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Date: January 21, 2016 **MLD MEMO No. 2016-001**

To: Mortgage Servicers and Supplemental Mortgage Servicers

From: Division of Mortgage Lending

Re: **REMINDER** -- Mortgage Servicer License Application Submission Deadline & Updated Frequently Asked Questions

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The Division began accepting mortgage servicer and supplemental mortgage servicer license applications through the Nationwide Multistate Licensing System (“NMLS”) on December 29, 2015.

As indicated in the Division’s December 21, 2015 implementation notice concerning Assembly Bill 480 (2015) (“AB 480”) and its implementing regulation (R120-15) (the “Regulation”), a person requiring licensure as a mortgage servicer or supplemental mortgage servicer has until January 31, 2016 to submit application for such license. If the person submits a completed application by January 31, 2016, they may continue to operate while the license application is being processed, subject to all other requirements of AB 480 and the Regulation.

A copy of AB 480, R120-15 and the December 21, 2015 memo can be obtained under MLD Updates on the Division’s website at [www.mld.nv.gov](http://www.mld.nv.gov).

### **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 by the January 31, 2016 deadline, may I continue to service mortgage loans in Nevada while my application is pending?***

Yes. If a person submits a completed application to the Division by January 31, 2016, 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 by January 31, 2016 may be subject to administrative discipline.

**2. *I was registered as a Mortgage Loan Servicer pursuant to NRS 645F.265. May I retain the registration and not license as a mortgage servicer?***

No. The registration provision contained in NRS 645F.265 was repealed by § 102 of AB 480 and replaced by the licensing requirements. Any person that was previously registered under the repealed provision that acts as a mortgage servicer must obtain appropriate licensure.

**3. *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.

**4. *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).

**5. *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.

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

No. The mortgage servicer licensing requirements are only triggered if a person (1) directly services a mortgage loan secured by real property located in Nevada, or (2) is responsible for interacting with a borrower or managing a Nevada mortgage loan account on a daily basis or enforcing the note and security instrument. If a person only holds or obtains the servicing rights and does not engage in the above-described activity, a mortgage servicer license is not required.

**7. *The Nevada Mortgage Servicer License New Application Checklist (Company) in the NMLS requires submission of a business plan outlining the applicant's marketing strategies, products, target markets, fee schedule, operating structure the applicant intends to employ; and description of servicing business must be uploaded. What is meant by fee schedule?***

A fee schedule means a complete and current schedule of the ranges of costs and fees that the mortgage servicer or supplemental mortgage servicer charges a borrower for its servicing-related activities. *See*, Section 37(2)(d) of the Regulation.