



STEVE SISOLAK
Governor

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF MORTGAGE LENDING
3300 W. Sahara Avenue, Suite 285
Las Vegas, Nevada 89102
(702) 486-0782 Fax (702) 486-0785
www.mld.nv.gov

MICHAEL J. BROWN
Director

CATHY SHEEHY
Commissioner

NOTICE OF INTENT TO ACT UPON A REGULATION

NOTICE OF HEARING FOR ADOPTION AND AMENDMENT OF REGULATIONS OF THE DIVISION OF MORTGAGE LENDING

LCB FILE No. R178-18

January 28, 2019

The Commissioner of the Nevada Division of Mortgage Lending (“the Division”) will hold a public hearing on March 7, 2019, at 9:00 a.m. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of permanent regulations to Chapter 645B of the Nevada Administrative Code (“NAC”). The public hearing will be held on the following date, at the described time and locations:

March 7, 2019 at 9:00 a.m.

LAS VEGAS
NEVADA STATE BUSINESS CENTER
3300 W. SAHARA AVENUE
TAHOE ROOM, 4th FLOOR, SUITE #430
LAS VEGAS, NEVADA 89102

VIA VIDEO CONFERENCE TO:
CARSON CITY
DEPARTMENT OF BUSINESS & INDUSTRY
1830 COLLEGE PKWY, SUITE #100
CONFERENCE ROOM
CARSON CITY, NEVADA 89706

The following information is provided pursuant to the requirements of the Nevada Revised Statutes (“NRS”), specifically NRS 233B.0603:

1. Purpose and need for the proposed regulation

To conform with and implement certain legislative mandates as amended in the law governing the licensing and occupations of professions in Nevada (which include mortgage brokers and mortgage agents subject to the Division’s jurisdiction under NRS 645B and NAC 645B), as enacted by Senate Bill 69 (“SB 69”) of the 79th Session (2017) of the Nevada Legislature. The relevant provisions of SB 69 relative to the proposed regulation have been codified in NRS 622.530.

The Division additionally made proposed revisions to the existing regulatory language of NAC 645B to conform to the statutory revisions subject of Senate Bill 498 (“SB 498”) of that same legislative session.

2. Description of proposed regulation and the manner in which approved or revised text of the proposed regulation prepared by the Legislative Counsel Bureau (“LCB”) may be obtained

A copy of the revised proposed regulations for adoption, LCB File No. R178-18, is attached.

As generated from, or in compliance with the mandates of SB 69, the proposed regulations establish the criteria required of a natural person seeking licensure in Nevada to engage in the occupation of a mortgage broker or mortgage agent, to obtain *licensure by endorsement* where such person:

- Holds a *comparable license* issued by the District of Columbia or any state or territory of the United States;
- 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
- Satisfies other requirements and prerequisites as directed or authorized by SB 69 and the proposed regulations.

In drafting its proposed regulations (both as initially prepared and revised), with respect to the requirements of SB 69, the Division has attempted to balance the goals of the Nevada Legislature to expand the business workforce in Nevada by providing a type of “fast-track” licensing procedure for natural persons already licensed in other recognized jurisdictions (but who meet Nevada standards) who want to conduct business in this state, with the Division’s continued efforts to protect the public. The proposed regulations are intended and designed to provide a balanced approach.

With respect to the Division’s regulatory revisions to the *existing* language of NAC 645B, these are based upon its efforts to make the conforming changes necessitated by the statutory changes to NRS 645B, as enacted by SB 498, which effective January 1, 2018, eliminated from the state’s annual continuing education requirements, the requirement that a mortgage broker or mortgage agent complete three hours of Nevada laws and regulations (the Division, however, proposing that one hour of such instruction be required of qualified employees) and reduced the number of continuing education hours which must be completed on an annual basis, from 10 hours to 8 hours. Further, based upon other statutory changes resulting from the enactment of SB 498, effective January 1, 2018, which granted the Commissioner of the Division discretion to waive the required reporting of certain monthly activity report(s) by a mortgage broker if substantially similar information is available to the Commissioner from another source, the Division seeks to amend NAC 645B to reflect that change.

Access to the text of the revised proposed regulations prepared by the Legislative Counsel Bureau pursuant to NRS 233B.063, may be obtained by visiting the website of the Nevada Legislature at <http://www.leg.state.nv.us>, hovering over the term “Law Library,” hovering over the term “Nevada

Register,” clicking upon the term “Browse,” and then clicking upon the term “Numerical Index” appearing under the category “2018 Regulations.” Access may then be obtained by simply scrolling down the list of LCB File Numbers to seek “R178-18” and then specifically clicking upon the designation “R178-18RP1.” Alternatively, the language can be found by performing a “search” function specifying “R178-18RP1” and then clicking upon the reference to R178-18RP1 as specified.

3. Statement of estimated economic effect of the proposed regulation on the business of mortgage brokers and mortgage agents and upon the public

The Division does not foresee any adverse effects of the proposed regulation (whether immediate or long term) to the business of a mortgage broker or mortgage agent, or to the public. To date, based upon the four written responses to the proposed regulations that the Division received from industry members, and lack of any oral comments, there is nothing to indicate that the regulations will have any economic effect, either adverse or beneficial, upon such businesses.

Insofar as its drafted requirements and procedures governing licensure by endorsement are concerned, the Division contemplates that whatever the economic effect, such should be beneficial, because the proposals seek to remove the existing barriers to licensure as perceived by the 2017 Nevada Legislature, by providing a fair and balanced process for licensure by endorsement to out-of-state applicants who satisfy the reasonably-imposed prerequisites therefor, particularly providing for the Commissioner’s discretionary recognition or acceptance of an applicant’s previously passed, comparable background check, if passed within the 6 months immediately preceding the date on which the Nevada application is submitted. Further, potential time-saving repercussions generating from an expedited licensure processes may make it easier or quicker for an applicant for licensure as a mortgage agent in this state, to obtain employment or sponsorship by a Nevada-licensed mortgage broker. The proposed regulations do not establish any additional requirements for a small business with respect to issuance of a license by endorsement and the procedure for obtaining a license by endorsement does not apply to any *existing* Nevada-licensed mortgage broker or mortgage agent. Moreover, the proposed regulations do not exempt one who obtains a mortgage broker license or mortgage agent license by endorsement, from compliance with the same duties and responsibilities as otherwise required of all licenses under NRS 645B and NAC 645B.

With respect to the revised regulatory language resulting from the enactment of Senate Bill 498, relating to the continuing education requirements for license renewal by mortgage brokers and mortgage agents, as well as the discretionary authority granted to the Commissioner concerning the filing of certain monthly activity reports by mortgage brokers, these should not result in any adverse economic impact, but rather only a beneficial impact, because they not only eliminate or reduce the number of hours by which a mortgage broker or mortgage agent must engage to meet continuing education requirements, but potentially serve to decrease the required efforts of which a mortgage broker must otherwise make in filing a particular monthly activity report under the appropriate circumstances.

4. Statement identifying the methodology used by the Division in determining the impact of the proposed regulation upon a small business

On May 21, 2018, and May 22, 2018, respectively, the Division posted its proposed regulations on its website and made e-mail notification to its licensees under NRS 645B and other interested persons (a total of approximately 9,200 recipients), requesting comments and input concerning whether or not its regulatory proposals were likely to impose a direct and significant economic burden upon a small business subject of NRS 645B, or were likely to restrict the formation, operation, or expansion of a small business subject of NRS 645B. The Division repeated its request for public comments in this same manner on June 7, 2018, when it issued its Notice of Public Workshop & Agenda concerning the proposed regulatory changes to NAC 645B, as accompanied by its Small Business Impact Statement dated June 7, 2018. As issued on June 7, 2018, these materials were also posted to the Nevada Public Notice Website at <https://notice.nv.gov> and the Nevada Legislature's web page at <https://www.leg.state.nv.us/App/Notice/A/>, as well as at the following Nevada office locations: The Division in Las Vegas, the Nevada State Business Center in Las Vegas, the Department of Business & Industry in Carson City, and the Nevada State Library & Archives, in Carson City.

The Division received a total of four responses to the aforementioned solicitations (all via e-mail), three by persons voicing concern about the licensure endorsement provisions, and one who questioned the applicability of continuing education requirements concerning residential mortgage loans and other consumer-based lending laws, to his commercial-lending business, claiming that such requirements are a waste of time and money.

The public workshop was conducted on June 26, 2018, as scheduled and properly noticed, with eight members of the public in attendance relative to the proposed regulatory changes to NAC 645B, but who provided neither written nor oral comments concerning the measures at this time. During the workshop, the Commissioner addressed each of the four public comments received prior to the workshop, explaining that the proposed regulations were drafted to conform to the statutory mandates of Senate Bill 69, and the statutory changes made by Senate Bill 498; that the minimum 5-year period of time for which an applicant for license by endorsement must have already been licensed in another jurisdiction was reasonable; and that the licensure by endorsement provisions do not change the way in which the Division regulates or licenses its current Nevada licensees. The Commissioner further explained that the 8 hours of continuing education required of a mortgage broker or mortgage agent on an annual basis, particularly because this period *reduced by two hours* what had formerly been a *10-hour* requirement, was not excessive enough to significantly impair the business of a mortgage broker or mortgage agent. See also the attached Small Business Impact Statement dated June 7, 2018.

5. The estimated cost to the agency for enforcement of the proposed regulation

The Division does not anticipate incurring additional costs for the implementation and enforcement of the proposed regulation. Costs to the agency, if any, will be minimal, as expected to be absorbed into the existing workloads of current staffing levels.

6. Overlap or duplication with other state, local governmental or federal agencies

Unknown at the time of this posting.

7. Existence of federal-law requirement for proposed regulation or whether proposed regulation includes more stringent provisions than required by federal regulation governing same activity

None known at the time of this posting.

8. Establishment of new fee or increase to existing fee

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

COMMENTS AND WRITTEN SUBMISSIONS

Persons wishing to comment upon the proposed action of the Division of Mortgage Lending may appear at the scheduled public hearing on March 7, 2019. Alternatively, as must be received no later than *February 8, 2019*, 5:00 p.m. PST, persons may address their comments, data, views, or arguments, in written form to the Division, by U.S. mail, fax, or e-mail transmission, as follows:

Division of Mortgage Lending
3300 W. Sahara Avenue, Suite 285
Las Vegas, Nevada, 89102
Fax: (702) 486-0785
mldinfo@mld.nv.gov

If no person who is directly affected by the proposed action appears to request time to make an oral presentation at the hearing, the Division of Mortgage Lending may proceed immediately to act upon any written submissions.

COPIES OF PROPOSED REGULATION

A copy of this Notice and the text of the proposed regulation has been deposited with the Administrator of Nevada State Library and Archives, at which location it will be on file at 100 N. Stewart Street, Carson City, Nevada, 89701, for inspection by members of the public during business hours. A copy of the proposed regulation to be considered may be obtained at the hearing or may be downloaded from the Nevada Public Notice website at <https://notice.nv.gov>.

The proposed regulation is also available on the Division's website at <http://www.mld.nv.gov> and at the Division's office at:

Division of Mortgage Lending
3300 W. Sahara Avenue, Suite 285
Las Vegas, NV 89102

Pursuant to NRS 233B.060(1)(a)(1), the regulation that is posted on the Division's website three working days in advance of the hearing will be the regulation to be considered at the scheduled hearing as noticed herein.

This Hearing Notice has been sent to all interested persons on the Division's mailing list for administrative regulations, provided to any person who has requested such notice, and posted at the following locations:

Division of Mortgage Lending 3300 W. Sahara Ave. Suite 285 Las Vegas, NV 89102	Battle Mountain Library 625 S. Broad Street P.O. Box 141 Battle Mountain, NV 89820	Story County Library c/o Storey County Treasurer & Clerk's Office Drawer D Virginia City, NV 89440	Lyon County Library- Yerington Branch Library 20 Nevin Way Yerington, NV 89447-2399
Department of Business and Industry 1830 College Pkwy., #100 Carson City, NV 89706	Tonopah Public Library P.O. Box 449 167 S. Central Street Tonopah, NV 89049	White Pine County Library 950 Compton Street Ely, NV 89301	Humboldt County Library 85 East 5 th Street Winnemucca, NV 89445
Nevada State Business Center 3300 W. Sahara Ave. Las Vegas, NV 89102	Churchill County Library 553 South Maine Street Fallon, NV 89406-3306	Mineral County Public Library P.O. Box 1390 Hawthorne, NV 89415	Eureka County Library 10190 Monroe Street P.O. Box 293 Eureka, NV 89316
Nevada State Library & Archives 100 N. Stewart Street Carson City, NV 89701	Washoe County Library (Downtown Reno Library) 301 South Center St. Reno, NV 89501-2102	Esmeralda County Library Corner of Crook & Fourth St. P.O. Box 430 Goldfield, NV 89013-0430	Lincoln County Library 63 Main Street P.O. Box 330 Pioche, NV 89043
Elko County Library 720 Court St. Elko, NV 89801-3397	Douglas County Library 1625 Library Lane Minden, NV 89423-0337	Pershing County Library 1125 Central Avenue Lovelock, NV 89419	Beatty Library District Central Library 400 North 4 th St. Beatty, NV 89003
Carson City Library 900 N. Roop St. Carson City, NV 89701-3101	Lander County Library P.O. Box 141 625 South Broad St. Battle Mountain, NV 89820	Las Vegas-Clark County Library District Headquarters 7060 W. Windmill Lane Las Vegas, NV 89113	

This Notice and the text of the proposed 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>.

An electronic copy of this Notice has been sent to the Legislative Counsel Bureau at Regulations@lcb.state.nv.us and ahartzler@lcb.state.nv.us.

Copies of this Notice and the proposed regulation will also be mailed to members of the public upon request. A copy of each may be obtained by contacting Susan Slack, Administrative Assistant, at the Division's office at 3300 W. Sahara Ave, Suite 285, Las Vegas, NV 89102, or calling the Division's office at (702) 486-7251. A reasonable fee may be charged for copying expenses.

Members of the public who are disabled and require special accommodations or assistance at the hearing must provide written notification, at least 5 business days prior to the hearing, to the Division's office at the above described address.

After the hearing, interested persons can contact Ms. Slack at (702) 486-7251, to request a copy of the Summary of Comments concerning the hearing.

Note that NRS 233B.064(2) provides as follows:

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before 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.