



SMALL BUSINESS IMPACT STATEMENT 2014  
AS REQUIRED BY NRS 233B.0608  
PROPOSED AMENDMENT TO NAC 645B and 645E

June 10, 2016

**Background**

Recent amendments to Chapters 645B and 645E of the Nevada Revised Statutes require the amendment of Chapters 645B and 645E of the Nevada Administrative Code to conform with and implement current law.

Accordingly, the Division proposes to amend NAC 645B and NAC 645E to accommodate the changes made in law and Executive Order 2011-01 to ensure regulations are written clearly and concisely, that regulations are not duplicative and unnecessary and that regulations protect the health and welfare of Nevada without unnecessarily burdening business activity. The proposed regulations amend NAC 645B and NAC 645E in the following manner:

- Adopt standards for mortgage brokers and mortgage bankers acting as a mortgage servicer on loans they made or arranged under their mortgage broker or mortgage banker license.
- Provide definitions to clarify the meaning of terms used in the statutes and regulations.
- Set the mortgage agent change of association fee and establish a fee for supervision and related activities.
- Provide language to allow more flexibility for the approval of providers, instructors and course topics for commercial only licensees to meet continuing education requirements.
- Provide clarification of the experience required to obtain a mortgage broker or mortgage banker license.
- To remove or clarify regulation provisions that are duplicative or in conflict with statutory provisions.

To determine whether the proposed regulations would impose a direct and significant economic burden upon small business, the Division sent a copy of the proposed regulations and a solicitation for comments on whether the proposed amendment would have any direct significant impact on small business or would restrict the formation, operation, or expansion of small business through an email notice to its licensees and interested parties. The e-mail included

approximately 341 recipients, and was additionally posted on the Division's website, the State's official website, and at the Division's office.

The Commissioner of Mortgage Lending has determined that the proposed regulation will not impose a significant and direct economic burden upon a small business or restrict the formation, operation or expansion of a small business.

A small business is defined in NRS 233B as a "business conducted for profit which employs fewer than 150 full-time or part-time employees."

This small business impact statement complies with the requirements of NRS 233B.0609.

**1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

The Division sent an email notice to its licensees and interested parties on June 2, 2016, containing the proposed regulation amendments and soliciting comments concerning whether the proposed regulation would:

- (a) Have any direct significant impact upon your business or other small business that is subject to the proposed regulations; or
- (b) Restrict the formation, operation, or expansion of your business or another small business that is subject to the proposed regulations.

The Division received 2 comments, 1 comment relating to minor drafting errors, and 1 concerning the impact of requiring a communication log. It is viewed by the Division that a communication log is required in the normal course of conducting mortgage servicing and any entity in the business of conducting mortgage servicing should have communication log protocols in place. No other comments were received out of the 341 email notices distributed.

Any other person interested in obtaining a copy of the summary may email, call, or mail their request to the Division of Mortgage Lending at:

Division of Mortgage Lending  
7220 Bermuda Road, Suite A  
Las Vegas, Nevada 89119  
Phone: (702) 486-0780  
Email: [MLDInfo@mld.nv.gov](mailto:MLDInfo@mld.nv.gov)

The Division reached out to a variety of stakeholders, including the Nevada Mortgage Lenders Association, the Advisory Council on Mortgage Investments and Mortgage Lending, and current mortgage broker and mortgage banker licensees through the drafting process and discussed proposed amendments to the regulations and possible impact on the industry. Those discussions, comments and suggestions resulted in amendments to the proposed regulations to address the

feedback that had been received. The Division expects to further discuss the proposed regulation's impact at the June 28, 2016 workshop.

**2. The manner in which the analysis was conducted.**

The Division reviewed and considered the comment received in response to the email notice and those comments received during the drafting process.

**3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:**

**a. Both adverse and beneficial effects; and**

The proposed regulation may have a minor adverse economic impact on small business as it will impose an increase of the mortgage agent associate fee and establish and assess costs for supervision at a cost of ½ cent per thousand over \$10,000,000 in loan volume.

Beginning in 2008, and each successive year since, the statutory revenue structure has been insufficient to appropriately fund the Division's ongoing staffing needs and support costs required to carry out its responsibilities. The Division has, accordingly, been instructed to review its statutory revenue structure to ensure that it is sufficient to appropriately fund the staff the Division so that it can effectively and efficiently carry out its statutory responsibilities. Based upon that review, the Division developed the proposed amendments to establish an annual supervision assessment and increase the change of association fee.

**b. Both direct and indirect effects.**

See answer to Question #3(a).

**4. A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.**

To reduce the impact of the proposed regulation on small businesses, the Division conducted an analysis of the fees under its existing licensing programs and those assessed by other licensing jurisdictions, and sought comment from stakeholders in order to establish a fee structure. The Division anticipates further discussion at the workshop.

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

The Division estimates that the proposed regulations will result in minimal cost to the agency for enforcement as it can be incorporated into the agency's existing billing and collection and process as well as being initiated through the National Multi-State Licensing System & Registry.

**6. If the proposed 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.**

Based on an analysis of Fiscal Year 2016-to date revenue for mortgage agent change of association fee, approximately 1,459 change of associations have been processed, resulting in revenue of \$14,590. Based upon the same population, the proposed increase is expected to generate approximately \$72,950 in change of association fees.

Based on an analyses of calendar year 2015 loan volume reported by current mortgage broker and mortgage banker licensees, the implementation of a supervision fee is anticipated to generate approximately \$68,000 annually.

Revenue generated from the proposed regulation would fund the ongoing staffing needs and support costs required to carry out statutory responsibilities.

**7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.**

Not applicable.

**8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.**

Because the statutory revenue structure under the laws administered by the Division has not historically been sufficient to provide adequate staffing and funding for the ongoing staffing needs and support costs required to carry out the responsibilities of the Division, it is necessary for the Division to develop a revenue structure that provides a long-term funding solution. Based upon the Division's review, such a solution cannot be reached without the increased assessment, and resulting impact, on licensees.

Though the regulation will result in an increase in certain fees, based upon the Division's discussions with stakeholders and the responses to the Division request for input statements, the impact on small business is not significant and will not restrict the formation, operation or expansion of a small business.

*I certify that, to the best of my knowledge or belief, the information contained in this statement was prepared properly and is accurate.*

/s/ James Westrin  
James Westrin, Commissioner  
Division of Mortgage Lending