



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF MORTGAGE LENDING
7220 Bermuda Road, Suite A
Las Vegas, Nevada 89119
(702) 486-0780 Fax (702) 486-0785
www.mld.nv.gov

BRUCE BRESLOW
Director

JAMES WESTRIN
Commissioner

Date: December 21, 2015 **MLD MEMO No. 2015-003**

To: Mortgage Servicers and Supplemental Mortgage Servicers

From: Division of Mortgage Lending

Re: Implementation of Mortgage Servicer Licensing Program and Frequently Asked Questions

The Adoption Hearing for Regulation R120-15 (the "Regulation"), implementing Assembly Bill 480 (2015) ("AB 480"), which amends the Nevada Mortgage Lending and Related Professions Act ("Act"), NRS 645F.010 *et seq.*, to require licensing and supervision of mortgage servicers in Nevada, is scheduled for Monday, December 21, 2015. A copy of the Regulation and adoption hearing notice may be obtained on the Division's Website under "MLD Updates." The Division will begin accepting mortgage servicer or supplemental mortgage servicer license applications through the Nationwide Multistate Licensing System ("NMLS") as soon as the Regulation is adopted and approved. Monitor the Division's website for posting of notice that the Division has begun accepting applications. Once the Division begins accepting applications, a person requiring licensure under the Act will have a 30 day period to submit a completed application. If the person submits a completed license application, they may continue to operate while the license application is being processed, subject to all other requirements of the Act and Regulation. There are three categories of applicants and the category that a person falls under will determine its application process. Below is a description and general instructions for each.

1. Mortgage Servicer License

A person that services mortgage loans that is not currently licensed with the Division as a Mortgage Broker, Mortgage Banker, or Escrow Agency should go to the NMLS and submit an application for a Nevada Mortgage Servicer License. Refer to the Nevada Mortgage Servicer License Description and New Mortgage Servicer License Application Checklist for more details concerning the licensing requirements and how to make application.

2. Supplemental Mortgage Servicer

A person that is currently licensed with the Division as a Mortgage Broker or Mortgage Banker and acts as a servicer in connection with mortgage loans that it did not make or arrange under its mortgage broker or mortgage banker license, should go to the NMLS and submit an application for a Nevada Supplemental Mortgage Servicer License. Refer to the Nevada Supplemental Mortgage Servicer License Description and New Supplemental Mortgage Servicer License Application Checklist for more details concerning the licensing requirements and how to make application.

NOTE: If the person only acts as a servicer on loans that he or she made or arranged under their mortgage broker or mortgage banker license, a license is not required under the Act.

3. Mortgage Servicer License – Escrow Agency Transition

A person that is currently licensed with the Division as an Escrow Agency that services mortgage loans pursuant to that license and would like to continue to service mortgage loans, should go to NMLS and submit application for a Nevada Mortgage Servicer License. Refer to the Nevada Mortgage Servicer License Description and New Mortgage Servicer License Application Checklist for more details concerning the licensing requirements and how to make application. The escrow agency will be able to transition to a mortgage servicer license without a new license fee or background investigation, but must meet all other requirements (*e.g.*, surety bond, financial statement, minimum net worth, etc.). If the company engages in other escrow services related to Nevada situated real or personal property, it should retain its escrow license under NRS 645A to continue to perform those services. If the company only acts as a servicer under its escrow agency license, it may surrender the escrow agency license by submitting the closure form with all required attachments. Escrow Agencies should contact the Licensing Office, at (775) 684-7060, with any questions, and further instructions, concerning transitioning their current license.

Frequently Asked Questions

The following are answers to several frequently asked questions concerning AB 480 and the Regulation.

1. *If I submit my license application within the 30 day period, can I continue to service mortgage loans in Nevada while my application is pending?*

Yes. If a person submits a completed application to the Division within the 30 day period, the Division will not consider the continued servicing to be unlicensed activity while the application is being processed and reviewed. However, effective January 1, 2016, a mortgage servicer will be subject to all other requirements and obligations of the Act and Regulation.

Additionally, a person who is required to be licensed as a mortgage servicer and fails to submit an application within the 30 day period may be subject to administrative discipline.

2. *Is an in-state office required to obtain a mortgage servicer license?*

No, a mortgage servicer is not required to have an office location in Nevada. A mortgage servicer must license their corporate/principal office and, with its application for licensure, provide the Division with a list and other information concerning any branch locations they may conduct mortgage servicing activity from.

3. *What is a mortgage servicer and who needs a license?*

A mortgage servicer is defined by § 86.2 of AB 480 (2015) to include:

- a. Any person, whether acting as the current owner of the promissory note or as the authorized agent of the current owner of a promissory note, who:

- i. directly services a mortgage loan secured by real property located in Nevada; or
 - ii. is responsible for interacting with a borrower or managing a Nevada mortgage loan account on a daily basis (*e.g.*, collecting and crediting periodic loan payment, managing any escrow account), or enforcing the note and security instrument.
- b. A person providing the above services by contract as a subservicing agent to a master servicer by contract.

Any person that conducts any of the activities described above must apply for and obtain a mortgage servicer license, unless the person is otherwise exempt under Chapter 645F of the Nevada Revised Statutes, as amended by § 86.7 of AB 480 (2015).

4. *Is a mortgage service license required to service mortgage loans secured by commercial property?*

It depends. The Act defines “mortgage servicer” to include any person servicing a *mortgage loan*. The Regulation interprets and defines *mortgage loan* to include (1) a loan secured by a dwelling located in this state, or (2) any loan secured by commercial property located in this state if that loan was made or arranged by a mortgage broker under NRS 645B and is funded by one or more private investors.

Accordingly, unless a person services a loan secured by commercial property that was made or arranged by a mortgage broker under NRS 645B and funded by one or more private investors, a mortgage servicer license is not required under the Act to service loans secured by commercial property.

“*Dwelling*” is defined in § 9 of the Regulation, “*commercial property*” is defined in NRS 645E.040, and “*private investor*” is defined in NRS 645B.01305.

5. *If I only hold servicing rights, am I required to obtain a mortgage servicer license?*

The mortgage servicer licensing requirements are only triggered if a person engages in the activity described in question no. 3. If a person only holds the servicing rights and does not engage in any activity described in question no. 3, a mortgage servicer license is not required.