity of a mortgage broker or mortgage agent in this State.” *Ms. Hontz* additionally expressed that it “would be interesting to know the reasoning for the proposed changes, and why there might be different regulations than how mortgage brokers were previously regulated.”

While the Division's website and e-mail blasts to licensees concerning the proposed regulations had already explained the basis for the Division's draft regulatory changes, the Deputy Commissioner at that time, Scott Whittemore, personally provided an e-mailed answer to Ms. Hontz. Deputy Commissioner Whittemore clarified that the Division's stated terminology applied only to out-of-state, non-Nevada licensed persons, the licensure-by-endorsement provisions providing only a framework for licensure in Nevada based upon an "equal playing field" as originating from the requirements of Senate Bill 69, and emphasized that the scheme does not change the way in which the Division regulates or licenses current Nevada licensees.

Following receipt of the aforementioned written comments, which were discussed in the Division's subsequently drafted Small Business Statement concerning the proposed regulatory revisions to NAC 645B, the Division received the written comment from Mr. Funai. This comment was received prior to the Division's noticed and scheduled workshops as conducted on June 26, 2018.

Mr. Funai addressed only the provisions of the proposed regulations which revised the number of hours a licensee must complete in to comply with continuing education requirements, asserting that the 8 hours of such imposed requirements constitute a waste of both his time and money and would adversely affect his business because he was engaged in only the *commercial-lending* business. Noting that existing continuing education courses applied only to residential and consumer-based lending laws, Mr. Funai suggested that the Division create an exemption for the commercial-only brokers in the NAC and NRS, either by eliminating regulation of this class or by greatly reducing regulation of the existing licensees.

The summary of public response may be obtained in the same manner as instructed in the response to Item #2, above.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

At the conclusion of the noticed public hearing on March 7, 2019, the permanent regulation was adopted in the substantive form as proposed and reflected in the *LCB Draft of Proposed Regulation R178-18*, dated January 4, 2019. Having contemplated the goals to be served by the regulation, and the text of the proposed regulation since the time of original drafting and revision, as well as considering them throughout the workshop and hearing proceeding, the Commissioner determined that such LCB draft adequately set forth the desired language in such manner as to not merit any substantive change(s) to the provisions.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulation and on the public. These must be stated separately, and each case must include:

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

(a) Both adverse and beneficial effects

The Division does not foresee any major adverse effects of the adopted regulation to either the business of a mortgage broker or mortgage agent, or to the public.

The Division anticipates that the beneficial effects of the adopted regulation may result in cost savings and expedited licensure for those who met the criteria for licensure by endorsement as provided in the adopted regulation without unnecessarily burdening business activity.

(b) Both immediate and long-term effects.

The Division anticipates that both the immediate and long-term beneficial effects of the adopted regulation will protect the health and welfare of Nevadans without unnecessarily burdening business activity.

8. The estimated cost to the agency for enforcement of the adopted regulation.

The Division estimates that the adopted regulation will result in minimal costs, if any, to the agency for enforcement. The Division expects that any costs will be absorbed into the existing workloads of current staffing levels.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agencies regulations known by the Division that the adopted regulation overlaps or duplicates.

10. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The adopted regulation does not include provisions which are known to be more stringent than a federal regulation which regulates the same activity.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

To the extent that the anticipated fee for an applicant seeking licensure by endorsement may

be interpreted as a new fee, the fee for filing such application will be the same as that currently imposed upon any other natural person who applies for a Nevada license to engage in the activities of a mortgage broker or mortgage agent.

The fee for licensure by endorsement will be used to offset the cost of processing the application and issuing the license, in the same manner imposed upon any other natural person who applies for a Nevada license to engage in the activities of a mortgage broker or mortgage agent.

The Division is unable to estimate the annual amount of application fee(s) that may be collected for licensure by endorsement. The regulation does not otherwise provide a new fee and does not provide for any increase to an existing fee.

