



## SMALL BUSINESS IMPACT STATEMENT

AS REQUIRED BY NRS 233B.0608

PROPOSED AMENDMENT TO NAC 645A

April 27, 2016

### **Background**

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

Accordingly, the Division proposes to amend NAC 645A 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 Nevadans without unnecessarily burdening business activity. The proposed regulations, amend NAC 645A in the following manner:

- Implement the requirement in NRS 645A.195 to define and establish standards for a qualified employee.
- Classify certain background investigation and supervisory records as confidential.
- Establish a procedure for office closure/license surrender to ensure an orderly winding down of operations and to protect consumers in the case of a licensee that is surrendering its license.
- Implement a semi-annual report of a licensee's operations.
- Allow the option to obtain either online or live instruction and provide more flexibility for the approval of providers, instructors and course topics.
- Amend the requirement for submission of annual financial statements.
- To make the necessary amendments and corrections to comply with AB 480.

To determine whether the proposed regulation would impose a direct and significant economic burden upon small business, the Division sent a copy of the proposed regulation and a solicitation for comments on whether the proposed amendment would have any direct and significant impact on small business or would restrict the formation, operation, or expansion of small business through an e-mail notice to its licensees under NRS 645A. The e-mail included

approximately 19 recipients, including licensees and pending applicants, 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 do 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 e-mail notice to its licensees under NRS 645A, 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 NRS 645A; or
- (b) Restrict the formation, operation, or expansion of your business or another small business that is subject to AB 480.

The Division received one comment concerning the possible impact of the regulation relating to reporting requirements. The comment questioned whether replacing the requirement of filing a quarterly Activity Report in lieu of an audited annual financial statement was a prudent decision considering transactions handled by NRS 645A licensees typically were in the hundreds of thousands of dollars, if not more. As structured, the revised regulation eliminates the submission of audited financial statements from certain licensees and expands the reviewed financial statement requirement to all licensees, with the addition of the submission of semi-annual Activity Reports to assist in ensuring compliance and providing appropriate supervision to protect consumers.

Any other person interested in obtaining a copy of the summary may e-mail, 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  
E-mail: [MLDInfo@mld.nv.gov](mailto:MLDInfo@mld.nv.gov)

The Division also reached out to stakeholders with the introduction of AB 480 and discussed provisions within the bill and possible impact on the industry. Those discussions, comments and

suggestions resulted in amendments to AB 480 to address the feedback that had been received. Additionally, through the drafting of the proposed regulations, the Division reached out to stakeholders on several occasions, including an e-mail on March 30, 2016 and a conference call on April 18, 2016, soliciting comments and suggestions. The Division expects to further discuss the proposed regulation's impact at the May 18, 2016 workshop.

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

The Division reviewed and considered the comments received in response to the e-mail notice and those comments received concerning AB 480 as introduced.

**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 does not have an adverse economic impact on small business. The proposed regulation lessens the financial burden on small business by eliminating the requirement for the submission of audited financial statements and implements the requirement of semi-annual reports and reviewed financial statements to ensure compliance and appropriate supervision to protect consumers, and amends educational requirements to provide more flexibility for course topics and allows for online instruction.

**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 worked closely with stakeholders and considered their comments and suggestions. Eliminating the requirement for the submission of audited financial statements from certain licensees and expanding the reviewed financial statements requirement to all licensees, reduces annual costs to the industry by thousands of dollars. Industry concurred the submission of semi-annual reports, would not cause the industry to incur any additional expenses. The Division anticipates further discussion at the workshop.

**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.

- 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.**

Not applicable. The proposed regulation does not provide for a new fee or an increase of any existing fee.

- 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.**

The Division reviewed and considered the comments received in response to its solicitation and during the legislative hearings concerning AB 480.

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

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