

**REVISED PROPOSED REGULATION OF
THE COMMISSIONER OF MORTGAGE LENDING**

LCB File No. R178-18

January 4, 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 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.