

PROPOSED REGULATION OF THE DIVISION OF MORTGAGE LENDING

(NAC 645B governing Mortgage Brokers and Mortgage Agents)

LCB File No. _____-18

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

AUTHORITY: §§1-5, NRS 645B.0137 and 645B.0138, and sections 1–5 of Senate Bill No. 69, chapter 518, Statutes of Nevada 2017; §6, NRS 645B.060, and 645B.080 as amended by section 2 of Senate Bill No. 498, chapter 531, Statutes of Nevada 2017; §7, NRS 645B.0137, 645B.0138, and 645B.060, and NRS 645B.051 as amended by section 1 of Senate Bill 498, chapter 531, Statutes of Nevada 2017; and NRS 645B.430 as amended by section 3.5 of Senate Bill 498, chapter 531, Statutes of Nevada 2017.

Section 1. Chapter 645B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 5, inclusive, of this regulation.

Sec. 2. 1. *The Commissioner may issue by endorsement an initial mortgage broker license or initial mortgage agent license to an applicant who is a natural person and meets the requirements set forth in this section. An applicant may submit to the Commissioner an application for initial license by endorsement if at the time of the application, the applicant:*

(a) Is registered through the Registry;

(b) Holds a corresponding valid and unrestricted license to engage in the activities of a mortgage broker or mortgage agent in the District of Columbia or any state or territory of the United States; and

(c) Possesses 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.

2. An applicant for a license by endorsement pursuant to this section must submit to the Commissioner with his or her application:

(a) Proof satisfactory to the Commissioner that the applicant:

(1) Satisfies the requirements of section 2, subsection 1 of this regulation;

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

(3) Is and has been licensed to engage in the activities of a mortgage broker or mortgage agent in the District of Columbia or any state or territory of the United States for a period of at least 5 continuous years immediately preceding the date on which the application is submitted (2 years of which must constitute “verifiable experience in the business of lending money for real estate or mortgages” as that phrase is defined in NAC 645B.016(2));

(4) Has achieved or continued to achieve a passing score on the National S.A.F.E. Mortgage Licensing Act Test with Uniform State Content;

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

(6) Subject to the terms of subsection 4 of NAC 645B.367, has successfully completed the hours of education or training required for the corresponding mortgage broker license or corresponding mortgage agent license in the District of Columbia or the state or territory of the United States in which he or she is currently licensed (the curriculum of which includes subject matters deemed by the Commissioner to be equivalent to the instruction required or approved by the Commissioner in this State);

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

(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 activities as a mortgage broker or mortgage agent;

(9) Has not had a license to engage in the activities of a mortgage broker or mortgage agent 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 in the District of Columbia or any state or territory of the United States for any reason;

(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 in the District of Columbia or any state or territory of the United States;

(b) A complete set of his or her fingerprints (unless already submitted through the Registry) and written permission authorizing the Division 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 satisfactory proof to the Commissioner that the applicant has previously passed a comparable criminal background check within the 6 months immediately preceding the date on which the Nevada application is submitted;

(c) In compliance with NRS 645B.023 or NRS 645B.420 for issuance of a mortgage broker license or mortgage agent license, respectively, and as required by NRS 425.520, a statement or declaration describing whether or not the applicant is subject to a court order for the support of a child and whether or not the applicant is in compliance with such order or plan approved by the district attorney or other public agency enforcing such order;

(d) For licensure as a mortgage broker, a surety bond that meets the requirements of NRS 645B.042;

(e) For licensure as a mortgage broker, the applicant's independently audited financial statement and, if applicable, satisfactory proof that the applicant will be able to maintain continuously the minimum net worth required pursuant to NRS 645B.115;

(f) Any other information which the Commissioner deems necessary to conduct the activities of a mortgage broker or a mortgage agent, or any other information requested by the Commissioner in connection with the evaluation and investigation of the applicant's qualifications and suitability for licensure pursuant to this chapter or chapter 645B of NRS;

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

(h) Payment of the fee for filing application for licensure by endorsement in the amount and manner as otherwise required for an applicant to obtain a mortgage broker license or mortgage agent license, in this State.

3. Not later than 21 business days after receiving an application for a license by endorsement to engage in the activities of a mortgage broker or mortgage agent pursuant to this section, the Commissioner shall provide written notice to the applicant of any additional information required by the Commissioner to consider the application. Unless the Commissioner denies the application for good cause, the Commissioner shall approve the application and issue a license by endorsement to engage in the activities of a mortgage broker or mortgage agent not later than:

(a) With respect to application for a mortgage broker license:

(1) Sixty days after receiving the application; or

(2) 15 days after the Commissioner receives a criminal-background report from the Federal Bureau of Investigation, or proof satisfactory to the Commissioner that the applicant has previously passed a comparable criminal background check within the 6 months immediately preceding the date on which the Nevada application is submitted; or

(3) 15 days after the filing of the surety bond as required by section 2, subsection 2, paragraph (d) of this regulation, with the Commissioner, whichever occurs later.

(b) With respect to application for a mortgage agent license:

(1) Sixty days after receiving the application; or

(2) 15 days after the Commissioner receives a criminal-background report from the Federal Bureau of Investigation, or proof satisfactory to the Commissioner that the applicant has previously passed a comparable criminal background check within the 6 months immediately preceding the date on which the Nevada application is submitted, whichever occurs later.

Sec. 3. *The Commissioner may deny an application for licensure by endorsement if:*

(a) An applicant willfully fails to comply with the provisions of section 2, subsection 2, paragraph (b) 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 licensee based on that conviction; or

(c) Grounds for license denial exist based upon any other lawful reason or pursuant to any other provision of law.

Sec. 4. *To the extent consistent with the provisions of sections 1—5 of Senate Bill 69, chapter 518, Statutes of Nevada 2017, and section 2 of this regulation, issuance of a license by endorsement to engage in the activities of a mortgage broker or mortgage agent pursuant to this chapter or chapter 645B of NRS, subjects that licensee to the same rights, duties, obligations, limitations, standards, and conditions of doing business, as well as to the same authorized disciplinary actions, as is otherwise prescribed for licensed mortgage brokers and licensed mortgage agents pursuant to this chapter or chapter 645B of NRS.*

Sec. 5. *Except as otherwise provided in subsection 2 of NAC 645B.373, and to the extent consistent with sections 1—5 of Senate Bill 69, chapter 518, Statutes of Nevada 2017, and section 2 of this regulation, issuance of a license by endorsement to engage in the activities of a mortgage broker or mortgage agent pursuant to this chapter or chapter 645B of NRS, requires that licensee to comply with the same continuing education and license-renewal requirements for retention of his or her license as is otherwise required for licensed mortgage brokers and licensed mortgage agents pursuant to this chapter or chapter 645B of NRS.*

Sec. 6. NAC 645B.070 is hereby amended to read as follows:

NAC 645B.070 1. *Unless such requirement is otherwise waived by the Commissioner in accordance with subsection 3 of NRS 645B.080, ~~E~~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. 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. *If the submission of the required report is not otherwise waived by the Commissioner as provided in this subsection, ~~T~~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. 7. NAC 645B.373 is hereby amended to read as follows:

NAC 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~~ *One hour of an elective course as 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. For purposes of subsection 1, a qualified employee must complete one hour of Nevada laws and regulations, as set forth in NAC 645B.363, in lieu of an elective course.

Sec. 8. Subsection 6 of section 7 of this regulation becomes effective on January 1, 2019, unless this regulation, as approved, is filed with the Nevada Secretary of State on a later date, at which time all sections of this regulation become effective.