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LCB File No. R119-19

Agency: Department of Business & Industry,  
Division of Mortgage Lending

FOR EMERGENCY  
REGULATIONS ONLY

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Governor's signature

Classification: ☐ PROPOSED ☒ ADOPTED BY AGENCY ☐ EMERGENCY

**Brief description of action:** To conform with and implement certain legislative mandates as amended in the law governing the licensing and occupations of professions in Nevada (which include mortgage brokers, mortgage agents, and mortgage bankers, subject to the Division's jurisdiction under NRS 645B and NRS 645E), as enacted by the Assembly Bill 468 ("AB 468") of the 79<sup>th</sup> Session (2017) of the Nevada Legislature.

Assembly Bill 468 was approved on June 8, 2017. NRS 645B and NRS 645E have been in effect as of January 1, 2020. The adopted regulations (1) amend the terms mortgage broker and mortgage bankers and adds the new term "mortgage company", (2) amend the term mortgage agent to the term "mortgage loan originator", (3) revises the provisions of existing law that applied primarily to the mortgage brokers to apply to mortgage companies instead, and (4) repeals as redundant provisions of law that applied to mortgage bankers. The existing regulations for NAC 645B change the terms mortgage broker and mortgage bankers to mortgage company or mortgage agent to mortgage loan originators. The existing regulations for NAC 645A change the term mortgage broker to mortgage company or mortgage agent to mortgage loan originators. The existing regulations for NAC 645F change the terms mortgage broker and mortgage banker to mortgage company or mortgage agent to mortgage loan originators. Repealing the existing regulations of NAC 645B.045, NAC 645B.0665 and NAC 645E as redundant.

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*(Administrative Regulations) LCB File No. R119-19*

*NRS 645B & NRS 465E*

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**Authority citation other than NRS 233B:** Assembly Bill 468 adopted into law during the 79<sup>th</sup> Session (2017) of the Nevada Legislature; §1, NRS 645A.050; §§ 2, 4, 7,8, 11,15,17,19, 24-26, 40,42,43,47,and 67, NRS 645B.060; § § 3 and 51-54, NRS 645B.0137, 645B.0138, 645B.060, 645F.292 and 645F.293; § 5, NRS 645B.060 and 645B.700; § 6, NRS 645B.021 and 645B.060; § 9, NRS 645B.060, 645B.175, 645B.185 and 645B.300; § § 10 and 16, NRS 645B.020 and 645B.060; §§ 12, 23 and 55, NRS 645B.060, 645F.292 and 645F.293; §§ 13and 14, NRS 645B.020, 645B.060, 645F.292 and 645F.293; § 18, NRS 645B.060, 645F.255 and 645F.520; § 20, NRS 645B.021, 645B.060, 645F.292 and 645F.293; § 21, NRS 645B.060, 645B.095, 645F.292 and 645F.293; § 22, NRS 645B.050, 645B.060 and 645F.280; § 27, NRS 645B.60 and 645B.090; §§ 28-31 and 38, NRS 645B.060 and 645B.080; § 32, NRS 645B.060 and 645B.115; §§ 33-35, NRS 645B.060, 645B.080, 645B.085 and 645B.175; § 36, NRS 645B.060, 645B.080 and 645B.175; § 37, NRS 645B.060, 645B.185 and 645B.186; § 39, NRS 645B.060 and 645B.185; § 41, NRS 645B.060, 645B.189, 645F.292 and 645F.293; §§ 44 and 45, NRS 645B.060 and 645B.330; § 46, NRS 645B.060, 645B.410, 645B.450, 645F.292 and 645F.293; § 48, NRS 645B.060 and 645B.430; § 49, NRS 645B.060 and 645B.460; § 50, NRS 645B.0137, 645B.0138, 645B.060, 645B.430, 645F.292 and 645F.293; § 56, NRS 645B.060, 645B.670, 645F.292 and 645F.293; §§ 57 and 58, NRS 645F.255 and 645F.390; §§ 59-63, NRS 645F.255 and 645F.520; §§ 64-66, NRS 622.530 and 645B.060.

**Notice date:** December 6, 2022

**Date of Adoption by Agency:**

**Hearing date:** January 18, 2023

September 11, 2023

**APPROVED REGULATION OF THE  
COMMISSIONER OF MORTGAGE LENDING**

**LCB File No. R119-19**

Filed November 9, 2023

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: § 1, NRS 645A.050; §§ 2, 4, 7, 8, 11, 15, 17, 19, 24-26, 40, 42, 43, 47 and 67, NRS 645B.060; §§ 3 and 51-54, NRS 645B.0137, 645B.0138, 645B.060, 645F.292 and 645F.293; § 5, NRS 645B.060 and 645B.700; § 6, NRS 645B.021 and 645B.060; § 9, NRS 645B.060, 645B.175, 645B.185 and 645B.300; §§ 10 and 16, NRS 645B.020 and 645B.060; §§ 12, 23 and 55, NRS 645B.060, 645F.292 and 645F.293; §§ 13 and 14, NRS 645B.020, 645B.060, 645F.292 and 645F.293; § 18, NRS 645B.060, 645F.255 and 645F.520; § 20, NRS 645B.021, 645B.060, 645F.292 and 645F.293; § 21, NRS 645B.060, 645B.095, 645F.292 and 645F.293; § 22, NRS 645B.050, 645B.060 and 645F.280; § 27, NRS 645B.060 and 645B.090; §§ 28-31 and 38, NRS 645B.060 and 645B.080; § 32, NRS 645B.060 and 645B.115; §§ 33-35, NRS 645B.060, 645B.080, 645B.085 and 645B.175; § 36, NRS 645B.060, 645B.080 and 645B.175; § 37, NRS 645B.060, 645B.185 and 645B.186; § 39, NRS 645B.060 and 645B.185; § 41, NRS 645B.060, 645B.189, 645F.292 and 645F.293; §§ 44 and 45, NRS 645B.060 and 645B.330; § 46, NRS 645B.060, 645B.410, 645B.450, 645F.292 and 645F.293; § 48, NRS 645B.060 and 645B.430; § 49, NRS 645B.060 and 645B.460; § 50, NRS 645B.0137, 645B.0138, 645B.060, 645B.430, 645F.292 and 645F.293; § 56, NRS 645B.060, 645B.670, 645F.292 and 645F.293; §§ 57 and 58, NRS 645F.255 and 645F.390; §§ 59-63, NRS 645F.255 and 645F.520; §§ 64-66, NRS 622.530 and 645B.060.

A REGULATION relating to mortgage lending; revising certain provisions that apply to mortgage brokers to apply instead to mortgage companies; revising the terms that identify mortgage agents, mortgage bankers and mortgage brokers; repealing certain redundant provisions that apply to mortgage bankers; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Before January 1, 2020, existing law distinguished between mortgage brokers and mortgage bankers and required the Commissioner of Mortgage Lending to license and regulate

mortgage brokers and mortgage bankers separately. (Chapters 645B and 645E of NRS) Assembly Bill No. 468 (A. B. 468), as enacted by the Nevada Legislature during the 2017 Session, eliminated this distinction by: (1) including both mortgage brokers and mortgage bankers in a new term, "mortgage company"; (2) revising the provisions of existing law that applied exclusively to mortgage brokers so that those provisions apply instead to mortgage companies; and (3) repealing as redundant the provisions of law that applied exclusively to mortgage bankers. A.B. 468 also replaced the term "mortgage agent" with the term "mortgage loan originator." (Chapter 486, Statutes of Nevada 2017, at pp. 3034-3106) **Sections 2-59 and 64-67** of this regulation make comparable changes to existing regulations. **Sections 1 and 57-63** of this regulation make other conforming changes.

**Section 1.** NAC 645A.230 is hereby amended to read as follows:

645A.230 1. If an escrow agency, escrow agent, relative of an escrow agent or a company related to or affiliated with the escrow agency or the escrow agent is a principal to an escrow transaction or is acting or has acted as a contractor, mortgage ~~broker,~~ *company*, mortgage ~~agent,~~ *loan originator*, loan modification consultant, foreclosure consultant, covered service provider, real estate broker or real estate salesperson in relation to an escrow transaction, the escrow agency or escrow agent must, before being employed as the escrow agency or escrow agent in connection with the transaction, disclose in writing to all parties to the escrow transaction that relationship or affiliation. The disclosure must be printed in at least 12-point bold type on a form prescribed by the Division.

2. For purposes of this section, "relative" means a spouse or any other person who is related by blood, adoption or marriage, within the second degree of consanguinity or affinity.

**Sec. 2.** NAC 645B.002 is hereby amended to read as follows:

645B.002 1. "Affiliated business" means a business which a mortgage ~~broker,~~ *company* or any control person or employee of the mortgage ~~broker,~~ *company*:

(a) Directly or indirectly owns or controls a controlling interest of the business;



(b) Is a partner, officer, director or trustee of the business; or

(c) Conducts the operation of the business.

2. As used in this section, "controlling interest" means a majority of the voting stock of a business or any other interest in a business that gives the holder of the interest the power to direct the management or to determine the policy of the business.

Sec. 3. NAC 645B.0025 is hereby amended to read as follows:

645B.0025 1. "Approved course" means, for a mortgage ~~broker~~ *company* or mortgage ~~agent~~ *loan originator* who:

(a) Is required to register or voluntarily registers with the Registry, a course of education that has been reviewed and approved by the Registry.

(b) Pursuant to NRS 645F.267, is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry, any certified course of continuing education which is reviewed, approved or offered by or through a federal or state governmental agency, a self-regulatory organization or a professional organization for prelicensing or continuing education.

2. For the purposes of this section, "reviewed and approved by the Registry" includes, without limitation, the review and approval by the Registry of the provider of the course.

Sec. 4. NAC 645B.0026 is hereby amended to read as follows:

645B.0026 "Commercial property" has the meaning ascribed to it in NRS ~~645E.040.~~  
*645B.01047.*

Sec. 5. NAC 645B.004 is hereby amended to read as follows:

645B.004 “Major violation” means a violation of the provisions of this chapter or chapter 645B of NRS:

1. Which causes substantial loss or harm to any person or which, in the opinion of the Commissioner, could have caused substantial loss or harm to any person;
2. For which the Commissioner has taken disciplinary action repeatedly, except a violation for the late filing of required reports, financial statements or fees that the Commissioner considers to be a minor violation; or
3. Which, in the opinion of the Commissioner, was the result of willful misconduct or indifference to the obligations of the mortgage ~~{broker}~~ company pursuant to this chapter or chapter 645B of NRS.

**Sec. 6.** NAC 645B.008 is hereby amended to read as follows:

645B.008 “Qualified employee” means a natural person who is designated by a mortgage ~~{broker}~~ company to act on behalf of the mortgage ~~{broker}~~ company and who is approved by the Commissioner pursuant to NAC 645B.055.

**Sec. 7.** NAC 645B.0085 is hereby amended to read as follows:

645B.0085 As used in this chapter and chapter 645B of NRS, the Commissioner will interpret the term “commercial loan” to have the meaning ascribed to “commercial mortgage loan” in NRS ~~{645E.030.}~~ 645B.01043.

**Sec. 8.** NAC 645B.0086 is hereby amended to read as follows:

645B.0086 For the purposes of subparagraph (1) of paragraph (b) of subsection 1 of NRS 645B.670, “insolvent” is interpreted to mean that the liabilities of a mortgage ~~{broker}~~ company

exceed his or her assets, as calculated by the Commissioner in accordance with generally accepted accounting principles, and the calculation:

1. Must exclude any intangible and any amount receivable by the mortgage ~~{broker}~~ *company* that is related to the intangible; and
2. May exclude any shareholder debt that is subordinated.

Sec. 9. NAC 645B.009 is hereby amended to read as follows:

645B.009 1. The Commissioner will not consider escrow instructions to have been “approved by the parties” within the meaning of subparagraph (2) of paragraph (a) of subsection 1 of NRS 645B.175 if the instructions:

(a) Are signed by the mortgage ~~{broker}~~ *company* as attorney-in-fact for any investor with an interest in the loan; and

(b) Direct that all money relating to the transaction, except money for charges or fees due the mortgage ~~{broker,}~~ *company*, be paid to an owner, partner, director, officer, manager, member or employee of the mortgage ~~{broker}~~ *company* or a relative of an owner, partner, director, officer, manager, member or employee of the mortgage ~~{broker,}~~ *company*.

2. The Commissioner will consider “money paid to a mortgage ~~{broker}~~ *company* and his or her mortgage ~~{agents}~~ *loan originators* by a person in full or in partial payment of a loan” within the meaning of subsection 4 of NRS 645B.175 to include money paid to a mortgage ~~{broker}~~ *company* or his or her mortgage ~~{agents}~~ *loan originators* by a person pursuant to written escrow instructions if the payment represents money paid in full or in partial repayment of a loan secured by a lien on real property.



3. The Commissioner will consider a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* to “accept money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property” within the meaning of NRS 645B.185 and 645B.300 if the mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator*:

(a) Receives money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property; or

(b) Arranges for the investor to pay money to a third party to invest in a loan secured by a lien on real property.

**Sec. 10** NAC 645B.016 is hereby amended to read as follows:

645B.016 1. An applicant for a license as a mortgage ~~{broker}~~ *company* must have, within the 5 years immediately preceding the date of his or her application, at least 2 years of verifiable experience in the business of lending money for real estate or mortgages.

2. As used in this section, “verifiable experience in the business of lending money for real estate or mortgages” means compensated experience engaging in:

- (a) The activities of a mortgage ~~{agent}~~ *loan originator*;
- (b) Supervising the activities of one or more mortgage ~~{agents}~~ *loan originators*;
- (c) Underwriting or processing mortgage loans;
- (d) Making loans secured by real property; or
- (e) Any other experience determined to be relevant by the Commissioner.

**Sec. 11.** NAC 645B.0165 is hereby amended to read as follows:

645B.0165 1. Pursuant to subsection 3 of NRS 645B.020, the Commissioner will not issue a license as a mortgage ~~broker~~ company unless the requirements of that subsection have been fulfilled.

2. For the purposes of subparagraph (1) of paragraph (b) of subsection 3 of NRS 645B.020, factors considered in determining whether a person has demonstrated financial responsibility include, without limitation:

(a) Whether the person's personal credit history indicates any adverse material items, including, without limitation, liens, judgments, disciplinary action, bankruptcies, foreclosures or failures to comply with court-approved payment plans;

(b) The circumstances surrounding any adverse material items in the person's personal credit history; and

(c) Any instance of fraud, misrepresentation, dishonest business practices, the mishandling of trust funds or other types of comparable behavior.

3. For the purposes of subparagraph (2) of paragraph (b) of subsection 3 of NRS 645B.020, the Commissioner will not consider a person to have been convicted or entered a plea of guilty or nolo contendere if the conviction or plea has been pardoned or vacated.

4. For the purposes of subparagraph (4) of paragraph (b) of subsection 3 of NRS 645B.020, a license shall not be considered to be revoked or suspended if the revocation or suspension was subsequently vacated.

**Sec. 12.** NAC 645B.017 is hereby amended to read as follows:

645B.017 A person does not hold himself or herself out as being able to perform the services described in NRS 645B.0127 if the person:



1. Is in compliance with the S.A.F.E. Mortgage Licensing Act and any regulations adopted pursuant thereto; and

2. Only offers to provide money in the secondary mortgage market to acquire or invest in loans secured by an interest in real property to:

- (a) A mortgage ~~broker~~ company licensed pursuant to chapter 645B of NRS; or
- (b) A person exempt from the provisions of chapter 645B of NRS.

**Sec. 13.** NAC 645B.020 is hereby amended to read as follows:

645B.020 1. An applicant must submit with his or her application for a license as a mortgage ~~broker~~ company pursuant to chapter 645B of NRS:

(a) A copy of the applicant's state business license, when applicable, the applicant's application for such a license if the applicant has not obtained one or evidence that the applicant is exempt from the requirement to obtain a state business license.

(b) If the applicant intends to operate under an assumed or fictitious name, a copy of the certificate filed by the applicant pursuant to chapter 602 of NRS indicating the assumed or fictitious name of the applicant. An applicant may not use more than one assumed or fictitious name.

(c) If the applicant is not a natural person, a copy of the documents that formed the applicant and its operating documents and any amendments thereto.

(d) Evidence that the applicant has met the requirements imposed by the S.A.F.E. Mortgage Licensing Act.

(e) A current electronic mail address for the applicant or the person designated by the applicant for contact with regulators.

(f) The name of each mortgage ~~agent~~ *loan originator* who will be employed by the applicant at the location.

2. If an applicant has received a letter of conditional approval of his or her application from the Division which imposes additional requirements that the applicant must satisfy to obtain a license, the applicant must comply with those requirements within 30 days after the date on which the letter was issued by the Division. If the applicant does not satisfy all additional requirements set forth in the letter within the period prescribed in this subsection, the conditional approval of the application will be deemed to have expired and the applicant must reapply to obtain a license. The Commissioner may, for good cause, extend the 30-day period prescribed in this subsection.

3. An application shall be deemed abandoned if the applicant fails to respond, within 30 calendar days after the date of the request or on or before a later date set by the Commissioner, to any written request by the Division for information or records required in connection with the investigation and evaluation of the qualifications and suitability for licensure of the applicant, its qualified employee or, if applicable, its control persons.

**Sec. 14.** NAC 645B.030 is hereby amended to read as follows:

645B.030 1. An applicant must submit with his or her application for a license for a branch office:

(a) The name, residence address and telephone number of the qualified employee designated to manage and supervise the branch office;

(b) The name of each mortgage ~~agent~~ *loan originator* who intends to work at the branch office; and

(c) Evidence that the applicant has met the requirements imposed by the S.A.F.E. Mortgage Licensing Act, if applicable.

2. A license for a branch office may be issued only in the name in which the mortgage ~~{broker,}~~ *company* is licensed to conduct business at his or her principal office.

3. A mortgage ~~{broker,}~~ *company* is responsible for and shall supervise:

(a) Each branch office of the mortgage ~~{broker,}~~ *company*; and

(b) Each qualified employee, mortgage ~~{agent,}~~ *loan originator* and other staff member employed at a branch office of the mortgage ~~{broker,}~~ *company*.

4. If an applicant has received from the Division a letter of conditional approval of his or her application for a license for a branch office which imposes additional requirements that the applicant must satisfy to obtain a license for a branch office, the applicant must comply with those requirements within 30 days after the date on which the Division issued the letter. If the applicant does not satisfy all additional requirements set forth in the letter within the period prescribed in this subsection, the conditional approval of the application shall be deemed to have expired and the applicant must reapply to obtain a license for a branch office. The Commissioner may, for good cause, extend the 30-day period prescribed in this subsection.

5. An application for a license for a branch office shall be deemed abandoned if the applicant fails to respond, within 30 calendar days of the date after the request or on or before a later date set by the Commissioner, to any written request by the Division for information or records required in connection with the investigation and evaluation of the qualifications and suitability for licensure of the applicant, its qualified employee or, if applicable, its control persons.



**Sec. 15.** NAC 645B.032 is hereby amended to read as follows:

645B.032 1. Except as otherwise provided in subsection 2, a mortgage ~~{broker}~~ company may share office space with any other business if each business has a designated space within the office space and each business is separately identifiable by a sign or other method of identification within the office space.

2. A mortgage ~~{broker}~~ company may share office space with a business licensed pursuant to chapter 645 of NRS if:

- (a) Each business has separate and distinct office space and signs such that a reasonable customer would understand which business he or she is transacting with at all times;
- (b) Each business operates as a separate legal entity;
- (c) Each business maintains separate accounts, books and records;
- (d) Each business maintains separate licenses; and
- (e) The businesses are subsidiaries of the same parent corporation or are otherwise affiliated businesses.

**Sec. 16.** NAC 645B.035 is hereby amended to read as follows:

645B.035 1. A mortgage ~~{broker}~~ company shall not conduct business using a fictitious name unless the mortgage ~~{broker}~~ company:

- (a) Complies with chapter 602 of NRS;
- (b) Files with the Division a certified copy, issued by the appropriate county clerk, of the certificate filed by the mortgage ~~{broker}~~ company pursuant to chapter 602 of NRS; and
- (c) Receives from the Division a license or certificate of exemption indicating the fictitious name.

2. If a mortgage ~~{broker}~~ *company* conducts business using a fictitious name pursuant to this section, the mortgage ~~{broker}~~ *company* may conduct business using a new fictitious name only if the mortgage ~~{broker:}~~ *company*:

(a) Obtains a certified copy, issued by the appropriate county clerk, of the certificate filed by the mortgage ~~{broker}~~ *company* pursuant to chapter 602 of NRS indicating the new fictitious name;

(b) Files with the Division, not later than 10 calendar days after obtaining the certified copy pursuant to paragraph (a):

(1) The certified copy obtained pursuant to paragraph (a); and

(2) The current license or certificate of exemption of the mortgage ~~{broker:}~~ *company*; and

(c) Receives from the Division an amended license or certificate of exemption indicating the new fictitious name.

3. A mortgage ~~{broker}~~ *company* may conduct business using more than one fictitious name only if the mortgage ~~{broker}~~ *company* obtains a separate license issued pursuant to chapter 645B of NRS for each fictitious name under which he or she intends to do business. A mortgage ~~{broker}~~ *company* who conducts business in this State using more than one fictitious name is responsible for the conduct of each qualified employee, mortgage ~~{agent}~~ *loan originator* and other employee associated with the mortgage ~~{broker}~~ *company* regardless of the license or name under which the conduct takes place.

**Sec. 17.** NAC 645B.037 is hereby amended to read as follows:



645B.037 1. The Commissioner will not issue a license or certificate of exemption with a name that is the same as or confusingly similar to a name on a license or certificate of exemption previously issued by the Commissioner.

2. A mortgage ~~broker~~ company shall not advertise or conduct business as a mortgage ~~broker~~ company using a name other than the name approved by the Commissioner and indicated on the license or certificate of exemption issued by the Commissioner to the mortgage ~~broker~~ company.

3. Each mortgage ~~broker~~ company shall conspicuously display each license issued to the mortgage ~~broker~~ company pursuant to chapter 645B of NRS at the address of the office location which is identified on the license.

Sec. 18. NAC 645B.0375 is hereby amended to read as follows:

645B.0375 1. In addition to any other duty imposed by this chapter or chapter 645B of NRS or any other applicable law, a mortgage ~~broker~~ company who acts as a mortgage servicer in connection with one or more mortgage loans which the mortgage ~~broker~~ company made or arranged under his or her license as a mortgage ~~broker~~ company:

(a) Has a duty of good faith and fair dealing in the communications, transactions and course of dealings of the mortgage ~~broker~~ company with each borrower in connection with the servicing of the mortgage loan of the borrower;

(b) Shall:

(1) Safeguard and account for any money handled for the borrower and, if applicable, investor;

(2) Follow reasonable and lawful instructions from the borrower and, if applicable, investor;

(3) Act with reasonable skill, care and diligence;

(4) Comply with all applicable federal laws and regulations relating to mortgage servicing, including, without limitation, the Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 et seq., and the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and any regulations adopted pursuant thereto;

(5) File annually with the Commissioner a complete schedule of the ranges of costs and fees charged to a borrower by the mortgage ~~{broker}~~ company for the activities of the mortgage ~~{broker}~~ company relating to mortgage servicing; and

(6) File quarterly, directly with the Commissioner or through the Registry to the Commissioner, on a date and in a form prescribed by the Commissioner, a report of the mortgage servicing activity that the mortgage ~~{broker}~~ company performs in this State on loans that the mortgage ~~{broker}~~ company made or arranged under his or her license as a mortgage ~~{broker}~~ company issued pursuant to chapter 645B of NRS, which must include, without limitation:

(I) The total number of mortgage loans serviced by the mortgage ~~{broker}~~ company;

(II) The total dollar amount of mortgage loans serviced by the mortgage ~~{broker}~~ company;

(III) The types and characteristics of mortgage loans serviced by the mortgage ~~{broker}~~ company and

(IV) Any other information required by the Commissioner; and

(c) Shall not:

(1) Transfer the servicing of a mortgage loan to another person unless the person holds a license as a mortgage servicer or is a person exempt from licensing as a mortgage servicer pursuant to chapter 645F of NRS and chapter 645F of NAC;

(2) Directly or indirectly employ any scheme, device or artifice to defraud or mislead a borrower or investor or to defraud any person;

(3) Fail to apply mortgage loan payments in accordance with a servicing agreement or the terms of a note; or

(4) Fail to properly apply payments to an escrow account, fail to place in a trust or escrow account held by a federally insured depository financial institution all money that is received by the mortgage ~~broker~~ company from the borrower or fail to account for all money received or disbursed for a trust or escrow account.

2. In addition to any other remedies provided by law, a violation of any applicable federal laws or regulations relating to mortgage servicing shall be deemed to be a violation of this section and a basis for the imposition of disciplinary action by the Commissioner pursuant to this chapter and chapter 645B of NRS.

3. As used in this section, "mortgage servicer" has the meaning ascribed to it in NRS 645F.063.

**Sec. 19.** NAC 645B.038 is hereby amended to read as follows:

645B.038 1. Insider loans made or arranged by a mortgage ~~broker~~ company are subject to the following limitations and conditions:

(a) The lending limit must not exceed 25 percent of the total dollar amount of the outstanding balances of investor-funded loans which were made or arranged by the mortgage ~~broker~~



*company* or 100 percent of the mortgage ~~{broker's}~~ *company's* net worth as described in NAC 645B.095, whichever is greater.

(b) A private investor who provides money to invest in an insider loan may not waive the provisions of subsection 1 of NAC 645B.080.

(c) The mortgage ~~{broker}~~ *company* shall specifically identify on each monthly report required by NRS 645B.080 any insider loan made by the mortgage ~~{broker.}~~ *company*.

2. As used in this section:

(a) "Insider" means a control person, mortgage ~~{agent}~~ *loan originator* or employee of a mortgage ~~{broker.}~~ *company*.

(b) "Insider loan" means an extension of credit to an insider. For purposes of this paragraph, "extension of credit" includes, without limitation, a new loan or a loan renewal, a line of credit or any other financial right structured in any manner and arranged by a mortgage ~~{broker}~~ *company* as a means for the borrower to defer payment on an existing debt or to incur a debt and defer immediate payment.

(c) "Lending limit" means the maximum dollar amount permitted for the aggregate of insider loans arranged by a mortgage ~~{broker.}~~ *company*.

Sec. 20. NAC 645B.055 is hereby amended to read as follows:

645B.055 1. Every person, other than a natural person, doing business as a mortgage ~~{broker}~~ *company* in this State shall designate a natural person as a qualified employee who may, upon approval of the Commissioner, act on behalf of the mortgage ~~{broker.}~~ *company*.

2. The Commissioner will approve the qualified employee designated pursuant to subsection 1 if the qualified employee is a natural person who:

- (a) Is licensed in good standing as a mortgage ~~{agent;}~~ *loan originator*;
- (b) Is designated by a mortgage ~~{broker}~~ *company* to act on behalf of the mortgage ~~{broker}~~ *company* and to supervise the conduct of the business of the mortgage ~~{broker}~~ *company* and the mortgage ~~{agents}~~ *loan originators* and other staff members employed by the mortgage ~~{broker}~~ *company* at the licensed office location;
- (c) Will be present at the licensed office location for which he or she is the qualified employee the majority of the time that the office is open to the public; and
- (d) In the immediately preceding 5 years, has at least 2 years of verifiable experience in the business of lending money for real estate or mortgages.

3. If the qualified employee designated pursuant to subsection 1 is not approved by the Commissioner pursuant to subsection 2 or ceases to be a qualified employee as defined in NAC 645B.008, the mortgage ~~{broker}~~ *company* shall designate another qualified employee pursuant to subsection 1 not later than:

- (a) Thirty calendar days after the date that:
  - (1) The Commissioner notifies the mortgage ~~{broker}~~ *company* that the initial qualified employee designated pursuant to subsection 1 is not approved; or
  - (2) The qualified employee ceases to be a qualified employee as defined in NAC 645B.008; or
- (b) A date after the date described in paragraph (a) if agreed to by the Commissioner.

4. As used in this section, "verifiable experience in the business of lending money for real estate or mortgages" has the meaning ascribed to it in NAC 645B.016.

**Sec. 21.** NAC 645B.057 is hereby amended to read as follows:



645B.057 1. Any material change in the control persons of a mortgage ~~{broker}~~ company must be reported to the Commissioner at least 30 calendar days before the change. Each new control person must submit to a background investigation in the manner provided in NRS

645B.020. A new control person may not participate in the management of a mortgage ~~{broker}~~ company until the person is approved by the Commissioner.

2. A change of control of a mortgage ~~{broker}~~ company is not effective until the change of control is approved by the Commissioner. A transfer, sale or conveyance of outstanding voting stock or ownership interest in a mortgage ~~{broker}~~ company that will result in the cumulative transfer, from the date upon which the license of the mortgage ~~{broker}~~ company was issued, of 25 percent or more of the outstanding voting stock or ownership interest in the mortgage ~~{broker}~~ company is deemed to constitute a change of control.

3. At least 15 days before a person acquires stock or ownership in a mortgage ~~{broker}~~ company as a result of a transfer that constitutes a change of control, the mortgage ~~{broker}~~ company shall make a written application to the Commissioner for approval of the change of control. The application must include, without limitation:

(a) The name and percentage of ownership of each person who has obtained or is obtaining stock or ownership resulting in a cumulative transfer of 25 percent or more of the outstanding voting stock or ownership interest in the mortgage ~~{broker;}~~ company; and

(b) A personal interrogatory and a complete set of fingerprints of each such person or, if the applicant is not a natural person, each control person of the applicant, in a form prescribed by the Commissioner, and written consent 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 in the manner provided in NRS 645B.020.

4. The Commissioner will conduct an investigation of each application submitted pursuant to subsection 3 to determine whether the requirements necessary for licensure pursuant to this chapter and chapter 645B of NRS are met.

5. A mortgage ~~{broker}~~ *company* who wishes to change the location of his or her principal office or branch office must file a request with the Commissioner, return his or her original license for a principal office or branch office to the Commissioner and submit any additional information required by the Commissioner. A mortgage ~~{broker}~~ *company* may not change the location of his or her principal office or a branch office until the Commissioner has approved the transfer and issued a new license reflecting the change in location.

6. A mortgage ~~{broker}~~ *company* may not surrender his or her license or close his or her principal office or a branch office until:

- (a) The mortgage ~~{broker}~~ *company* has returned his or her original license; and
- (b) The Commissioner has approved the surrender or closure.

7. The request for approval of the surrender of the license or closure of the principal office of the mortgage ~~{broker}~~ *company* or a branch office must contain the following information:

- (a) The status of any incomplete applications for mortgage loans and the manner in which the loans will be finalized;
- (b) An accounting of any trust account maintained by the mortgage ~~{broker}~~ *company* and the plan for distribution of money in the account;

(c) If the mortgage ~~{broker}~~ company is servicing any loans made or arranged by the mortgage ~~{broker}~~ company under his or her license as a mortgage ~~{broker,}~~ company, a listing of those loans and the plan for transferring those loans to another mortgage servicer;

(d) If any mortgage ~~{agent}~~ loan originator associated with or employed by the mortgage ~~{broker}~~ company has been terminated pursuant to subsection 3 of NRS 645B.450, evidence of the termination; and

(e) In regard to the records of the mortgage ~~{broker}~~ company maintained pursuant to subsection 1 of NRS 645B.080 and subsection 5 of NAC 645B.080:

(1) The address where the records will be maintained; and

(2) The name, telephone number and mailing address of the person who will be responsible for the maintenance of the records.

8. The Commissioner may require the person acquiring stock or ownership in a mortgage ~~{broker}~~ company pursuant to subsection 2 to meet the requirements of the S.A.F.E. Mortgage Licensing Act, including, without limitation, submitting information to the Registry.

9. As used in this section, "change of control" has the meaning ascribed to it in NRS 645B.095.

**Sec. 22.** NAC 645B.060 is hereby amended to read as follows:

645B.060 1. Except as otherwise provided in subsection 2, the Commissioner will annually charge and collect a fee for supervision from each mortgage ~~{broker,}~~ company. The amount of the fee for supervision will be calculated pursuant to subsection 2. The Commissioner will annually bill each mortgage ~~{broker}~~ company for the fee for supervision. The fee for supervision must be paid within 30 calendar days after the date of the invoice. Any payment



received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each complete month, or portion of the last month, that the fee is not paid.

2. A mortgage ~~{broker}~~ company whose annual volume of loans reported to the Commissioner pursuant to NRS 645B.080 is:

(a) Less than \$10,000,000 will not be assessed a fee for supervision pursuant to subsection 1.

(b) At least \$10,000,000 shall pay a fee for supervision pursuant to subsection 1 at a rate of one-half cent per \$1,000 of the annual volume of loans reported to the Commissioner pursuant to NRS 645B.080.

3. Except as otherwise provided in this subsection, the Commissioner will charge and collect a fee of \$60 per hour from each mortgage ~~{broker}~~ company for any examination, audit, investigation or hearing conducted pursuant to chapter 645B of NRS. The Commissioner may charge a fee equivalent to the estimated or actual fee charged to the Division for the time of an attorney required in any examination, investigation or hearing conducted pursuant to chapter 645B of NRS.

4. The Commissioner will bill each mortgage ~~{broker}~~ company upon the completion of the activity for the fee established in subsection 3. The fee must be paid within 30 calendar days after the date of the invoice. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each complete month, or portion of the last month, that the fee is not paid. The Commissioner may waive the penalty for good cause. Upon written request by a mortgage ~~{broker}~~ company, the Division will provide an accounting of the time billed to the mortgage ~~{broker}~~ company pursuant to this subsection.

5. Failure of a mortgage ~~{broker}~~ *company* to pay the fee required in subsection 1 or 3 as provided in this section constitutes grounds for the imposition of any discipline authorized pursuant to NRS 645B.670, including, without limitation, the revocation of his or her license.

**Sec. 23.** NAC 645B.061 is hereby amended to read as follows:

645B.061 The Commissioner will not renew the license of a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* if the mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator*:

1. Has not paid all fees, fines and assessments owed to the Division or this State;
2. Is not properly registered with the Registry;
3. Fails to provide any required annual financial statements or reports of condition to the Division or Registry; or
4. Fails to provide any other item required by federal or state law or regulation.

**Sec. 24.** NAC 645B.064 is hereby amended to read as follows:

645B.064 1. Each mortgage ~~{broker}~~ *company* shall pay to the Division an annual assessment as required pursuant to NRS 645F.180 to cover the costs related to the employment of a certified public accountant and the performance of audits and examinations conducted by the Division.

2. The Division will bill each mortgage ~~{broker}~~ *company* for the assessment. The assessment must be paid within 30 calendar days after the date the bill is received.

3. A charge of 10 percent of the assessment will be imposed on any mortgage ~~{broker}~~ *company* whose assessment is received by the Division after the date on which the assessment is due. The Commissioner may waive the penalty for good cause.



Sec. 25. NAC 645B.066 is hereby amended to read as follows:

645B.066 For the purposes of conducting an examination, investigation or periodic or special audit of a mortgage ~~broker~~ company pursuant to this chapter or chapter 645B of NRS:

1. The Commissioner or his or her designee may:

(a) Require the mortgage ~~broker~~ company to produce, for the purposes of the examination, audit or investigation, all documents:

(1) Relating to business conducted by the mortgage ~~broker~~ company pursuant to this chapter or chapter 645B of NRS;

(2) Required to be kept by the mortgage ~~broker~~ company pursuant to any federal or state law or regulation; or

(3) Related to the operation of the business of the mortgage ~~broker~~ company or any affiliated business that conducts business activities which are directly related to the business of the mortgage ~~broker~~ company; and

(b) Inspect and copy any documents which are in the possession, control or custody of the mortgage ~~broker~~ company and which are related to business conducted pursuant to this chapter or chapter 645B of NRS.

2. The Commissioner may:

(a) Employ or retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations, audits and investigations;

(b) Enter into agreements or relationships with other governmental officials and regulatory associations to improve efficiency and reduce regulatory burden by sharing resources,

standardized or uniform methods or procedures and documents, records, information or evidence obtained pursuant to this chapter or chapter 645B of NRS;

(c) Use, hire, contract with or employ analytical systems, methods or software, whether publicly or privately available, to examine or investigate the mortgage **[broker] company** or other person subject to chapter 645B of NRS;

(d) Accept and rely upon reports of examinations or investigations made by other state or federal governmental officials; and

(e) Accept an audit report prepared by an independent certified public accountant for the mortgage **[broker] company** or other person subject to chapter 645B of NRS in the course of an examination or investigation covering the same general subject matter as the audit. The Commissioner will incorporate such an audit report in the report of examination, report of investigation or other writing of the Commissioner.

**Sec. 26.** NAC 645B.067 is hereby amended to read as follows:

645B.067 Upon completion of an examination of a mortgage **[broker,] company**, the examiner shall rate the mortgage **[broker] company** on a scale of "1" to "5," as follows:

1. A rating of "1" indicates that the mortgage **[broker] company** and the management of the mortgage **[broker] company** have demonstrated a high degree of compliance with applicable laws and regulations. A rating of "1" may be given if there is a minor violation or deficiency, but only if the mortgage **[broker] company** acted to correct the violation or deficiency immediately and the action taken by the mortgage **[broker] company** is likely to prevent future violations or deficiencies.

2. A rating of “2” indicates that the mortgage **{broker} company** and the management of the mortgage **{broker} company** have demonstrated substantial compliance with applicable laws and regulations and that any deficiencies noted in the report made by the examiner pursuant to NAC 645B.068 can be corrected by the mortgage **{broker} company** with a minimum of regulatory supervision. A rating of “2” may be given if there is more than one minor violation or deficiency, but only if the mortgage **{broker} company** acted to correct the violations or deficiencies immediately and the action taken by the mortgage **{broker} company** is likely to prevent future violations or deficiencies.

3. A rating of “3” indicates that the mortgage **{broker} company** and the management of the mortgage **{broker} company** have demonstrated less than satisfactory compliance with applicable laws and regulations and that regulatory supervision is required for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to NAC 645B.068. A rating of “3” may be given if there were minor violations or deficiencies from a previous examination that were not corrected.

4. A rating of “4” indicates that the mortgage **{broker} company** and the management of the mortgage **{broker} company** have demonstrated substantial lack of compliance with applicable laws and regulations and that immediate remedial action is required for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to NAC 645B.068. The mortgage **{broker} company** will be subject to close regulatory supervision, and the examiner will recommend disciplinary action against the mortgage **{broker} company** to the Commissioner.



5. A rating of "5" indicates that the mortgage ~~{broker}~~ *company* and the management of the mortgage ~~{broker}~~ *company* have demonstrated unsatisfactory compliance with applicable laws and regulations and that immediate remedial action is required for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to NAC 645B.068 and may include action by the Commissioner to take possession of the business and assets of the mortgage ~~{broker,}~~ *company*. The examiner will recommend disciplinary action against the mortgage ~~{broker}~~ *company* to the Commissioner.

Sec. 27. NAC 645B.068 is hereby amended to read as follows:

645B.068 1. Not more than 30 days after the completion of an examination of a mortgage ~~{broker,}~~ *company*, the examiner that performed the examination shall prepare a draft report of the examination and provide the draft report to appropriate personnel of the Division. The draft report must include only:

- (a) Facts that are contained in the files, books, records or other documents of the mortgage ~~{broker}~~ *company* that were examined by the examiner;
- (b) Facts that are contained in statements made by officers or agents of the mortgage ~~{broker}~~ *company* or other persons that the examiner interviewed concerning the mortgage ~~{broker,}~~ *company*; and
- (c) Conclusions and recommendations that are reasonably supported by the facts that are included in the draft report, including, but not limited to, the rating given to the mortgage ~~{broker}~~ *company* pursuant to NAC 645B.067.

2. Not more than 15 days after the draft report of an examination is received by the Division, the Commissioner or his or her designee will deliver to the mortgage **[broker] company** who was examined:

- (a) A copy of the draft report; and
- (b) Notice that the mortgage **[broker] company** has not more than 30 days, unless the Commissioner, for good cause, allows a longer period, to review the draft report and submit to the Commissioner, in writing, any comments regarding or objections to matters contained in the draft report.

3. If a mortgage **[broker] company** received a rating of "3," "4" or "5" and submitted written comments or objections within the period specified in subsection 2, the Commissioner or his or her designee will:

- (a) Not more than 15 days after the last day on which the mortgage **[broker] company** could submit written comments or objections pursuant to subsection 2, hold an informal meeting with the mortgage **[broker] company** regarding the draft report; and

- (b) Review the draft report, together with the written submissions or objections made by the mortgage **[broker] company** and any relevant portions of the working papers of the examiner, and, not more than 15 days after the date on which the informal meeting was held pursuant to paragraph (a):

- (1) Adopt the draft report as filed;
  - (2) Adopt the draft report with modifications;
  - (3) Provide the mortgage **[broker] company** with an opportunity for a formal hearing; or

(4) Direct the examiner to reopen the examination to obtain additional data, documents or information and, if necessary, file a new draft report pursuant to subsection 1. If the findings of the initial draft report are supported by the findings of the examiner after completion of the reopened examination, the mortgage ~~{broker}~~ company is responsible for the costs attributable to the reopened examination pursuant to NRS 645B.060.

4. If a mortgage ~~{broker}~~ company:

(a) Received a rating of "1" or "2" on an examination pursuant to NAC 645B.067 and submitted written comments or objections within the period specified in subsection 2; or

(b) Did not file a written comment or objection to a draft report within the period specified in subsection 2,

➡ the draft report will be deemed to be the final report of the examination.

5. Pursuant to NRS 645B.060, the results of an examination are not open to public inspection until the requirements set forth in subsection 3 are completed.

6. If the examination and report reveal that a mortgage ~~{broker}~~ company is operating in violation of this chapter, chapter 645B of NRS or a previous order of the Commissioner, the Commissioner may order the mortgage ~~{broker}~~ company to take any action the Commissioner deems necessary or appropriate to correct the violation. The Commissioner may also take disciplinary action pursuant to NRS 645B.670.

7. The Commissioner may, for good cause, extend any period specified in this section that is applicable to an examiner, the Commissioner or his designee for an additional period of not more than 15 days.

**Sec. 28.** NAC 645B.070 is hereby amended to read as follows:



645B.070 1. Each mortgage ~~broker~~ company 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~~ company 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. 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~~ company 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~~ company 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~~ company 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~~ company 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~~ company 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. 29.** NAC 645B.072 is hereby amended to read as follows:

645B.072 As used in NRS 645B.080, the Commissioner interprets "complete and suitable records" to mean all books, accounts, records and documents of the business conducted by the mortgage ~~broker~~ company which enable the Commissioner to determine whether the business of the mortgage ~~broker~~ company is conducted in compliance with this chapter, chapter 645B of NRS and any other applicable law. The term includes, without limitation:

1. For a loan secured by a dwelling, a file that includes, but is not limited to, the following documents, if applicable to the type and purpose of the loan:

- (a) The real estate sales contract;
- (b) Escrow instructions;
- (c) The preliminary title report;
- (d) The loan application, including, but not limited to, any attachments or supplements;
- (e) An appraisal report or any other independent assessment of the value of the mortgaged property;
- (f) Any verification of representations made by the consumer on the application for a mortgage;
- (g) A credit report;



(h) Any commitments made by the lender to the consumer, including, but not limited to, a commitment to guarantee the consumer a certain interest rate and a commitment to fund the loan; and

(i) Any disclosures required by state or federal law.

2. For a loan secured by commercial property, a file that must include all the items required pursuant to subsection 1, if applicable.

3. For a loan brokered to a private investor, a file that must include all the items required pursuant to subsection 1, if applicable, and any additional documents or disclosures required pursuant to this chapter, chapter 645B of NRS or federal law, including, but not limited to:

(a) The original documents subject to the provisions of NAC 645B.080 or 645B.215;

(b) All disclosures required pursuant to NRS 645B.185 and 645B.186, and NAC 645B.210 and 645B.220; and

(c) If the mortgage **[broker] company** maintains any account pursuant to NRS 645B.175, the mortgage **[broker] company** must include records that demonstrate compliance with the provisions of NRS 645B.115 and NAC 645B.150 and 645B.160 and any other applicable law.

4. For a loan funded by the mortgage **[broker] company**, a file that must include all the items required pursuant to subsection 1 and all closing documentation, including, but not limited to, a recorded or confirmed deed of trust, the title insurance policy, the note, the hazard insurance policy and any subsequent assignment to additional investors. Assignments to private investors must comply with all documentation requirements of this chapter and chapter 645B of NRS.

5. For a mortgage loan made or arranged by the mortgage **[broker] company** pursuant to chapter 645B of NRS for which the mortgage **[broker] company** is acting as the mortgage

servicer, a file that includes, but is not limited to, the items required pursuant to subsection 1, if applicable to the type and purpose of the loan:

(a) A loan history for each mortgage loan upon which payments are received or made by the mortgage ~~{broker}~~ company which itemizes the amount and date of each payment and the unpaid balance at all times;

(b) The original or an exact copy of each note, mortgage, deed of trust or other evidence of indebtedness and any assignment;

(c) The name and address of the mortgage ~~{broker}~~ company or lender, if any, involved in the mortgage loan transaction;

(d) A copy of any servicing agreement;

(e) A copy of any disclosures or notifications provided to the borrower which are required by state or federal law or regulation;

(f) A copy of any bankruptcy plan approved in a proceeding filed by a borrower or co-owner of real property subject to a mortgage loan;

(g) A communication log which documents all verbal or written communications with a borrower or a borrower's representative; and

(h) A copy of all notices sent to the borrower relating to any foreclosure proceeding filed against the encumbered property.

6. Any additional books and records that must be maintained or readily accessible at each place of business of the mortgage ~~{broker,}~~ company, including, but not limited to, any branch office as applicable to the operations of the mortgage ~~{broker,}~~ company, including:

(a) Any book or record that evidences compliance with applicable federal and state laws and regulations;

(b) A copy of each item of advertising material that was published or distributed by or on behalf of the mortgage ~~{broker,}~~ *company* in the format in which the material was published or distributed;

(c) A copy of any written complaint against the mortgage ~~{broker,}~~ *company*, together with all correspondence, notes, responses and other documentation related to the disposition of the complaint;

(d) All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, cancelled checks and other records that relate to the business of the mortgage ~~{broker,}~~ *company*;

(e) Copies of all federal tax withholding forms, reports of income for federal taxation and evidence of payments to all employees, independent contractors and other persons that worked for the mortgage ~~{broker,}~~ *company*;

(f) Copies of all documents evidencing a contractual relationship between the mortgage ~~{broker,}~~ *company* and any third-party provider of services related to mortgages, including, but not limited to, contracts, invoices, billings and remittances to the third-party provider of services related to mortgages, by or on behalf of the mortgage ~~{broker,}~~ *company*;

(g) Copies of all material correspondence related to the business of the mortgage ~~{broker,}~~ *company*, including, but not limited to, electronic messages; and

(h) Copies of all reports, audits, examinations, inspections, reviews, investigations or other similar activities relating to the business of the mortgage ~~{broker,}~~ *company* performed by any third party, including, but not limited to, any regulatory or supervisory authority.



**Sec. 30.** NAC 645B.077 is hereby amended to read as follows:

645B.077 1. The mortgage ~~{broker}~~ company shall retain records of all his or her completed mortgage transactions for a period of at least 4 years after the date of the last activity relating to the transaction.

2. The mortgage ~~{broker}~~ company shall retain applications for mortgages that were denied or withdrawn for a period of at least 1 year or as otherwise required by federal law.

3. The mortgage ~~{broker}~~ company may maintain in an electronic format the records required to be maintained by this section if:

(a) The records are maintained and made available to the Commissioner or his or her designee in a software format that allows the Commissioner or his or her designee complete access to all records;

(b) The mortgage ~~{broker}~~ company ensures that the Commissioner or his or her designee has the ability to download and print, from all office locations of the mortgage ~~{broker}~~ company, any or all of the records maintained in electronic format;

(c) The mortgage ~~{broker}~~ company provides, within 24 hours after a request for a record and in printed form, any or all of the records maintained in an electronic format upon request of the Commissioner or his or her designee; and

(d) The records are maintained on a medium that:

(1) Is not erasable;

(2) Does not allow changes to a document stored on the medium;

(3) Is consistent with the minimum standards of quality approved by the National Institute of Standards and Technology of the United States Department of Commerce or the Association for *Intelligent* Information ~~[and Image]~~ Management; and

(4) Contains written authentication identifying the electronic record as an exact, unaltered copy of the document which the record purports to be.

**Sec. 31.** NAC 645B.080 is hereby amended to read as follows:

645B.080 1. Except as otherwise provided in NAC 645B.038, before a private investor makes a loan for which a licensed mortgage ~~[broker]~~ *company* is acting as a broker, the mortgage ~~[broker]~~ *company* must provide, unless specifically waived in writing, to the private investor:

(a) A written application for the loan which is signed by the prospective borrower and which contains the borrower's address, a history of his or her employment and income, details of monthly payments he or she is obliged to pay and any other information requested by the private investor.

(b) Evidence of the history of employment of the prospective borrower and income, such as a tax return or an employer's statement of the borrower's past yearly income.

(c) A report on the history of credit of the prospective borrower issued by a credit reporting agency, including an explanation by the borrower of any material derogatory item in the report and evidence that the report has been compared for accuracy to the borrower's application for the loan.

(d) An analysis by the mortgage ~~[broker]~~ *company* of the ability of the prospective borrower to pay his or her monthly debts.

(e) A preliminary report on the status of the title of the property which is proposed as security for the loan.

2. A mortgage ~~broker~~ company shall retain a copy of the documents described in subsection 1 and shall retain in his or her files a statement from the private investor, on a form provided by the Division, acknowledging that:

(a) The private investor received the documents, or that the private investor waived in writing the right to receive the documents;

(b) The decision to make the loan was made after the private investor had the opportunity to receive and review the documents; and

(c) The private investor continues to meet the minimum financial requirement set forth in NAC 645B.255.

3. If the loan is made, the mortgage ~~broker~~ company shall retain in his or her files and provide to the private investor:

(a) A copy of the promissory note;

(b) A recorded copy of the deed of trust securing the loan; and

(c) A copy of the policy of title insurance on the property securing the loan.

➔ The mortgage ~~broker~~ company shall retain in his or her files a statement, on a form provided by the Division, acknowledging that the documents were provided to the private investor.

4. If the loan is made, the mortgage ~~broker~~ company shall retain in his or her files:

(a) A copy of a policy of fire insurance which is adequate to cover the replacement costs of all improvements on the property securing the loan, including an endorsement naming the private investor as the insured, when applicable; and



(b) If the borrower is not a natural person, a copy of its statement authorizing the loan.

5. The mortgage ~~broker~~ company shall store his or her original notes, if retained, in a fireproof container or room.

6. The mortgage ~~broker~~ company shall provide a copy of the appraisal or independent assessment of the value of the mortgage property required pursuant to NRS 645B.300 to the:

(a) Private investor, upon request; and

(b) Borrower, upon request, if the borrower has paid for the appraisal or independent assessment.

**Sec. 32.** NAC 645B.095 is hereby amended to read as follows:

645B.095 For the purpose of determining the net worth of a mortgage ~~broker~~ company pursuant to NRS 645B.115, the Commissioner will interpret the term "net worth" to mean the amount by which the assets of a mortgage ~~broker~~ company exceed his or her liabilities, as calculated by the Commissioner in accordance with generally accepted accounting principles. The calculation:

1. Must exclude any intangible and any amount receivable by the mortgage ~~broker~~ company that is related to the intangible; and
2. May exclude any shareholder debt that is subordinated.

**Sec. 33.** NAC 645B.150 is hereby amended to read as follows:

645B.150 A licensed mortgage ~~broker~~ company maintaining any accounts described in subsection 1 of NRS 645B.175 shall:

1. Provide to the Commissioner a financial statement of the account or accounts in accordance with NAC 645B.165.

2. Maintain a subsidiary ledger for each investor which must include:

- (a) The name and address of the investor;
- (b) The amount of the initial investment and the amount of any subsequent investment;
- (c) The date of any investment placed with the licensee by the investor;
- (d) Each specific loan invested in, including:
  - (1) The number of the loan;
  - (2) The name of the borrower;
  - (3) The closing date of the loan; and
  - (4) The percentage of the loan owned by the investor, if the loan is owned by more than

one person;

- (e) The date of the investment;
- (f) The amount of money invested;
- (g) The maturity date of the loan or loans made;
- (h) Any change in the investment made on behalf of the investor; and
- (i) The status of each loan, including whether the loan is current or delinquent, and if the loan is delinquent, the number of months it is past due.

3. At least annually, provide each investor with a statement which details:

- (a) The total amount he or she has invested with the mortgage ~~broker~~ company;
- (b) The amount he or she has invested in a loan or loans; and
- (c) The current status of the loan or loans.

→ The statement, if annual, must be provided to the investor not later than 120 days after the end of the fiscal year of the mortgage ~~broker~~ company.

4. At the discretion of the Commissioner, for each loan, maintain the account or accounts separate and apart from any other money held in trust by the mortgage ~~{broker,}~~ company.

**Sec. 34.** NAC 645B.160 is hereby amended to read as follows:

645B.160 A licensed mortgage ~~{broker,}~~ company maintaining any accounts described in subsection 4 of NRS 645B.175 shall:

1. Provide to the Commissioner a statement of the account or accounts in accordance with NAC 645B.165.

2. Keep monthly records reconciling all payments received on loans made by investors to such accounts and any subsequent disbursement to the investors.

3. At least annually, provide to each investor:

(a) A statement indicating all money collected and disbursed; and

(b) The amortized balance of each loan in which the investor has an interest.

→ The statement, if annual, must be provided to the investor not later than 120 days after the end of the licensee's fiscal year.

4. At the discretion of the Commissioner, for each loan, maintain the account or accounts separate and apart from any other money held in trust by the mortgage ~~{broker,}~~ company.

**Sec. 35.** NAC 645B.165 is hereby amended to read as follows:

645B.165 1. A licensed mortgage ~~{broker,}~~ company maintaining any accounts described in subsection 1 or 4 of NRS 645B.175 shall, not later than 120 days after the end of the fiscal year for the mortgage ~~{broker,}~~ company, provide to the Commissioner an annual financial statement of the account or accounts, which has been:



(a) Prepared from the books and records of the mortgage ~~{broker}~~ *company* by an independent public accountant who holds an active permit to engage in the practice of public accounting in this State; and

(b) Audited in accordance with generally accepted auditing standards.

2. A financial statement of the account or accounts required pursuant to this section must include, if applicable:

(a) A statement of the balance and liabilities of each trust account;

(b) A statement of all receipts for, disbursements from and changes in cash balances of each trust account;

(c) A supplementary schedule of the liabilities of each trust account; and

(d) A reconciliation of cash balance of each trust account to the supplementary schedule of the liabilities of each trust account.

3. The Commissioner will make available an approved format and sample content for the statements required pursuant to this section. Mortgage ~~{brokers}~~ *companies* shall submit the statements in substantially the same format as the approved forms.

4. In addition to the annual financial statement of the account or accounts required pursuant to subsection 1, not later than 60 days after the last day of each fiscal year for a mortgage ~~{broker,}~~ *company*, and every 6 months thereafter, the mortgage ~~{broker}~~ *company* shall submit to the Commissioner an unaudited financial statement of the account or accounts. The financial statement required pursuant to this subsection may be self-prepared.

5. Except as otherwise provided in this subsection, the Commissioner may grant a reasonable extension, not to exceed 30 days, for the submission of a financial statement of the

account or accounts pursuant to this section if a mortgage ~~{broker}~~ company requests such an extension in writing before the date on which the financial statement is due. Upon written request, the Commissioner may, for good cause, grant in writing an additional extension, not to exceed 30 days, of the period for the submission of a financial statement.

Sec. 36. NAC 645B.170 is hereby amended to read as follows:

645B.170 A licensed mortgage ~~{broker}~~ company shall retain all records of accounts maintained pursuant to subsections 1 and 4 of NRS 645B.175 for at least 2 years after the date of the last transaction with the investor.

Sec. 37. NAC 645B.210 is hereby amended to read as follows:

645B.210 1. If a control person, manager or employee of a licensed mortgage ~~{broker,}~~ company, or a relative of a control person, manager or employee of a licensed mortgage ~~{broker,}~~ company:

(a) Has any personal involvement in a lending or borrowing transaction of the mortgage ~~{broker}~~ company which is authorized under chapter 645B of NRS; or

(b) Is licensed as, conducts business as or holds a controlling interest or position in:

(1) A construction control;

(2) An escrow agency or escrow agent; or

(3) A title agent, a title insurer or an escrow officer of a title agent or title insurer,

→ the involvement must be disclosed to the borrower and the investor before the date that the loan is consummated. Such a disclosure must be separate from the documents of the transaction and must clearly and concisely state the nature of the involvement. The statement of disclosure must be signed by the borrower and the investor as an acknowledgment of the involvement. The

mortgage **{broker} company** shall not act as the attorney in fact or the agent of an investor with respect to signing the acknowledgment.

2. If a mortgage **{broker} company** is owned by a corporation in which one control person, manager or employee owns an interest of 10 percent or more, and that person has any personal involvement in a licensed transaction of the mortgage **{broker} company**, the involvement must be disclosed to the borrower and the investor pursuant to subsection 1.

**Sec. 38.** NAC 645B.215 is hereby amended to read as follows:

645B.215 1. Before a person purchases an existing note secured by a deed of trust or an interest therein for which a licensed mortgage **{broker} company** is acting as a broker or as an investor selling his or her interest, the mortgage **{broker} company** must provide to the purchaser, unless specifically waived in writing by that person:

- (a) A copy of the promissory note;
- (b) A record of the history of payments on the note or a document signed by the seller and borrower stating the existing balance of the note;
- (c) The policy of title insurance for the original beneficiaries of the note; and
- (d) The original appraisal or any other independent assessment of the value of the mortgaged property securing the note, if available.

2. A mortgage **{broker} company** shall retain a copy of the materials provided to the purchaser pursuant to subsection 1.

3. If the purchase is made, the mortgage **{broker} company** shall retain in his or her files the original or a copy and provide to the purchaser, respectively, the copy or original of the following documents:



- (a) The promissory note and the assignment of the note.
- (b) The recorded deed of trust and recorded assignment of the beneficial interest.
- (c) The endorsement to the policy of title insurance or a new policy of title insurance for the assignment.
- (d) A policy of fire insurance indicating coverage in an amount sufficient to cover the replacement costs of all improvements on the property, including, if applicable, an endorsement naming the purchaser as a payee in case of loss.
- (e) A statement signed by the purchaser acknowledging that:
  - (1) The decision to purchase the note secured by a deed of trust was made after the purchaser was provided with and reviewed the material required in subsection 1; and
  - (2) The purchaser meets the minimum financial requirement set forth in NAC 645B.255.

Sec. 39. NAC 645B.230 is hereby amended to read as follows:

- 645B.230 1. A mortgage ~~broker~~ company may submit to the Division a financial statement to be provided to a private investor pursuant to subsection 3 of NRS 645B.185 that:
- (a) Is dated not earlier than the last day of the most recently completed fiscal year; and
  - (b) Has been prepared from the books and records of the mortgage ~~broker~~ company by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.
2. A financial statement submitted to the Division by a mortgage ~~broker~~ company pursuant to this section:
- (a) Must contain a notation indicating that it is a financial statement to be provided to private investors pursuant to subsection 3 of NRS 645B.185.

(b) Need not be audited, but the provisions of this section do not affect any obligation of the mortgage ~~{broker}~~ *company* to submit an audited financial statement to the Division pursuant to subsection 3 of NRS 645B.085.

**Sec. 40.** NAC 645B.235 is hereby amended to read as follows:

645B.235 1. A mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* who is also licensed as a real estate broker or real estate salesperson and who acts in both capacities in a single transaction must make to the borrower the disclosures set forth on the form prescribed by the Division pursuant to subsection 2, including, but not limited to:

(a) Whether the mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* will be receiving compensation for acting as a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* and as a real estate broker or real estate salesperson in the same transaction;

(b) That the borrower is under no obligation to allow the real estate broker or real estate salesperson to submit the loan package of the borrower to a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator*; and

(c) That the borrower may contact other mortgage ~~{brokers}~~ *companies* or mortgage ~~{agents}~~ *loan originators* to determine if the borrower is receiving the best services related to the loan and the best prices for those services.

2. The mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* shall provide the disclosures required pursuant to subsection 1 to the borrower at the time of application for a loan and in the following format:

(At least 14-point font)

**BORROWER(S)  
ACKNOWLEDGMENT AND AGREEMENT CONCERNING  
DUAL CAPACITY AS REAL ESTATE SALES AGENT  
AND MORTGAGE LOAN ~~[AGENT]~~ *ORIGINATOR***

**(At least 12-point bold font)**

Borrower(s) are under no obligation whatsoever to allow their real estate sales agent to initiate or submit the borrower(s) loan package to any mortgage lender, ~~[broker, banker]~~ *mortgage company* or investor. Mortgage ~~[brokers]~~ *companies* and other loan originators cannot offer loans from all funding sources and cannot guarantee the lowest price or best terms available in the market.

There may be other mortgage loan providers available with similar services and lower rates and/or fees. You are free and encouraged to contact various lenders to determine that you are receiving the best service and rates and lowest fees for those services. A comparative analysis of providers' services, rates and fees is recommended prior to making a decision on which lender to use.

**(At least 10-point font)**

Borrower(s) are hereby informed and expressly acknowledge the following:

- Real estate sales agent \_\_\_\_\_, hereinafter referred to as "agent," is also associated with \_\_\_\_\_ (mortgage ~~[broker/banker]~~ *company*) and is acting in the dual capacity as both mortgage loan ~~[agent]~~ *originator* and real estate sales agent and shall receive compensation from the real estate sales transaction and separate compensation for arranging the mortgage loan.
- Real estate company \_\_\_\_\_ (check one of the following):  
\_\_\_\_\_ Does have a business relationship with the licensed mortgage ~~[broker/banker]~~ *company* or exempt company to which your loan is referred. Because of this relationship, this referral may provide the real estate company named above a financial or other benefit.  
Describe the nature of the relationship, including percentage of ownership interest, if applicable. \_\_\_\_\_



- 
- \_\_\_\_\_ Does not have a business relationship with the licensed mortgage ~~{broker/banker}~~ company or exempt company to which your loan is referred.

The mortgage ~~{broker/banker}~~ company must provide you with a written disclosure under applicable state or federal law of all estimated costs of the loan, including the yield spread premium (YSP.) The YSP is income paid to a mortgage ~~{broker}~~ company upon delivery of a mortgage loan to a lender at a premium interest rate.

By signing I/we confirm my/our understanding of the information provided herein.

BORROWER

BORROWER

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By signing this form, the mortgage loan ~~{agent}~~ originator agrees that any fees paid to the mortgage ~~{broker/banker/agent}~~ company or mortgage loan originator as referred to above will not increase the cost of borrower(s) loan beyond the normal and customary charges typically collected by mortgage lenders, ~~{brokers}~~ mortgage companies or investors.

MORTGAGE ~~{BROKER/QUALIFIED EMPLOYEE/AGENT}~~ COMPANY/QUALIFIED  
EMPLOYEE/LOAN ORIGINATOR

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If you have any questions regarding your mortgage loan ~~{agent}~~ originator or loan, please visit the Division of Mortgage Lending website at <http://www.mld.nv.gov> or call (702) 486-0782 in Las Vegas or (775) 684-7060 in Northern Nevada.

3. As used in this section:

- (a) "Real estate broker" has the meaning ascribed to it in NRS 645.030; and
- (b) "Real estate salesperson" has the meaning ascribed to it in NRS 645.040.

**Sec. 41.** NAC 645B.240 is hereby amended to read as follows:

645B.240 1. A licensed mortgage ~~{broker}~~ company or mortgage ~~{agent}~~ loan originator shall not represent an activity which is not licensed pursuant to chapter 645B of NRS as being licensed pursuant to that chapter.

2. Except as otherwise provided in subsection 3, an advertisement for an activity which is licensed pursuant to chapter 645B of NRS must be separate and distinct from an advertisement for an activity which is not licensed pursuant to that chapter.

3. A mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* may advertise jointly with a company licensed pursuant to chapter 624 or 645 of NRS if each business is disclosed separately in the advertisement and each business incurs a pro rata share of the cost associated with the advertisement.

4. A licensed mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* must include in his or her advertisements, including any advertising material available on the Internet:

(a) The complete name of the mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* that appears on the license of the mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* issued pursuant to this chapter and chapter 645B of NRS. Any advertisement for a mortgage ~~{agent}~~ *loan originator* must also include the name of the mortgage ~~{broker-or mortgage-banker,}~~ *company*, with whom the mortgage ~~{agent}~~ *loan originator* is associated.

(b) The address, telephone number and either the license number or unique identifier that the mortgage ~~{broker}~~ *company* and, if applicable, mortgage ~~{agent}~~ *loan originator* has on file with the Division. Additional telephone or cellular phone numbers of the mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* may also be included.

(c) A description of any licensed activity mentioned in the advertisement, written in nontechnical terms.

5. A mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* shall not use advertising material that simulates the appearance of a check or a communication from a

governmental entity, or an envelope containing a check or a communication from a governmental entity, unless:

(a) The words “THIS IS NOT A CHECK,” “NOT NEGOTIABLE” or “THIS IS NOT A GOVERNMENTAL ENTITY,” as appropriate, appear prominently on the envelope and any material that simulates the appearance of a check or a communication from a governmental entity; and

(b) If the material simulates the appearance of a check, the material does not contain an American Bankers Association number, microencoding or any other marks intended to create the appearance that the material is a negotiable check.

6. A mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* shall not refer to an existing lender or financial institution, other than the mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* himself or herself, on any advertising material without the written consent of the lender or financial institution.

7. Provided the representation of interest rates in advertisements complies with Regulation Z, 12 C.F.R. Part 226, and the content will continue to comply with this chapter and chapter 645B of NRS regarding advertising, a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* may make nonsubstantive changes to his or her advertisements without additional approval from the Commissioner. For the purposes of this subsection, “nonsubstantive changes” means:

(a) Interest rates that are quoted in the advertisement and any corresponding annual percentage rates;

(b) Promoting another mortgage ~~{agent}~~ *loan originator* in the same format of advertisement;



- (c) Promoting other branch offices in the same format of advertisement;
- (d) Placing links on websites that direct the user to noncommercial or consumer education websites;
- (e) Telephone or cellular phone numbers other than the phone number that the mortgage ~~{broker}~~ company or mortgage ~~{agent}~~ loan originator has on file with the Division; and
- (f) Changes to words used in the advertisement that do not alter the content of the advertisement.

8. Approvals for advertising must be maintained at the location of the mortgage ~~{broker}~~ company or mortgage ~~{agent}~~ loan originator and must be available for inspection for at least 1 year after the last day that the advertisement is used.

9. For the purposes of NRS 645B.189, disclosures in advertisements and distributions to private investors must include the following language:

Prior to investing in a loan, private investors must be provided applicable disclosure documents.

10. The mortgage ~~{broker}~~ company or mortgage ~~{agent}~~ loan originator is not required to obtain approval from the Division for white-page listings, employment recruiting announcements, office signs, banners, magnetic car signs and letterhead which contain only the name, address, unique identifier and telephone number of the mortgage ~~{broker}~~ company or mortgage ~~{agent}~~ loan originator, whether together or separate, and which are used for the purpose of identification only.

11. An Internet link on a website of the mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* that links the user to the website of another commercial enterprise must provide notification to the user that the user is leaving the website of the mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator*.

12. For the purposes of this section, "advertising" includes commercial messages that promote the availability of mortgage products or investments offered by the mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator*. Commercial messages include, but are not limited to:

- (a) Print media;
- (b) Sales literature;
- (c) Sales brochures or flyers;
- (d) Billboards;
- (e) Yellow-page listings if more than a line listing;
- (f) Radio and television advertisements;
- (g) Mass mailings distributed by the United States Postal Service or another such delivery service or by electronic mail;
- (h) Telephone or seminar scripts;
- (i) Websites or other Internet sites that promote or accept loan applications; and
- (j) Business cards.

**Sec. 42.** NAC 645B.250 is hereby amended to read as follows:

645B.250 1. Except as otherwise provided in subsection 3, a mortgage ~~{broker}~~ *company* and any partnership, corporation or limited-liability company in which the mortgage ~~{broker}~~

*company* or any officer, director, employee or relative of the mortgage ~~{broker}~~ *company* has a controlling interest shall not act as a trustee or substitute trustee for any deed of trust for which the mortgage ~~{broker}~~ *company* acted at any time as an investor, mortgage ~~{broker}~~ *company* or holder of a beneficial interest if the loan for which the deed of trust was executed was funded in whole or in part by a person other than the mortgage ~~{broker}~~ *company* or has been assigned in whole or in part to one or more natural persons.

2. Except as otherwise provided in subsection 3, an officer, director or employee of a mortgage ~~{broker}~~ *company*, a relative of any officer, director or employee of a mortgage ~~{broker}~~ *company*, or an officer, director or employee of any corporation, partnership or limited-liability company that has a controlling interest in a mortgage ~~{broker}~~ *company* shall not act as a trustee or substitute trustee for any deed of trust for which the mortgage ~~{broker}~~ *company* acted at any time as an investor, mortgage ~~{broker}~~ *company* or holder of a beneficial interest if the loan for which the deed of trust was executed was funded in whole or in part by a person other than the mortgage ~~{broker}~~ *company* or has been assigned in whole or in part to one or more natural persons.

3. A mortgage ~~{broker}~~ *company* may act as substitute trustee in a deed of trust for the purpose of reconveying title to the trustor upon payment in full of the note if the mortgage ~~{broker}~~ *company* receives a signed and notarized statement from each person holding a beneficial interest in the note, or the agent of that person, authorizing the mortgage ~~{broker}~~ *company* to so act and directing the disposition of the share of the money received for that person to pay the loan in full. The statement must be executed within 45 days before the execution of the deed of reconveyance. The mortgage ~~{broker}~~ *company* and his or her officers,



directors and employees shall not act as the agent for that person for the purpose of executing the statement required by this section.

**Sec. 43.** NAC 645B.255 is hereby amended to read as follows:

645B.255 1. Except as otherwise provided in subsection 5, before a private investor enters into a transaction with a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* to acquire ownership of or a beneficial interest in a loan secured by a lien on real property by investing money, the private investor must provide a statement on a form prescribed by the Division which verifies that the private investor meets one or more of the following financial requirements:

(a) The private investor's household net worth is more than \$250,000, excluding any equity in any real property used as the investor's primary residence at the time of the investment; or

(b) The private investor's household net annual income was more than \$70,000 for each of the previous 2 tax years, and there is a reasonable expectation of attaining or exceeding the same income for the current year.

2. Except as otherwise provided in this subsection, a private investor must also verify on the form prescribed by the Division that the private investor's total investments in loans secured by a lien on real property transacted by a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* are not valued at more than 50 percent of the private investor's household net worth or household net annual income, whichever is greater. The Division may waive this requirement in writing.

3. In the absence of knowledge to the contrary, a mortgage ~~broker~~ company or mortgage ~~agent~~ loan originator is not responsible for determining the validity of a private investor's stated financial information and may rely on such information submitted by the private investor.

4. A private investor shall verify on a form prescribed by the Division that the private investor continues to meet the minimum financial requirement set forth in subsection 1 for each transaction subsequent to the first transaction.

5. The provisions of this section do not apply to transactions of a mortgage ~~broker~~ company or mortgage ~~agent~~ loan originator investing on his or her own behalf.

Sec. 44. NAC 645B.280 is hereby amended to read as follows:

645B.280 1. Before a mortgage ~~broker~~ company or mortgage ~~agent~~ loan originator engages in any act or transaction on behalf of a private investor pursuant to a power of attorney, the power of attorney must first be submitted to the Commissioner for approval. The Commissioner will, within 15 business days after receiving a request for approval of a power of attorney:

- (a) Approve the power of attorney;
- (b) Approve the power of attorney on the condition that the mortgage ~~broker~~ company amend the power of attorney as directed by the Commissioner;
- (c) Reject the power of attorney; or
- (d) Provide notice in writing to the person who requested the power of attorney that an additional period of time, not to exceed 15 business days, is needed by the Commissioner to act on the request for approval of the power of attorney.

2. The mortgage ~~{broker}~~ company shall maintain in his or her file all written communications relating to the request for approval of the power of attorney.

3. Any writing executed or issued by a person extending the term of a power of attorney must be dated, and the mortgage ~~{broker}~~ company shall maintain a copy of the extension in the file of the mortgage ~~{broker}~~ company.

4. A power of attorney approved by the Commissioner pursuant to this section must state the date that the Commissioner approved the power of attorney. If the mortgage ~~{broker}~~ company materially changes the power of attorney, the mortgage ~~{broker}~~ company must resubmit the power of attorney to the Commissioner for approval before the mortgage ~~{broker}~~ company uses the power of attorney.

**Sec. 45.** NAC 645B.290 is hereby amended to read as follows:

645B.290 The power of attorney required pursuant to NRS 645B.330 must be in substantially the following form:

#### Special Power of Attorney

The undersigned, \_\_\_\_\_, does hereby appoint (*name of mortgage ~~{broker}~~ company*) my true and lawful attorney, to perform services related to the following loan in which I own a beneficial interest: \_\_\_\_\_. The services to be performed are described below:

(*Describe services here*)



This power of attorney shall not be effective to authorize any transaction that subordinates the priority of the recorded deed of trust that secures this loan unless accompanied by a writing issued by the undersigned that consents to such subordination.

This power of attorney shall not be effective to authorize the use or release of money in which the undersigned owns a beneficial interest for any purpose except for the provision of the services described above relating to the loan described above unless accompanied by written authorization by the undersigned for the use or release of money for the other purpose.

This power of attorney is effective only for the term of the specific loan described above unless the mortgage ~~broker~~ company obtains written approval from the undersigned to extend the term of the power of attorney to provide services for not more than one other loan. The written approval must identify the loan for which the power of attorney was executed and the loan for which the power of attorney is being given.

I give and grant to my said attorney full power to execute in my name contracts, escrow instructions, conveyances, mortgages, deeds of trust, and all other documents necessary to carry out the services described herein as fully to all intents and purposes as the undersigned might or could do if personally present, hereby ratifying and confirming all that my said attorney shall lawfully do, or cause to be done, by virtue of these presents.

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

State of \_\_\_\_\_

County of \_\_\_\_\_

This instrument was acknowledged before me on       (date)      , by       (name(s) of person(s))      

\_\_\_\_\_

\_\_\_\_\_

(Signature of notarial officer)

(Seal if any)

\_\_\_\_\_

(Title and rank (optional))

(My commission expires (optional) \_\_\_\_\_)

Approved by the Commissioner of Mortgage Lending on \_\_\_\_\_.

**Sec. 46.** NAC 645B.300 is hereby amended to read as follows:

645B.300 1. In addition to the requirements set forth in NRS 645B.410, an applicant for a license as a mortgage ~~{agent}~~ *loan originator* must include with the application for a license:

(a) Evidence that the applicant is 18 years of age or older;

(b) Evidence that the applicant has satisfied the educational and examination requirements set forth in applicable federal or state law or regulation, including, without limitation, the S.A.F.E. Mortgage Licensing Act and any regulation adopted pursuant thereto; and

(c) A record of personal history and experience in a form prescribed by the Division.

2. A mortgage ~~{broker or mortgage banker,}~~ *company* and any mortgage ~~{agent,}~~ *loan originator*, must sign the application for licensing required pursuant to NRS 645B.410.

3. As regards the conduct of business within this State, a mortgage ~~{agent,}~~ *loan originator*:

(a) May associate with or be employed by a mortgage ~~{broker or mortgage banker}~~ *company* at only one licensed office location of the mortgage ~~{broker or mortgage banker,}~~ *company*; and

(b) While the mortgage ~~{agent}~~ *loan originator* associates with or is employed by a mortgage ~~{broker or mortgage banker,}~~ *company*, may not associate with or be employed by another mortgage ~~{broker or mortgage banker,}~~ *company*, an escrow agency licensed pursuant to chapter 645A of NRS, or any other entity that is exempt from the provisions of chapter 645B of NRS or whose office is located outside this State.



4. Upon request of a mortgage ~~{broker or mortgage banker,}~~ *company*, the Commissioner may waive the requirement of an investigation of the credit history, criminal history and background of a mortgage ~~{agent}~~ *loan originator* if such an investigation has been conducted within the 6 months immediately preceding the date the application is submitted.

5. An applicant for a license as a mortgage ~~{agent}~~ *loan originator* shall not be deemed to be licensed as a mortgage ~~{agent}~~ *loan originator* until the Commissioner has verified the information submitted by the applicant pursuant to applicable federal or state law or regulation and has notified the applicant that the information has been verified and that the records of the Division reflect activation of the license.

6. The report of an investigation of the credit history, criminal history and background of a mortgage ~~{agent}~~ *loan originator* is confidential, and the Commissioner will release the report only pursuant to a valid subpoena or court order.

7. The written statement of the circumstances surrounding the termination of a mortgage ~~{agent}~~ *loan originator* required by paragraph (b) of subsection 3 of NRS 645B.450 will be considered a public record.

8. If a mortgage ~~{broker or mortgage banker}~~ *company* terminates the association or employment of a mortgage ~~{agent}~~ *loan originator* for any reason, the mortgage ~~{broker or mortgage banker}~~ *company* shall provide written notification of the termination to the mortgage ~~{agent}~~ *loan originator* not later than the third business day following the date of termination.

**Sec. 47.** NAC 645B.305 is hereby amended to read as follows:

645B.305 1. Pursuant to subsection 3 of NRS 645B.410, the Commissioner is not required to and will not issue a license as a mortgage ~~[agent]~~ *loan originator* unless the requirements of that subsection have been fulfilled.

2. For the purposes of subparagraph (1) of paragraph (b) of subsection 3 of NRS 645B.410, a person shall not be considered to have been convicted or entered a plea of guilty or nolo contendere if the conviction or plea has been pardoned or vacated.

3. For the purposes of subparagraph (2) of paragraph (b) of subsection 3 of NRS 645B.410, a license shall not be considered to be revoked or suspended if the revocation or suspension was subsequently vacated.

4. For the purposes of subparagraph (5) of paragraph (b) of subsection 3 of NRS 645B.410, a person has not demonstrated financial responsibility if the person's personal credit history indicates any lien, judgment or disciplinary action which results from fraud, misrepresentation, dishonest business practices or the mishandling of trust funds.

**Sec. 48.** NAC 645B.307 is hereby amended to read as follows:

645B.307 A mortgage ~~[agent]~~ *loan originator* who wishes to change the mortgage ~~[broker]~~ *company* with whom the mortgage ~~[agent]~~ *loan originator* is associated must submit a request to the Commissioner and pay a fee of \$50.

**Sec. 49.** NAC 645B.310 is hereby amended to read as follows:

645B.310 In determining whether a mortgage ~~[broker]~~ *company* has maintained adequate supervision of a mortgage ~~[agent]~~ *loan originator*, the Commissioner will consider whether:

1. The mortgage ~~[broker]~~ *company* has made a reasonable effort to investigate the background and experience of a prospective mortgage ~~[agent]~~ *loan originator* and hire only a

mortgage **{agent}** *loan originator* whose background and experience indicate that the person is trustworthy and competent to conduct the business of a mortgage **{agent;}** *loan originator*;

2. The mortgage **{broker}** *company* has adopted and followed any policies and procedures, written or oral, relating to the supervision and training of mortgage **{agents;}** *loan originators*;

3. The mortgage **{agent}** *loan originator* has followed the policies and procedures of the mortgage **{broker;}** *company*, written or oral, governing his or her activities;

4. The mortgage **{broker}** *company* has established and followed a system of review for compliance with his or her written or oral policies and procedures;

5. The policies and procedures of the mortgage **{broker}** *company* require regular review of the work of a mortgage **{agent;}** *loan originator*;

6. The mortgage **{broker}** *company* reviewed the work of the mortgage **{agent}** *loan originator* in the case under examination by the Commissioner;

7. The policies and procedures of the mortgage **{broker}** *company* include training in the requirements of this chapter and chapter 645B of NRS;

8. The mortgage **{broker}** *company* makes copies of this chapter and chapter 645B of NRS available to mortgage **{agents;}** *loan originators*;

9. The policies and procedures of the mortgage **{broker}** *company* include a provision for continuing education for mortgage **{agents;}** *loan originators*;

10. The mortgage **{broker}** *company* spends a sufficient amount of time in the office where the mortgage **{agent}** *loan originator* is working;

11. The mortgage **{broker}** *company* has received or acted on previous reports of alleged misconduct by the mortgage **{agent;}** *loan originator*; and



12. Review of the previous work of the mortgage ~~{agent}~~ *loan originator* would have disclosed a problem with the conduct or issue being examined by the Commissioner.

**Sec. 50.** NAC 645B.360 is hereby amended to read as follows:

645B.360 1. The Commissioner hereby designates:

(a) The Registry to certify approved courses for the purposes of an initial license or renewal of a license as a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* who is required to register or voluntarily registers with the Registry; and

(b) Any federal or state governmental agency, self-regulatory organization or professional organization that reviews and approves a certified course of continuing education for professional prelicensing or continuing education to certify approved courses for the purposes of an initial license or renewal of a license as a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* who is not required to register or renew with the Registry and who has not voluntarily registered or renewed with the Registry.

2. As used in this section, “certified course of continuing education” has the meaning ascribed to it in NRS 645B.051.

**Sec. 51.** NAC 645B.363 is hereby amended to read as follows:

645B.363 The following subjects are approved as course material for initial licensing and continuing education:

1. Federal laws and regulations relating to mortgage lending;

2. The provisions of Nevada laws and regulations, including, without limitation:

(a) Chapter 645B of NRS governing mortgage ~~{brokers}~~ *companies* and mortgage ~~{agents;}~~ *loan originators*;

- (b) Chapter 598D of NRS governing unfair lending practices;
- (c) Chapter 645A of NRS governing escrow agencies and agents;
- (d) Chapter 645F of NRS governing mortgage lending and related professions; *and*
- (e) Chapter 107 of NRS governing deeds of trust; ~~and~~

~~(f) Chapter 645E of NRS governing mortgage bankers;~~

- 3. Mortgage industry practices and information;
- 4. Ethics, including, without limitation, instruction on fraud, consumer protection and fair lending issues;
- 5. Lending standards for the nontraditional mortgage product marketplace; and
- 6. Any other subject approved by the Registry.

**Sec. 52.** NAC 645B.367 is hereby amended to read as follows:

645B.367 1. A natural person who is an applicant for an initial license as a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* must complete at least 30 hours of instruction in approved courses from the subjects set forth in NAC 645B.363.

2. The 30 hours of instruction required pursuant to subsection 1 must include:

- (a) Three hours of ethics, which must include instruction on fraud, consumer protection and fair lending issues;
- (b) Three hours of federal law and regulations relating to mortgage lending;
- (c) Two hours of training relating to lending standards for the nontraditional mortgage product marketplace;
- (d) Four hours of Nevada law and regulations relating to mortgage lending; and
- (e) Eighteen hours of electives.

3. Nothing in this section precludes any approved course that is provided by the employer of the applicant, an entity which is affiliated with the applicant by an agency contract or any subsidiary or affiliate of such employer or entity.

4. 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 an initial license in this State if the Commissioner determines that those hours of training meet the requirements of this State.

**Sec. 53.** NAC 645B.370 is hereby amended to read as follows:

645B.370 1. To satisfy the requirement prescribed in NRS 645B.0137, a natural person must pass, in accordance with the standards established under this section, a qualified written test pursuant to and in the manner provided for in section 1505(b)(5) of the S.A.F.E. Mortgage Licensing Act, including, without limitation, with regard to the taking of a test four times.

2. Nothing in this section prohibits a person approved by the Registry from providing a test at the location of the employer of the applicant, the location of any subsidiary or affiliate of the employer of the applicant, or the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage ~~agent~~ *loan originator*.

3. Pursuant to section 1505(d)(3)(D) of the S.A.F.E. Mortgage Licensing Act, a licensed mortgage ~~agent~~ *loan originator* who fails to maintain a valid license for a period of 5 consecutive years or more must retake the test specified in subsection 1, not taking into account any time during which such person may be a registered loan originator, as defined in section 1503(7) of the S.A.F.E. Mortgage Licensing Act.

**Sec. 54.** 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]~~ *loan originator* or mortgage ~~[broker]~~ *company* must complete at least 8 hours of approved courses of continuing education during the 12 months immediately preceding the date on which the license expires. The 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) 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]~~ *loan originator* or mortgage ~~[broker]~~ *company*, an entity which is affiliated with the mortgage ~~[agent]~~ *loan originator* or mortgage ~~[broker]~~ *company* by an agency contract, or any subsidiary or affiliate of such employer or entity.

4. A licensed mortgage ~~[agent]~~ *loan originator* or mortgage ~~[broker]~~ *company* 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]~~ *loan originator* or mortgage ~~[broker]~~ *company* who is an approved instructor of an approved course may receive credit for the licensed mortgage ~~[agent's]~~ *loan originator's* or mortgage ~~[broker's]~~ *company's* own annual continuing education requirement at the rate of 2 hours of credit for every 1 hour taught.

6. In lieu of the elective 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.

**Sec. 55.** NAC 645B.400 is hereby amended to read as follows:

645B.400 1. As used in NRS 645B.01325, the term "residential mortgage loan originator" is interpreted not to include a person or entity which only performs real estate brokerage activity and which is licensed or registered in accordance with Nevada law, unless the person or entity is compensated by a lender, mortgage ~~[broker, mortgage banker]~~ *company* or other residential mortgage loan originator or by any agent of such lender, mortgage ~~[broker, mortgage banker]~~ *company* or other residential mortgage loan originator.

2. As used in this section, "real estate brokerage activity" has the meaning ascribed to it in section 1503(3)(D) of the S.A.F.E. Mortgage Licensing Act.

**Sec. 56.** NAC 645B.505 is hereby amended to read as follows:

645B.505 1. The Commissioner may refer to, cooperate with and share information with the appropriate federal or state agency for investigation and appropriate action each suspected violation of:

(a) The Truth in Lending Act, 15 U.S.C. §§ 1601 to 1667f, inclusive, including, without limitation, the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1639, or Regulation Z, 12 C.F.R. Part 226.

(b) The Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 to 1691f, inclusive, or Regulation B, 12 C.F.R. Part 202.

(c) The Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 to 2617, inclusive, or Regulation X, ~~[24] 12 C.F.R. Part [3500.] 1024.~~

(d) The S.A.F.E. Mortgage Licensing Act.

(e) Any other applicable federal or state law or regulation related to mortgage transactions.

2. For the purposes of NRS 645B.670, a mortgage ~~[broker]~~ *company* or mortgage ~~[agent]~~ *loan originator* commits a violation if the mortgage ~~[broker]~~ *company* or a mortgage ~~[agent]~~ *loan originator* associated with the mortgage ~~[broker:]~~ *company*:

(a) Engages in a deceptive trade practice as defined in chapter 598 of NRS;

(b) Fails to refund any fees collected in excess of the actual cost the mortgage ~~[broker]~~ *company* incurs or pays for any appraisal, credit report or any other product or service provided by a third party in connection with the making of a loan;

(c) Improperly influences or attempts to improperly influence the proper development, reporting, result or review of a real estate appraisal with respect to the making of a mortgage loan; or



(d) Violates a provision of:

(1) The Truth in Lending Act, 15 U.S.C. §§ 1601 to 1667f, inclusive, including, without limitation, the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1639, or Regulation Z, 12 C.F.R. Part 226.

(2) The Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 to 1691f, inclusive, or Regulation B, 12 C.F.R. Part 202.

(3) The Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 to 2617, inclusive, or Regulation X, ~~124~~ 12 C.F.R. Part ~~3500~~ 1024.

(4) The S.A.F.E. Mortgage Licensing Act, including, without limitation, section 1505(e) of the Act regarding the submission of reports of condition to the Registry.

(5) Any other applicable federal or state law or regulation related to mortgage transactions.

3. For the purposes of NRS 645B.670, a mortgage ~~agent~~ *loan originator* commits a violation if the mortgage ~~agent~~ *loan originator*:

(a) Engages in a deceptive trade practice as defined in chapter 598 of NRS;

(b) Fails to refund any fees collected in excess of the actual cost the mortgage ~~agent~~ *loan originator* incurs or pays for any appraisal, credit report or any other product or service provided by a third party in connection with the making of a loan; or

(c) Violates a provision of:

(1) The Truth in Lending Act, 15 U.S.C. §§ 1601 to 1667f, inclusive, including, without limitation, the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1639, or Regulation Z, 12 C.F.R. Part 226.

(2) The Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 to 1691f, inclusive, or Regulation B, 12 C.F.R. Part 202.

(3) The Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 to 2617, inclusive, or Regulation X, ~~[24]~~ 12 C.F.R. Part ~~[3500.]~~ 1024.

(4) The S.A.F.E. Mortgage Licensing Act, including, without limitation, section 1505(e) of the Act regarding the submission of reports of condition to the Registry.

(5) Any other applicable federal or state law or regulation related to mortgage transaction.

(d) Does any of the following:

(1) Is convicted of, or enters a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court;

(2) Has a license or registration as a mortgage agent, mortgage banker, mortgage broker, *mortgage company, mortgage loan originator* or residential mortgage loan originator revoked in this State or any other jurisdiction, or has a financial services license suspended or revoked;

(3) Makes a false statement of material fact to the Division;

(4) Violates any provision of this chapter or ~~[chapter 645E of NRS, a regulation adopted pursuant thereto or]~~ an order of the Commissioner; or

(5) Demonstrates a lack of financial responsibility, character and general fitness so as to lose the confidence of the community and warrant a determination that the mortgage ~~[agent]~~ *loan originator* will not operate honestly, fairly and efficiently for the purposes of chapter 645B of NRS.

4. Nothing in this section shall be construed to prohibit a mortgage ~~[broker]~~ *company* from requesting an appraiser of real estate to do one or more of the following:

- (a) Consider any appropriate information relating to the property;
- (b) Provide additional details, substantiations or explanations in support of the appraiser's valuation of the property; or
- (c) Correct errors in the appraisal report.

**Sec. 57.** NAC 645F.510 is hereby amended to read as follows:

645F.510 The following subjects are approved as course material for initial licensing and continuing education:

1. Federal and Nevada state laws and regulations relating to mortgage lending or the activities of covered service providers, foreclosure consultants and loan modification consultants.
2. The provisions of:
  - (a) The Nevada Covered Service Provider Regulations or chapter 645F of NRS governing covered service providers, foreclosure consultants and loan modification consultants;
  - (b) Chapter 645B of NRS governing mortgage ~~[brokers]~~ *companies* and mortgage ~~[agents;]~~ *loan originators*;
  - (c) Chapter 598D of NRS governing unfair lending practices;
  - (d) Chapter 645A of NRS governing escrow agencies and agents; and
  - (e) Chapter 107 of NRS governing deeds of trust.
3. Practices and information relating to covered service providers, foreclosure consultants and loan modification consultants or to the mortgage industry, including, but not limited to, federal programs designed to assist homeowners facing foreclosure.
4. Ethics and deceptive trade practices.



5. Any other subject approved by the Commissioner, including, but not limited to, the tax consequences of a loan modification or foreclosure.

**Sec. 58.** NAC 645F.650 is hereby amended to read as follows:

645F.650 1. If a licensee or a relative of the licensee is licensed as, conducts business as or holds a controlling interest or position in:

(a) An escrow agency, a title or escrow agent, a title insurer or an escrow officer of a title agent or title insurer; or

(b) A mortgage ~~broker,~~ *company*, mortgage ~~agent, mortgage banker~~ *loan originator*, or real estate broker or agent,

➡ the licensee shall fully disclose, in writing, his or her status as, connection to or relationship with such a person or entity to each homeowner before entering into a contract for the provision of covered services. The licensee shall not require as a condition to a homeowner entering into a contract for the provision of covered services that the homeowner transact business with or use the services of any such person or entity or that the homeowner authorize the licensee to transact business with or use the services of such person or entity on behalf of the homeowner.

2. For the purposes of this section, a person shall be deemed to hold a controlling interest or position if the person:

(a) Owns or controls a majority of the voting stock or holds any other controlling interest, directly or indirectly, that gives the person the power to direct management or determine policy; or

(b) Is a partner, officer, director or trustee.

3. As used in this section, "licensee" means:

(a) A licensee; and

(b) If the licensee is not a natural person, any general partner, officer or director of the licensee.

**Sec. 59.** NAC 645F.939 is hereby amended to read as follows:

645F.939 1. "Mortgage loan" includes, without limitation:

(a) Any loan that is secured by a mortgage, deed of trust or other consensual security interest on a dwelling located in this State or real property located in this State upon which is constructed or intended to be constructed a dwelling; or

(b) Any loan made or arranged by a mortgage ~~broker~~ company under chapter 645B of NRS that is secured by a mortgage, deed of trust or other consensual security interest on commercial property located in this State that is funded by one or more private investors.

2. As used in this section:

(a) "Commercial property" has the meaning ascribed to it in NRS ~~645E.040~~ 645B.01047.

(b) "Private investor" has the meaning ascribed to it in NRS 645B.01305.

**Sec. 60.** NAC 645F.955 is hereby amended to read as follows:

645F.955 The Commissioner may issue a license to an applicant for a license as a mortgage servicer if, after investigation, the Commissioner finds that the applicant and, if applicable, any control persons of the applicant:

1. Meet the requirements of chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

2. Have demonstrated experience, financial responsibility, character and general fitness so as to command the confidence of the community and warrant a determination that the applicant

and, if applicable, any control person of the applicant will operate honestly, fairly and efficiently for the purposes of chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

3. Have never had a license or registration as a mortgage agent, mortgage broker, mortgage banker, *mortgage company, mortgage loan originator* or mortgage servicer revoked in this State or any other jurisdiction or had any financial services license or registration, as defined in NRS 645B.0119, revoked within the immediately preceding 10 years. For purposes of this subsection, a license or registration shall not be considered revoked if the revocation was subsequently vacated.

4. Have not been convicted of, or entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the past 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering. For the purposes of this subsection, a person shall not be considered to have been convicted, or entered or agreed to enter a plea of guilty or nolo contendere if the conviction or plea has been pardoned or vacated.

5. Have designated a qualified employee for each principal and branch office, if any, pursuant to NAC 645F.957 and each qualified employee has been approved by the Commissioner.

6. Have deposited the surety bond required pursuant to NAC 645F.970.

7. Have provided the financial statements required pursuant to NAC 645F.973 and 645F.974.

**Sec. 61.** NAC 645F.957 is hereby amended to read as follows:



645F.957 1. A licensee must designate a natural person to serve as a qualified employee for each principal or branch office, if any, licensed pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations. A natural person may not be designated to serve as a qualified employee unless such person:

(a) Has at least 2 years of verifiable experience in the business of servicing mortgage loans within the immediately preceding 5 years.

(b) Is designated by the licensee to act on behalf of the licensee and to supervise and control the conduct of the business of the licensee at only one location.

(c) Will be employed and present at the location.

(d) Has submitted to and successfully passed a background investigation pursuant to NAC 645F.955 or is a mortgage ~~agent~~ *loan originator* licensed pursuant to chapter 645B of NRS.

(e) Has been approved by the Commissioner to act as the qualified employee for the licensee at the location.

2. If a qualified employee designated pursuant to subsection 1 is not approved by the Commissioner pursuant to subsection 3, or is subsequently deemed ineligible because he or she does not meet the above requirements, or the employment relationship with the licensee is terminated, the licensee, within 30 days after the disapproval or ineligibility, shall:

(a) Provide written notification to the Commissioner; and

(b) Designate a new qualified employee and request the approval of the Commissioner for that person to serve as the qualified employee.

3. A mortgage servicer that:

(a) Holds a license as a mortgage ~~broker or mortgage banker~~ *company* pursuant to chapter 645B ~~for 645E~~ of NRS;

(b) Holds a supplemental mortgage servicer license pursuant to NAC 645F.952; and

(c) Engages in activities as a mortgage servicer and mortgage ~~broker or mortgage banker~~ *company* at the same location,

↪ may appoint a single qualified employee at such a location if the qualified employee meets the requirements to serve as a qualified employee pursuant to this section and NAC 645B.055 . ~~for 645E.310, as applicable.~~

4. For the purposes of this section, “verifiable experience in the business of servicing mortgage loans” means compensated experience engaging in:

- (a) The servicing of mortgage loans;
- (b) Accounting or receipt and processing of payments on behalf of creditors or noteholders;
- (c) Supervision of the activities described in paragraph (a) or (b); or
- (d) Any other experience deemed to be relevant by the Commissioner.

**Sec. 62.** NAC 645F.980 is hereby amended to read as follows:

645F.980 In addition to any other activity prohibited or required by chapter 645F of NRS and the Nevada Mortgage Servicer Regulations, it is a violation for any applicant, licensee or mortgage servicer to:

1. Fail to conduct his or her business in accordance with any law or to violate any provision of chapter 645F of NRS, the Nevada Mortgage Servicer Regulations or any order issued by the Commissioner pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

2. Fail to comply with any applicable federal law or regulation relating to mortgage servicing, including, without limitation, the Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 et seq., and the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., as amended, and any regulations promulgated thereunder.
3. Directly or indirectly employ any scheme, device or artifice to defraud or mislead a borrower or lender or to defraud any person.
4. Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of a mortgage loan, including, without limitation, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a mortgage loan, the terms and conditions of the servicing agreement or the borrower's obligations under the mortgage loan.
5. Fail to maintain the minimum net worth required by NAC 645F.974.
6. Fail to maintain the minimum surety bond required by NAC 645F.970.
7. Suppress or withhold from the Commissioner any information which the applicant or licensee possesses and which, if submitted by the applicant or licensee, may have rendered the applicant or licensee ineligible to be licensed pursuant to the provisions of chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.
8. Fail to exercise reasonable supervision over the activities of its employees or agents.
9. Fail to apply mortgage loan payments in accordance with a servicing agreement or the terms of a note.
10. Fail to properly apply payments to an escrow account or fail to place in a trust or escrow account held by a federally insured depository financial institution, as defined in NRS



~~[645E.060,]~~ **645B.0109**, all money that is received by the mortgage servicer from the borrower or fail to account for all money received or disbursed for a trust or escrow account.

11. Make payments in a manner that causes a policy of insurance to be cancelled or causes property taxes or similar payments to become delinquent.

12. Require any amount of money to be remitted by means which are more costly to the borrower than a bank or certified check or attorney's check from an attorney's account to be paid by the borrower.

13. Refuse to permit an examination or investigation by the Commissioner of the books and affairs of the mortgage servicer, or refuse or fail, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

14. Refuse or fail to pay, within a reasonable time, any fees, assessments, costs, expenses or fines that the mortgage servicer is required to pay pursuant to the provisions of chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

15. Fail to satisfy a claim, related to activity conducted pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations, which has been reduced to a judgment.

16. Commingle the money or property of a borrower or lender with the money or property of the mortgage servicer, or convert the money or property of other persons to the mortgage servicer's own use.

17. Transfer a license, or conduct the business of a mortgage servicer in a name or from an address not specified on the license, before obtaining the required approval of the Commissioner.

18. Be convicted of, or entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering.

19. Employ a control person at a time when the mortgage servicer knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the control person:

(a) Had been convicted of, or entered or agreed to enter a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court within the 7 years immediately preceding the date of the application, or at any time if such felony involved an act of fraud, dishonesty or a breach of trust, moral turpitude or money laundering; or

(b) Had a license or registration as a mortgage agent, mortgage broker, mortgage banker, *mortgage company, mortgage loan originator* or mortgage servicer revoked in this State or any other jurisdiction or had a financial services license or registration, as defined in NRS 645B.0119, revoked within the immediately preceding 10 years.

20. Instruct, encourage, or aid another licensee or person in the commission of an act that is a violation of chapter 645F of NRS or the Nevada Mortgage Servicer Regulations, whether or not the licensee or person commits the act.

21. Engage in, or offer to engage in or otherwise hold himself or herself as being able to provide or conduct the activity of a mortgage ~~{broker, mortgage-banker,}~~ *company*, mortgage ~~{agent}~~ *loan originator* or covered service provider unless properly licensed under chapter 645B ~~[-, 645E]~~ or 645F of NRS, as applicable.

Sec. 63. NAC 645F.983 is hereby amended to read as follows:

645F.983 1. Each mortgage servicer shall keep and maintain, and make available for examination by the Commissioner, at all times at the principal office of the mortgage servicer, complete and suitable books, accounts, records and documents of all business conducted by the mortgage servicer to enable the Commissioner to determine whether the business of the mortgage servicer is conducted in compliance with chapter 645F of NRS, the Nevada Mortgage Servicer Regulations or any other applicable law.

2. If a mortgage servicer does not maintain the books, accounts, records and documents described in subsection 1 in this State, the mortgage servicer shall provide such records to the Commissioner within 5 business days after the request or the mortgage servicer shall pay the reasonable travel, lodging and meal expenses of the examiner as provided in NAC 645F.961.

3. The books, accounts, records and documents described in subsection 1 must include, without limitation:

(a) A loan history for each mortgage loan upon which payments are received or made by the mortgage servicer, itemizing the amount and date of each payment and the unpaid balance at all times.

(b) The original or an exact copy of each note, mortgage, deed of trust or other evidence of indebtedness and any assignment.

(c) The name and address of the lender and mortgage ~~{broker,}~~ company, if any, involved in the mortgage loan transaction.

(d) Copies of any servicing agreements.

(e) Copies of any disclosures or notifications provided to a borrower required by state or federal law or regulation.



(f) A copy of any bankruptcy plan approved in a proceeding filed by a borrower or co-owner of real property subject to a mortgage loan.

(g) A communications log that documents all verbal or written communications with a borrower or borrower's representative.

(h) A copy of all notices sent to a borrower related to any foreclosure proceeding filed against the encumbered property.

(i) All checkbooks, check registers, bank statements, deposit and withdrawal slips, cancelled checks and any other record that relates to the business of the mortgage servicer.

(j) All records related to escrow or trust accounts.

(k) Copies of all reports, audits, examinations, inspections, reviews, investigations or other similar activities relating to the business of the mortgage servicer performed by any third party, including, without limitation, any regulatory or supervisory authority.

4. Each mortgage servicer shall preserve and keep available for examination by the Commissioner the records described in subsection 3 for a period of at least 4 years after the date of the last activity relating to the transaction.

**Sec. 64.** Section 2 of LCB File No. R178-18 is hereby amended to read as follows:

The Commissioner may issue a license by endorsement as a mortgage ~~broker~~ *company* or mortgage ~~agent~~ *loan originator* to a natural person who holds a corresponding valid and unrestricted license to engage in the activities of a mortgage ~~broker~~ *company* or mortgage ~~agent~~ *loan originator*, 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}~~ *company* or mortgage ~~{agent,}~~ *loan originator*, 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}~~ *company* or mortgage ~~{agent,}~~ *loan originator*, 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}~~ *company* or mortgage ~~{agent,}~~ *loan originator*, 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}~~ *company* or mortgage ~~{agent}~~ *loan originator*, 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}~~ *company* or mortgage ~~{agent}~~ *loan originator*, as applicable;

(9) Has not had a license to engage in the activities of a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator*, 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}~~ *company* or mortgage ~~{agent}~~ *loan originator*, 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}~~ *company* or mortgage ~~{agent}~~ *loan originator*, 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~~ *loan originator*, 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~~ *company* with whom he or she is associated or employed.

(f) If the applicant is applying for a license as a mortgage ~~broker~~ *company*:

(1) An audited financial statement that is prepared using the records of the activities of a mortgage ~~broker~~ *company* 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~~ *company* 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,}~~ *company*, as provided by NRS 645B.050; or

(b) To apply for and be issued a license as a mortgage ~~{agent,}~~ *loan originator*, as provided by NRS 645B.410.

**Sec. 65.** Section 3 of LCB File No. R178-18 is hereby amended to read as follows:

1. Not later than 21 business days after receiving an application for a license by endorsement as a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* pursuant to section 2 of LCB File No. R178-18, 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}~~ *company* or mortgage ~~{agent,}~~ *loan originator*, 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 LCB File No. R178-18; or

(c) If the application is for licensure as a mortgage ~~{broker,}~~ *company*, 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 LCB File No. R178-18 if:

(a) The applicant willfully fails to comply with the requirements of paragraph (c) of subsection 1 of section 2 of LCB File No. R178-18;

(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. 66.** Section 4 of LCB File No. R178-18 is hereby amended to read as follows:

1. Except as otherwise provided in section 2 of LCB File No. R178-18, a person who has been issued a license by endorsement as a mortgage ~~{broker}~~ *company* or mortgage ~~{agent}~~ *loan originator* pursuant to section 3 of LCB File No. R178-18 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)~~ *company* or mortgage ~~(agent.)~~ *loan originator*, as applicable, who did not obtain his or her license by endorsement pursuant to section 3 of LCB File No. R178-18.

2. A license by endorsement issued pursuant to section 3 of LCB File No. R178-18 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. 67. NAC 645B.045, 645B.0665, 645E.010, 645E.015, 645E.017, 645E.025, 645E.030, 645E.035, 645E.045, 645E.090, 645E.100, 645E.200, 645E.203, 645E.207, 645E.210, 645E.220, 645E.225, 645E.235, 645E.240, 645E.250, 645E.270, 645E.280, 645E.283, 645E.285, 645E.290, 645E.295, 645E.310, 645E.315, 645E.320, 645E.321, 645E.323, 645E.327, 645E.330, 645E.335, 645E.337, 645E.340, 645E.345, 645E.350, 645E.355, 645E.360, 645E.400, 645E.500, 645E.505, 645E.510, 645E.515, 645E.520, 645E.522, 645E.525, 645E.530, 645E.535, 645E.540, 645E.545, 645E.550, 645E.555, 645E.560, 645E.565 and 645E.570 are hereby repealed.

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## TEXT OF REPEALED SECTIONS

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**NAC 645B.045 Unexpired certificate of exemption. (NRS 645B.060)** A person who has an unexpired certificate of exemption issued pursuant to chapter 645B of NRS shall be deemed to have an unexpired certificate of exemption issued pursuant to chapter 645E of NRS.

**NAC 645B.0665 Proof of adverse change in financial condition. (NRS 645B.060)** For the purposes of paragraph (b) of subsection 4 of NRS 645B.060, an adverse change in financial condition:

1. Is not proven solely by a decrease in income from any previous period if the mortgage broker remains profitable; and
2. May be shown by material receivables or payables to related parties, material off-balance sheet commitments, contingent liabilities or other identified concerns related to the deterioration of net worth or liquidity.

**NAC 645E.010 Definitions. (NRS 645E.300)** As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645E.020 to 645E.100, inclusive, and NAC 645E.015 to 645E.035, inclusive, have the meanings ascribed to them in those sections.

**NAC 645E.015 “Affiliated business” defined. (NRS 645E.300)**

1. “Affiliated business” means a business which a mortgage banker or any control person or employee of the mortgage banker:
  - (a) Directly or indirectly owns or controls a controlling interest of the business;
  - (b) Is a partner, officer, director or trustee of the business; or
  - (c) Conducts the operation of the business.

2. As used in this section, “controlling interest” means a majority of the voting stock of a business or any other interest in a business that gives the holder of the interest the power to direct the management or to determine the policy of the business.

**645E.017 “Control person” defined. (NRS 645E.300)** “Control person” means an executive officer, officer, general partner, partner, managing member, member, director, trustee or shareholder of a licensee or applicant. The term includes, without limitation, a chief executive officer, president, vice president, chief financial officer, chief operating officer, chief legal officer, controller or compliance officer or a natural person who holds any similar position.

**645E.025 “Nationwide Mortgage Licensing System and Registry” and “Registry” defined. (NRS 645E.300)** “Nationwide Mortgage Licensing System and Registry” or “Registry” has the meaning ascribed to it in NRS 645B.0128.

**645E.030 “Qualified employee” defined. (NRS 645E.300)** “Qualified employee” means a natural person who is designated by a mortgage banker to act on behalf of the mortgage banker and who is approved by the Commissioner pursuant to NAC 645E.310.

**645E.035 “S.A.F.E. Mortgage Licensing Act” defined. (NRS 645E.300)** “S.A.F.E. Mortgage Licensing Act” means the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Public Law 110-289, 122 Stat. 2654, Title V, July 30, 2008.

**645E.045 “Insolvent” interpreted. (NRS 645E.300)** For the purposes of paragraph (a) of subsection 2 of NRS 645E.670, “insolvent” is interpreted to mean that the liabilities of a mortgage banker exceed his or her assets, as calculated by the Commissioner in accordance with generally accepted accounting principles, and the calculation:



1. Must exclude any intangible and any amount receivable by the mortgage banker that is related to the intangible; and

2. May exclude any shareholder debt that is subordinated.

**645E.090 Burden of demonstrating qualification for exemption from provisions of chapter 645E of NRS. (NRS 645E.300, 645F.292, 645F.293)** A person who claims an exemption from the provisions of chapter 645E of NRS pursuant to NRS 645E.150 has the burden of demonstrating that the person qualifies for such an exemption.

**645E.100 Unexpired certificate of exemption. (NRS 645E.300)** A person who has an unexpired certificate of exemption issued pursuant to chapter 645B of NRS shall be deemed to have an unexpired certificate of exemption issued pursuant to chapter 645E of NRS.

**645E.200 Qualifications of applicant: Required experience. (NRS 645E.200, 645E.300)**

1. An applicant for a license as a mortgage banker must have, within the 5 years immediately preceding the date of his or her application, at least 2 years of verifiable experience in the business of lending money for real estate or mortgages.

2. As used in this section, “verifiable experience in the business of lending money for real estate or mortgages” means compensated experience engaging in:

- (a) The activities of a mortgage agent;
- (b) Supervising the activities of one or more mortgage agents;
- (c) Underwriting or processing mortgage loans;
- (d) Making loans secured by real property; or
- (e) Any other experience determined to be relevant by the Commissioner.

**645E.203 Qualifications of applicant: Compliance with federal and state law; licensure through Registry. (NRS 645E.300, 645F.292, 645F.293)**

1. Each applicant for a license issued pursuant to chapter 645E of NRS:

(a) Shall comply with any applicable federal or state law or regulation, including, without limitation:

(1) The provisions of the S.A.F.E. Mortgage Licensing Act and any regulation adopted pursuant thereto; and

(2) Any applicable requirement pursuant to chapter 645B, 645E or 645F of NRS or any regulation adopted pursuant thereto, including, without limitation, any applicable requirement relating to:

(I) A bond; or

(II) A license for a loan processor or underwriter who is an independent contractor; and

(b) Must be licensed with the Division through the Registry.

2. As used in this section:

(a) "Clerical or support duties" has the meaning ascribed to it in section 1503(4)(B) of the S.A.F.E. Mortgage Licensing Act.

(b) "Loan processor or underwriter" means a natural person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under chapter 645B or 645E of NRS.

**645E.207 Qualifications of applicant: Requirements for licensure pursuant to NRS 645E.200. (NRS 645E.300)**

1. Pursuant to subsection 3 of NRS 645E.200, the Commissioner will not issue a license as a mortgage banker unless the requirements of that subsection have been fulfilled.

2. For the purposes of subparagraph (2) of paragraph (b) of subsection 3 of NRS 645E.200, the Commissioner will not consider a person to have been convicted or entered a plea of guilty or nolo contendere if the conviction or plea has been pardoned or vacated.

3. For the purposes of subparagraph (4) of paragraph (b) of subsection 3 of NRS 645E.200, a license shall not be considered to be revoked or suspended if the revocation or suspension was subsequently vacated.

**645E.210 Documentation required with application for license; conditional approval; effect of failure to respond to written request for information in timely manner. (NRS 645E.200, 645E.300)**

1. An applicant must submit with his or her application for a license pursuant to chapter 645E of NRS:

(a) A copy of the applicant's state business license, when applicable, the applicant's application for such a license if the applicant has not obtained one or evidence that the applicant is exempt from the requirement to obtain a state business license.

(b) If the applicant intends to operate under an assumed or fictitious name, a copy of the certificate filed by the applicant pursuant to chapter 602 of NRS indicating the assumed or fictitious name of the applicant. An applicant may not use more than one assumed or fictitious name.

(c) If the applicant is not a natural person, a copy of the documents that formed the applicant and its operating documents and any amendments thereto.



(d) Evidence that the applicant has met the requirements imposed by the S.A.F.E. Mortgage Licensing Act.

(e) A current electronic mail address for the applicant or the person designated by the applicant for contact with regulators.

(f) The name of each mortgage agent who will be employed by the applicant at the location.

2. If an applicant has received a letter of conditional approval of his or her application from the Division which imposes additional requirements that the applicant must satisfy to obtain a license, the applicant must comply with those requirements within 30 days after the date on which the letter was issued by the Division. If the applicant does not satisfy all additional requirements set forth in the letter within the period prescribed in this subsection, the conditional approval of the application will be deemed to have expired and the applicant must reapply to obtain a license. The Commissioner may, for good cause, extend the 30-day period prescribed in this subsection.

3. An application shall be deemed abandoned if the applicant fails to respond, within 30 calendar days after the date of the request or on or before a later date set by the Commissioner, to any written request by the Division for information or records required in connection with the investigation and evaluation of the qualifications and suitability for licensure of the applicant, its qualified employee or, if applicable, its control persons.

**645E.220 Branch office: Prerequisites and name for issuance of license; display of license; responsibilities of mortgage banker; conditional approval; effect of failure to respond to written request for information in timely manner. (NRS 645E.200, 645E.300, 645F.292, 645F.293)**

1. An applicant must submit with his or her application for a license for a branch office:
  - (a) The name, residence address and telephone number of a qualified employee designated to manage and supervise the branch office; and
  - (b) The name of each mortgage agent who intends to work at the branch office.
2. A license for a branch office may be issued only in the name in which the mortgage banker is licensed to conduct business at its principal office.
3. Each branch office must conspicuously display its license at the branch office.
4. A mortgage banker is responsible for and shall supervise:
  - (a) Each branch office of the mortgage banker; and
  - (b) Each qualified employee and mortgage agent authorized to conduct mortgage lending activity at a branch office of the mortgage banker.
5. The Commissioner may require that an applicant meet the requirements of the S.A.F.E. Mortgage Licensing Act.
6. If an applicant has received from the Division a letter of conditional approval of his or her application for a license for a branch office which imposes additional requirements that the applicant must satisfy to obtain a license for a branch office, the applicant must comply with those requirements within 30 days after the date on which the Division issued the letter. If the applicant does not satisfy all additional requirements set forth in the letter within the period prescribed in this subsection, the conditional approval of the application shall be deemed to have expired and the applicant must reapply to obtain a license for a branch office. The Commissioner may, for good cause, extend the 30-day period prescribed in this subsection.

7. An application for a license for a branch office shall be deemed abandoned if the applicant fails to respond, within 30 calendar days after the date of the request or on or before a later date set by the Commissioner, to any written request by the Division for information or records required in connection with the investigation and evaluation of the qualifications and suitability for licensure of the applicant, its qualified employee or, if applicable, its control persons.

**645E.225 Sharing office space with another business. (NRS 645E.300)**

1. Except as otherwise provided in subsection 2, a mortgage banker may share office space with any other business if each business has a designated space within the office space and each business is separately identifiable by a sign or other method of identification within the office space.

2. A mortgage banker may share office space with a business licensed pursuant to chapter 645 of NRS if:

- (a) Each business has separate and distinct office space and signs such that a reasonable customer would understand which business he or she is transacting with at all times;
- (b) Each business operates as a separate legal entity;
- (c) Each business maintains separate accounts, books and records;
- (d) Each business maintains separate licenses; and
- (e) The businesses are subsidiaries of the same parent corporation or are otherwise affiliated businesses.

**645E.235 Change of electronic mail address or contact information. (NRS 645E.300, 645F.292, 645F.293)** If an applicant or a licensee wishes to change his or her electronic mail address or contact information, the person shall make the change and:

1. If the person is registered with the Registry, notify the Division through the Registry; or
2. If the person is not registered with the Registry, provide written notice directly to the Division.

**645E.240 Use of fictitious name. (NRS 645E.200, 645E.300)**

1. A mortgage banker shall not conduct business using a fictitious name unless the mortgage banker:

- (a) Complies with the provisions of chapter 602 of NRS;
- (b) Files with the Division a certified copy, issued by the appropriate county clerk, of the certificate filed by the mortgage banker pursuant to chapter 602 of NRS indicating the fictitious name; and
- (c) Receives from the Division a license or certificate of exemption indicating the fictitious name.

2. If a mortgage banker conducts business using a fictitious name pursuant to this section, the mortgage banker may conduct business using a new fictitious name only if the mortgage banker:

- (a) Obtains a certified copy, issued by the appropriate county clerk, of the certificate filed by the mortgage banker pursuant to chapter 602 of NRS indicating the new fictitious name;
- (b) Files with the Division, not later than 10 calendar days after obtaining the certified copy pursuant to paragraph (a):



- (1) The certified copy obtained pursuant to paragraph (a); and
- (2) The current license or certificate of exemption of the mortgage banker; and
- (c) Receives from the Division an amended license or certificate of exemption indicating the new fictitious name.

3. A mortgage banker may conduct business using more than one fictitious name only if the mortgage banker obtains a separate license issued pursuant to chapter 645E of NRS for each fictitious name under which he or she intends to do business. A mortgage banker who conducts business in this State using more than one fictitious name is responsible for the conduct of each qualified employee, mortgage agent and other employee associated with the mortgage banker, regardless of the license or name under which the conduct takes place.

**645E.250 Use of same name, confusingly similar name or name not approved by Commissioner. (NRS 645E.300)**

1. The Commissioner will not issue a license or certificate of exemption with a name that is the same as or confusingly similar to a name on a license or certificate of exemption previously issued by the Commissioner.

2. A mortgage banker shall not advertise or conduct business as a mortgage banker using a name other than the name approved by the Commissioner and indicated on the license or certificate of exemption issued by the Commissioner to the mortgage banker.

**645E.270 Activity not constituting services as mortgage banker. (NRS 645E.300, 645F.292, 645F.293)** A person does not hold himself or herself out as being able to perform the services described in NRS 645E.100 if the person:

1. Is in compliance with the S.A.F.E. Mortgage Licensing Act and any regulation adopted pursuant thereto; and

2. Only offers to provide money in the secondary mortgage market to acquire or invest in loans secured by an interest in real property to:

- (a) A mortgage banker licensed pursuant to chapter 645E of NRS; or
- (b) A person exempt from the provisions of chapter 645E of NRS.

**645E.280 Circumstances under which person is or is not considered to be making loan secured by lien on real property using his or her own money. (NRS 645E.100, 645E.300)**

1. A person makes a loan secured by a lien on real property using his or her own money if the loan is funded from one or more of the following sources:

(a) The person's cash, corporate capital or warehouse credit lines at a depository financial institution or other sources that are liability items on the person's financial statements.

(b) An affiliate's cash, corporate capital or warehouse credit lines at a depository financial institution or other sources that are liability items on the affiliate's financial statements for which the affiliate's assets are pledged. As used in this paragraph, "affiliate" means another person who, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the person making the loan.

2. A person does not make a loan secured by a lien on real property using his or her own money if, after consummation of the loan, the person sells the loan, or an interest in the loan, to a person from whom he or she would not be authorized to accept money initially to fund the loan.

**645E.283 Professional conduct. (NRS 645E.300, 645F.255, 645F.520)**

1. In addition to any other duty imposed by this chapter or chapter 645E of NRS or any other applicable law, a mortgage banker who acts as a mortgage servicer in connection with one or more mortgage loans which the mortgage banker made or arranged under his or her license as a mortgage banker:

(a) Has a duty of good faith and fair dealing in the communications, transactions and course of dealings of the mortgage banker with each borrower in connection with the servicing of the mortgage loan of the borrower;

(b) Shall:

(1) Safeguard and account for any money handled for the borrower and, if applicable, investor;

(2) Follow reasonable and lawful instructions from the borrower and, if applicable, investor;

(3) Act with reasonable skill, care and diligence;

(4) Comply with all applicable federal laws and regulations relating to mortgage servicing, including, without limitation, the Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 et seq., and the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and any regulations adopted pursuant thereto;

(5) File annually with the Commissioner a complete schedule of the ranges of costs and fees charged to a borrower by the mortgage banker for the activities of the mortgage banker relating to mortgage servicing; and

(6) File quarterly, directly with the Commissioner or through the Registry to the Commissioner, on a date and in a form prescribed by the Commissioner, a report of the mortgage

servicing activity that the mortgage banker performs in this State on loans that the mortgage banker made or arranged under his or her license as a mortgage banker issued pursuant to chapter 645E of NRS, which must include, without limitation:

- (I) The total number of mortgage loans serviced by the mortgage banker;
- (II) The total dollar amount of mortgage loans serviced by the mortgage banker;
- (III) The types and characteristics of mortgage loans serviced by the mortgage banker;

and

- (IV) Any other information required by the Commissioner; and

(c) Shall not:

- (1) Transfer the servicing of a mortgage loan to another person unless the person holds a license as a mortgage servicer or is a person exempt from licensing as a mortgage servicer pursuant to chapter 645F of NRS and chapter 645F of NAC;
- (2) Directly or indirectly employ any scheme, device or artifice to defraud or mislead a borrower or investor or to defraud any person;
- (3) Fail to apply mortgage loan payments in accordance with a servicing agreement or the terms of a note; or
- (4) Fail to properly apply payments to an escrow account, fail to place in a trust or escrow account held by a federally insured depository financial institution all money that is received by the mortgage banker from the borrower or fail to account for all money received or disbursed for a trust or escrow account.

2. In addition to any other remedies provided by law, a violation of any applicable federal laws or regulations relating to mortgage servicing shall be deemed to be a violation of this



section and a basis for the imposition of disciplinary action by the Commissioner pursuant to this chapter and chapter 645E of NRS.

3. As used in this section, “mortgage servicer” has the meaning ascribed to it in NRS 645F.063.

**645E.285 Representation of activity as licensed; restrictions on advertising. (NRS 645E.300, 645F.292, 645F.293)**

1. A mortgage banker shall not represent an activity which is not licensed pursuant to chapter 645E of NRS as being licensed pursuant to that chapter.

2. Except as otherwise provided in subsection 3, an advertisement for an activity which is licensed pursuant to chapter 645E of NRS must be separate and distinct from an advertisement for an activity which is not licensed pursuant to that chapter.

3. A mortgage banker may advertise jointly with a company licensed pursuant to chapter 624 or 645 of NRS if each business is disclosed separately in the advertisement and each business incurs a pro rata share of the cost associated with the advertisement.

4. A mortgage banker must include in his or her advertisements, including any advertising material available on the Internet:

(a) The complete name of the mortgage banker that appears on the license of the mortgage banker issued pursuant to this chapter and chapter 645E of NRS.

(b) The address, telephone number and either the license number or unique identifier that the mortgage banker has on file with the Division. Additional telephone or cellular phone numbers of the mortgage banker may also be included.

(c) A description of any licensed activity mentioned in the advertisement, written in nontechnical terms.

5. A mortgage banker shall not use advertising material that simulates the appearance of a check or a communication from a governmental entity, or an envelope containing a check or a communication from a governmental entity, unless:

(a) The words "THIS IS NOT A CHECK," "NOT NEGOTIABLE" or "THIS IS NOT A GOVERNMENTAL ENTITY," as appropriate, appear prominently on the envelope and any material that simulates the appearance of a check or a communication from a governmental entity; and

(b) If the material simulates the appearance of a check, the material does not contain an American Bankers Association number, microencoding or any other marks intended to create the appearance that the material is a negotiable check.

6. A mortgage banker shall not refer to an existing lender or financial institution, other than the mortgage banker himself or herself or any affiliate or subsidiary of the mortgage banker, on any advertising material without the written consent of the lender or financial institution.

7. In addition to the requirements of this chapter, each advertisement used in carrying on the business of a mortgage banker must comply with:

- (a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and
- (b) All applicable federal statutes and regulations concerning deceptive advertising and advertising of interest rates.

8. An Internet link on a website of the mortgage banker that links the user to the website of another commercial enterprise must provide notification to the user that the user is leaving the website of the mortgage banker.

9. For the purposes of this section, “advertisement”:

(a) Does not include white-page listings, employment recruiting announcements, office signs, banners, magnetic car signs and letterhead which contain only the name, address and telephone number of the mortgage banker, whether together or separate, and which are used for the purpose of identification only.

(b) Includes commercial messages that promote the availability of mortgage products or investments offered by the mortgage banker. Commercial messages include, without limitation:

- (1) Print media;
- (2) Sales literature;
- (3) Sales brochures or flyers;
- (4) Billboards;
- (5) Yellow-page listings if more than a line listing;
- (6) Radio and television advertisements;
- (7) Mass mailings distributed by the United States Postal Service or another such delivery service or by electronic mail;
- (8) Telephone or seminar scripts;
- (9) Websites or other Internet sites that promote or accept loan applications; and
- (10) Business cards.

10. As used in this section, “unique identifier” means a number or other identifier assigned by protocols established by the Registry.

**645E.290 Disclosures to borrowers by certain persons acting in dual capacity. (NRS 645E.300)**

1. A mortgage banker, loan officer or qualified employee who is also licensed as a real estate broker or real estate salesperson and who acts in both capacities in a single transaction must make to the borrower the disclosures set forth on the form prescribed by the Division pursuant to subsection 2, including, but not limited to:

(a) Whether the mortgage banker, loan officer or qualified employee will be receiving compensation for acting as a mortgage banker, loan officer or qualified employee and as a real estate broker or real estate salesperson in the same transaction;

(b) That the borrower is under no obligation to allow the real estate broker or real estate salesperson to submit the loan package of the borrower to a mortgage banker, loan officer or qualified employee; and

(c) That the borrower may contact other mortgage bankers, loan officers or qualified employees to determine if the borrower is receiving the best services related to the loan and the best prices for those services.

2. The mortgage banker, loan officer or qualified employee shall provide the disclosures required pursuant to subsection 1 to the borrower at the time of application for a loan and in the following format:

(At least 14-point font)



BORROWER(S)

ACKNOWLEDGMENT AND AGREEMENT CONCERNING

DUAL CAPACITY AS REAL ESTATE SALES AGENT AND MORTGAGE

LOAN AGENT

**(At least 12-point bold font)**

**Borrower(s) are under no obligation whatsoever to allow their real estate sales agent to initiate or submit the borrower(s) loan package to any mortgage lender, broker, banker or investor. Mortgage brokers and other loan originators cannot offer loans from all funding sources and cannot guarantee the lowest price or best terms available in the market.**

**There may be other mortgage loan providers available with similar services and lower rates and/or fees. You are free and encouraged to contact various lenders to determine that you are receiving the best service and rates and lowest fees for those services. A comparative analysis of providers' services, rates and fees is recommended prior to making a decision on which lender to use.**

**(At least 10-point font)**

Borrower(s) are hereby informed and expressly acknowledge the following:

- Real estate sales agent \_\_\_\_\_, hereinafter referred to as "agent," is also associated with \_\_\_\_\_ (mortgage broker/banker) and is acting in the dual capacity as both mortgage loan

agent and real estate sales agent and shall receive compensation from the real estate sales transaction and separate compensation for arranging the mortgage loan.

- Real estate company \_\_\_\_\_ (check one of the following):

\_\_\_\_\_ Does have a business relationship with the licensed mortgage broker/banker or exempt company to which your loan is referred. Because of this relationship, this referral may provide the real estate company named above a financial or other benefit.

Describe the nature of the relationship including percentage of ownership interest, if applicable. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Does not have a business relationship with the licensed mortgage broker/banker or exempt company to which your loan is referred.

The mortgage broker/banker must provide you with a Good Faith Estimate disclosing all estimated costs of the loan, including the yield spread premium (YSP.) The YSP is income paid to a mortgage broker upon delivery of a mortgage loan to a lender at a premium interest rate.

By signing I/we confirm my/our understanding of the information provided herein.

BORROWER

BORROWER

\_\_\_\_\_

\_\_\_\_\_

By signing this form, the mortgage loan agent agrees that any fees paid to the mortgage broker/banker/agent as referred to above will not increase the cost of the borrower(s) loan beyond the normal and customary charges typically collected by mortgage lenders, brokers or investors.

MORTGAGE BROKER/QUALIFIED EMPLOYEE/AGENT

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If you have any questions regarding your mortgage loan agent or loan, please visit the Division of Mortgage Lending website at [www.dml.nv.gov](http://www.dml.nv.gov) or call 702.486.0780 in Las Vegas or 775.684.7060 in Northern Nevada.

3. As used in this section:

(a) "Real estate broker" has the meaning ascribed to it in NRS 645.030; and

(b) "Real estate salesperson" has the meaning ascribed to it in NRS 645.040.

**645E.295 Insider loans: Limitations and conditions. (NRS 645E.300, 645E.350)**

1. Insider loans made or arranged by a mortgage banker are subject to the following limitations and conditions:

(a) The lending limit must not exceed 25 percent of the total dollar amount of the outstanding balances of funded loans which were made or arranged by the mortgage banker or 100 percent of the mortgage banker's net worth as evidenced by the mortgage banker's most recent financial statement submitted to the Commissioner pursuant to NRS 645E.360, whichever is greater; and

(b) The mortgage banker shall specifically identify on each monthly report required by NRS 645E.350 any insider loan made by the mortgage banker.

2. As used in this section:

(a) "Insider" means a control person or employee of a mortgage banker.

(b) "Insider loan" means an extension of credit to an insider. For purposes of this paragraph, "extension of credit" includes, without limitation, a new loan or a loan renewal, a line of credit or any other financial right structured in any manner and granted by a mortgage banker as a means for the borrower to defer payment on an existing debt or to incur a debt and defer immediate payment.

(c) "Lending limit" means the maximum dollar amount permitted for the aggregate of insider loans made by a mortgage banker.

**645E.310 Qualified employee: Designation and approval. (NRS 645E.300, 645F.292, 645F.293)**

1. Every person, other than a natural person, doing business as a mortgage banker in this State shall designate a natural person as a qualified employee who may, upon approval by the Commissioner, act on behalf of the mortgage banker.

2. The Commissioner will approve the qualified employee designated pursuant to subsection 1 if the qualified employee is a natural person who:

(a) Is licensed in good standing as a mortgage agent pursuant to NRS 645B.410;

(b) Is designated by a mortgage banker to act on behalf of the mortgage banker and to supervise the conduct of the business of the mortgage banker and the mortgage agents and other staff members employed by the mortgage banker at the licensed office location;

(c) Will be present at the licensed office location for which he or she is the qualified employee the majority of the time that the office is open to the public;



(d) Has met the requirements of the S.A.F.E. Mortgage Licensing Act; and

(e) In the immediately preceding 5 years, has at least 2 years of verifiable experience in the business of lending money for real estate or mortgages.

3. If the qualified employee designated pursuant to subsection 1 is not approved by the Commissioner pursuant to subsection 2 or ceases to be a qualified employee, the mortgage banker shall designate another qualified employee pursuant to subsection 1 not later than:

(a) Thirty calendar days after the date that:

(1) The Commissioner notifies the mortgage banker that the initial qualified employee designated pursuant to subsection 1 is not approved; or

(2) The qualified employee ceases to be a qualified employee pursuant to this section; or

(b) A date after the date described in paragraph (a) if agreed to by the Commissioner.

4. As used in this section, “verifiable experience in the business of lending money for real estate or mortgages” has the meaning ascribed to that term in NAC 645E.200.

**645E.315 Change in control or control person of mortgage banker; change of location or closure of principal or branch office; surrender of license. (NRS 645E.300, 645E.390, 645F.292, 645F.293)**

1. Any change in the control persons of a mortgage banker must be reported to the Commissioner at least 30 calendar days before the change. Each new control person must submit to a background investigation in the manner provided in NRS 645E.200. A new control person may not participate in the management of a mortgage banker until the person is approved by the Commissioner.

2. A change of control of a mortgage banker is not effective until the change of control is approved by the Commissioner. A transfer, sale or conveyance of outstanding voting stock or ownership interest in a licensee that will result in the cumulative transfer, from the date upon which the license was issued, of 25 percent or more of the outstanding voting stock or ownership interest in the licensee is deemed to constitute a change of control.

3. At least 15 days before a person acquires stock or ownership in a mortgage banker as a result of a transfer that constitutes a change of control, the mortgage banker shall make a written application to the Commissioner for the approval of the change of control. The application must include, without limitation:

(a) The name and percentage of ownership of each person who has obtained or is obtaining stock or ownership resulting in a cumulative transfer of 25 percent or more of the outstanding voting stock or ownership interest in the mortgage banker; and

(b) A personal interrogatory and a complete set of fingerprints of each such person or, if the applicant is not a natural person, each control person of the applicant, in a form prescribed by the Commissioner, and written consent 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 in the manner provided in NRS 645E.200.

4. The Commissioner will conduct an investigation of each application submitted pursuant to subsection 3 to determine whether the requirements necessary for licensure pursuant to this chapter and chapter 645E of NRS are met.

5. A mortgage banker who wishes to change the location of his or her principal office or branch office must file a request with the Commissioner, return his or her original license for a

principal office or branch office to the Commissioner and submit any additional information required by the Commissioner. A mortgage banker may not change the location of its principal office or a branch office until the Commissioner has approved the transfer and issued a new license reflecting the change in location.

6. A mortgage banker may not surrender his or her license or close his or her principal office or a branch office until:

- (a) The mortgage banker has returned his or her original license; and
- (b) The Commissioner has approved the surrender or closure.

7. The request for approval of the surrender of the license or closure of the principal office of the mortgage banker or a branch office must contain the following information:

(a) The status of any incomplete applications for mortgage loans and the manner in which the loans will be finalized;

(b) An accounting of any trust account maintained by the mortgage banker and the plan for distribution of money in the account;

(c) If the mortgage banker is servicing any loans made or arranged by the mortgage banker under his or her license as a mortgage banker, a listing of those loans and the plan for transferring those loans to another mortgage servicer;

(d) If any mortgage agent associated with or employed by the mortgage banker terminates his or her association pursuant to NRS 645B.450, evidence of the termination; and

(e) In regard to the records of the mortgage banker maintained pursuant to subsection 1 of NRS 645E.350:

- (1) The address where the records will be maintained; and

(2) The telephone number and mailing address of the person who will be responsible for the maintenance of the records.

8. The Commissioner may require the person acquiring stock or ownership in a mortgage banker pursuant to subsection 3 to meet the requirements of the S.A.F.E. Mortgage Licensing Act, including, without limitation, submitting information to the Registry.

9. As used in this section, "change of control" has the meaning ascribed to it in NRS 645E.390.

**645E.320 Fees for supervision and related activities: Amount; collection; failure to pay; accounting of time billed upon request. (NRS 645E.300, 645E.310, 645F.280)**

1. Except as otherwise provided in subsection 2, the Commissioner will annually charge and collect a fee for supervision from each mortgage banker. The amount of the fee for supervision will be calculated pursuant to subsection 2. The Commissioner will annually bill each mortgage banker for the fee for supervision. The fee for supervision must be paid within 30 calendar days after the date of the invoice. Any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each complete month, or portion of the last month, that the fee is not paid.

2. A mortgage banker whose annual volume of loans reported to the Commissioner pursuant to NRS 645E.350 is:

(a) Less than \$10,000,000 will not be assessed a fee for supervision pursuant to subsection 1.

(b) At least \$10,000,000 shall pay a fee for supervision pursuant to subsection 1 at a rate of one-half cent per \$1,000 of the annual volume of loans reported to the Commissioner pursuant to NRS 645E.350.



3. Except as otherwise provided in this subsection, the Commissioner will charge and collect a fee of \$60 per hour from each mortgage banker for any examination, audit, investigation or hearing conducted pursuant to chapter 645E of NRS. The Commissioner may charge a fee equivalent to the estimated or actual fee charged to the Division for the time of an attorney required in any examination, investigation or hearing conducted pursuant to chapter 645E of NRS.

4. The Commissioner will bill each mortgage banker upon the completion of the activity for the fee established in subsection 3. The fee must be paid not later than 30 calendar days after the date of the invoice. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each complete month, or portion of the last month, that the fee is not paid. The Commissioner may waive the penalty for good cause. Upon written request by a mortgage banker, the Division will provide an accounting of the time billed to the mortgage banker pursuant to this subsection.

**645E.321 Grounds for denial of renewal of license. (NRS 645E.300, 645F.292, 645F.293)** As regards the renewal of a license pursuant to subsection 1 of NRS 645E.280, the Commissioner will not renew the license of a mortgage banker if the mortgage banker:

1. Has not paid all fees, fines and assessments owed to the Division or this State;
2. Is not properly registered with the Registry;
3. Fails to provide any required annual financial statements or reports of condition to the Division or Registry; or
4. Fails to provide any other item required by federal or state law or regulation.

**645E.323 Surety bonds. (NRS 645E.300, 645F.292, 645F.293)**

1. A mortgage banker shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada which is in the amount set forth in this section and is executed by a corporate surety satisfactory to the Commissioner.

2. If a mortgage agent is an employee of, or is associated with, a mortgage banker subject to the provisions of chapter 645E of NRS, the surety bond of the mortgage banker may be used to fulfill the mortgage agent's individual surety bond requirement pursuant to chapter 645B of NRS, if one exists, so long as the surety bond of the mortgage banker:

(a) Expressly covers the mortgage agent as a principal; and

(b) Names the mortgage banker as a principal and names all mortgage agents employed by or associated with the mortgage banker as principals, either by individual name or as a group, such as "All Employed or Associated Mortgage Agents."

3. A bond deposited pursuant to this section must be in substantially the following form:

Know All Persons by These Presents, that ....., as principal, and ....., as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of any provision of chapter 645B, 645E or 645F of NRS or any regulation adopted pursuant thereto, in the sum of ....., lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that:

Whereas, the principal has been issued a license as a mortgage agent, mortgage broker or mortgage banker by the Commissioner of Mortgage Lending and is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, and the principal's agents and employees, strictly, honestly and faithfully comply with the provisions of chapters 645B, 645E and 645F of NRS and any regulation adopted pursuant thereto, and pay all damages suffered by any person because of a violation of any provision of chapter 645B, 645E or 645F of NRS or any regulation adopted pursuant thereto or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645B, 645E or 645F of NRS or any regulation adopted pursuant thereto, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the ..... (day) of ..... (month) of ..... (year), and remains in force until the surety is released from liability by the Commissioner of Mortgage Lending or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Mortgage Lending.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its authorized officers at ....., Nevada, this ..... (day) of ..... (month) of ..... (year).

..... (Seal)

Principal

..... (Seal)

Surety

By .....

Attorney-in-fact

.....

Licensed registered agent

4. The required amount of the surety bond that complies with the provisions of this section is calculated by the Commissioner by determining the annual loan production amount for the person or persons covered under the bond and:

(a) In the case of an initial surety bond, the expected annual loan production is determined by an estimate of the Commissioner; and

(b) After the deposit of an initial surety bond, the expected annual loan production is based upon the annual loan production in the previous year.

5. The surety bond amounts will be set and adjusted as necessary annually by the Division in accordance with the following scale:



Annual Loan Production	Bond Amount Required
\$20,000,000 or less .....	\$50,000
Greater than \$20,000,000.....	\$75,000

6. The procedure regarding cancellation of a bond is as follows:

(a) A surety may cancel a bond upon giving 60 days' notice to the Commissioner by certified mail;

(b) Upon receipt by the Commissioner of notice, the Commissioner will immediately notify the mortgage banker who deposited the bond:

(1) Of the effective date of the cancellation; and

(2) That the license of the mortgage banker will be revoked unless the mortgage banker furnishes an equivalent bond before the effective date of the cancellation;

(c) The notification by the Commissioner must be sent to the mortgage banker by certified mail to the last address of record filed in the office of the Division; and

(d) If the mortgage banker does not comply with any requirements set out in the notification from the Commissioner, the license of the mortgage banker must be revoked on the date the bond is cancelled.

7. Any person:

(a) May claim against a bond by bringing an action in a court of competent jurisdiction on the bond for damages to the extent covered by the bond, but an action may not be commenced after the expiration of 3 years following the commission of the act on which the action is based; and

(b) Who claims against a bond shall notify the Commissioner in writing by certified mail upon filing the action.

8. Upon receiving a request from a person for whose benefit a bond is required, the Commissioner will notify the person:

- (a) That a bond is in effect and the amount of the bond; and
- (b) If there is an action against the bond, of the title of, the court and case number of, and the amount sought in that action.

9. If a surety wishes to make payment without awaiting action by a court:

- (a) The amount of the bond must be reduced to the extent of any payment made by the surety in good faith under the bond; and
- (b) Any payment must be based on written claims received by the surety before any action is taken by a court.

10. A surety may bring an action for interpleader against all claimants upon the bond, and if the surety brings an action, the surety:

- (a) Shall publish notice of the action at least once each week for 2 weeks in every issue of a newspaper of general circulation in the county of the principal place of business of the mortgage banker; and
- (b) May deduct its costs of the action, including attorney's fees and publication, from its liability under the bond.

11. Claims against a bond:

- (a) Have equal priority;

(b) If the bond is insufficient to pay all claims in full, must be paid on a pro rata basis, but partial payment of claims is not full payment; and

(c) Do not preclude a claimant from bringing an action against a mortgage banker for an unpaid balance.

**645E.327 Submission of information or payment of fees by applicant or licensee. (NRS 645E.300, 645F.292, 645F.293)** When an applicant or licensee is required to submit information or pay fees to the Division, the Commissioner may:

1. Require the applicant or licensee to submit the information or pay the fees directly to the Division or to the Division through the Registry; and
2. Require the applicant or licensee to submit extra copies of the information, including, without limitation, a set of the applicant's or licensee's fingerprints and written consent to an investigation of his or her credit history.

**645E.330 Assessment for costs related to audits and examinations. (NRS 645E.300, 645E.320)**

1. Each mortgage banker shall pay to the Division an annual assessment as required pursuant to NRS 645F.180 to cover the costs related to the employment of a certified public accountant and the performance of audits and examinations by the Division.
2. The Division will bill each mortgage banker for the assessment. The assessment must be paid within 30 calendar days after the date the bill is received.
3. A charge of 10 percent of the assessment will be imposed on any mortgage banker whose assessment is received by the Division after the date on which the assessment is due. The Commissioner may waive the penalty for good cause.

**645E.335 Authority of Commissioner or designee in conducting examination, investigation or audit. (NRS 645E.300)** For the purposes of conducting an examination, investigation or periodic or special audit pursuant to this chapter or chapter 645E of NRS:

1. The Commissioner or his or her designee may:

(a) Require the mortgage banker to produce, for the purposes of the examination, audit or investigation, all documents:

(1) Relating to business conducted by the mortgage banker pursuant to this chapter or chapter 645E of NRS;

(2) Required to be kept by the mortgage banker pursuant to any federal or state law or regulation; and

(3) Related to the operation of the business of the mortgage banker or any affiliated business that conducts business activities which are directly related to the business of the mortgage banker; and

(b) Inspect and copy any documents that are in the possession, control or custody of the mortgage banker and related to business conducted by the mortgage banker pursuant to this chapter or chapter 645E of NRS.

2. The Commissioner may:

(a) Employ or retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations, audits and investigations;

(b) Enter into agreements or relationships with other governmental officials and regulatory associations to improve efficiency and reduce regulatory burden by sharing resources,



standardized or uniform methods or procedures and documents, records, information or evidence obtained pursuant to this chapter or chapter 645E of NRS;

(c) Use, hire, contract with or employ analytical systems, methods or software, whether publicly or privately available, to examine or investigate a licensee or other person subject to chapter 645E of NRS;

(d) Accept and rely upon reports of examinations or investigations made by other state or federal governmental officials; and

(e) Accept an audit report prepared by an independent certified public accountant for the licensee or other person subject to chapter 645E of NRS in the course of an examination or investigation covering the same general subject matter as the audit. The Commissioner will incorporate such an audit report in the report of examination, report of investigation or other writing of the Commissioner.

**645E.337 Proof of adverse change in financial condition. (NRS 645E.300)** For the purposes of paragraph (b) of subsection 4 of NRS 645E.300, an adverse change in financial condition:

1. Is not proven solely by a decrease in income from any previous period if the mortgage banker remains profitable; and
2. May be shown by material receivables or payables to related parties, material off-balance sheet commitments, contingent liabilities or other identified concerns related to the deterioration of net worth or liquidity.

**645E.340 Rating of mortgage banker upon completion of examination. (NRS**

**645E.300)** Upon completion of an examination of a mortgage banker, the examiner shall rate the mortgage banker on a scale of “1” to “5,” as follows:

1. A rating of “1” indicates that the mortgage banker and the management of the mortgage banker have demonstrated a high degree of compliance with applicable laws and regulations. A rating of “1” may be given if there is a minor violation or deficiency and the mortgage banker acted to correct the violation or deficiency immediately and the action taken by the mortgage banker is likely to prevent future violations or deficiencies.

2. A rating of “2” indicates that the mortgage banker and the management of the mortgage banker have demonstrated substantial compliance with applicable laws and regulations and that any violations or deficiencies noted in the report made by the examiner pursuant to NAC 645E.345 can be corrected by the mortgage banker with a minimum of regulatory supervision. A rating of “2” may be given if there are minor violations or deficiencies and the mortgage banker acted to correct the violations or deficiencies immediately and the action taken by the mortgage banker is likely to prevent future violations or deficiencies.

3. A rating of “3” indicates that the mortgage banker and the management of the mortgage banker have demonstrated less than satisfactory compliance with applicable laws and regulations and that regulatory supervision is required for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to NAC 645E.345. A rating of “3” may be given if there were previous minor violations or deficiencies that were not corrected.

4. A rating of “4” indicates that the mortgage banker and the management of the mortgage banker have demonstrated substantial lack of compliance with applicable laws and regulations

and that immediate remedial action is required for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to NAC 645E.345. The mortgage banker will be subject to close regulatory supervision and the examiner will recommend disciplinary action against the mortgage banker to the Commissioner.

5. A rating of “5” indicates that the mortgage banker and the management of the mortgage banker have demonstrated unsatisfactory compliance with applicable laws and regulations and that immediate remedial action is required for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to NAC 645E.345 and may include action by the Commissioner to take possession of the business and assets of the mortgage banker. The examiner will recommend disciplinary action against the mortgage banker to the Commissioner.

**645E.345 Results of examination: Preparation and review of draft report; final report; confidentiality; action by Commissioner. (NRS 645E.300, 645E.310, 645E.370)**

1. Not more than 30 days after the completion of an examination of a mortgage banker, the examiner that performed the examination shall prepare a draft report of the examination and provide the draft report to appropriate personnel of the Division. The draft report must include only:

(a) Facts that are contained in the files, books, records or other documents of the mortgage banker that were examined by the examiner;

(b) Facts that are contained in statements made by officers or agents of the mortgage banker or other persons that the examiner interviewed concerning the mortgage banker; and

(c) Conclusions and recommendations that are reasonably supported by the facts that are included in the report, including, but not limited to, the rating given to the mortgage banker by the examiner pursuant to NAC 645E.340.

2. Not more than 15 days after the draft report of an examination is received by the Division, the Commissioner or his or her designee will deliver to the mortgage banker that was examined:

(a) A copy of the draft report; and

(b) Notice that the mortgage banker has not more than 30 days, unless the Commissioner, for good cause, allows a longer period, to review the draft report and submit to the Commissioner, in writing, any comments regarding or objections to matters contained in the draft report.

3. If a mortgage banker received a rating of “3,” “4” or “5” on an examination pursuant to NAC 645E.340 and submitted written comments or objections within the period specified in subsection 2, the Commissioner or his or her designee will:

(a) Not more than 15 days after the last day on which the mortgage banker could submit written comments or objections pursuant to subsection 2, hold an informal meeting with the mortgage banker regarding the draft report; and

(b) Review the draft report, together with the written comments or objections submitted by the mortgage banker and any relevant portions of the working papers of the examiner, and, not more than 15 days after the date on which the informal meeting was held pursuant to paragraph

(a):

(1) Adopt the draft report as filed;

(2) Adopt the draft report with modifications;



(3) Provide the mortgage banker with an opportunity for a formal hearing; or

(4) Direct the examiner to reopen the examination to obtain additional data, documents or information and, if necessary, file a new draft report pursuant to subsection 1. If the findings of the initial draft report are supported by the findings of the examiner after the completion of the reopened examination, the mortgage banker shall be responsible for the costs attributable to the reopened examination pursuant to NRS 645E.310.

4. If a mortgage banker:

(a) Received a rating of “1” or “2” on an examination pursuant to NAC 645E.340 and submitted written comments or objections within the period specified in subsection 2; or

(b) Did not file a written comment or objection to a draft report within the period specified in subsection 2,

↪ the draft report will be deemed to be the final report of the examination.

5. Pursuant to NRS 645E.370, the results of an examination are not open to public inspection until the requirements set forth in subsection 3 are completed.

6. If the examination and report reveal that a mortgage banker is operating in violation of this chapter, chapter 645E of NRS or a previous order of the Commissioner, the Commissioner may order the mortgage banker to take any action the Commissioner deems necessary or appropriate to correct the violation. The Commissioner may also take disciplinary action pursuant to NRS 645E.670.

7. The Commissioner may, for good cause, extend any period specified in this section that is applicable to an examiner, the Commissioner or his or her designee for an additional period of not more than 15 days.

**645E.350 Monthly reports. (NRS 645E.300, 645E.350)**

1. Each mortgage banker shall submit, for each month, on a form approved by the Commissioner, a report on the volume of loans made by the mortgage banker in that month. 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 made in that month, the report must state that fact.

2. The Commissioner may refuse to renew the license of a mortgage banker that has not submitted a monthly report as required by subsection 1 for 1 or more of the preceding 12 months.

**645E.355 “Complete and suitable records” interpreted for purposes of NRS 645E.350.**  
(NRS 645E.300, 645E.350) As used in NRS 645E.350, the Commissioner interprets “complete and suitable records” to mean:

1. For residential mortgage loans, a file that includes, but is not limited to, the following documents, if applicable to the type and purpose of the loan:

- (a) The real estate sales contract;
- (b) Escrow instructions;
- (c) The preliminary title report;
- (d) The loan application, including, but not limited to, any attachments or supplements;
- (e) An appraisal report or any other independent assessment of the value of the mortgaged property;
- (f) Any verification of representations made by the consumer on the application for the loan;
- (g) A credit report;

(h) Any commitments made by the lender to the consumer, including, but not limited to, a commitment to guarantee the consumer a certain interest rate and a commitment to fund the loan;

(i) A recorded or confirmed deed of trust;

(j) The title insurance policy;

(k) The note;

(l) Any subsequent assignment of the loan to institutional investors;

(m) The hazard insurance policy; and

(n) Any disclosures required by state or federal law.

2. For commercial mortgage loans that are funded by the mortgage banker, a file that includes, if applicable, the items required pursuant to paragraphs (a) to (h), inclusive, of subsection 1.

3. For a mortgage loan made by the mortgage banker pursuant to chapter 645E of NRS for which the mortgage banker is acting as the mortgage servicer, a file that includes, but is not limited to, the items required pursuant to subsection 1, if applicable to the type and purpose of the loan, and:

(a) A loan history for each mortgage loan upon which payments are received or made by the mortgage banker which itemizes the amount and date of each payment and the unpaid balance at all times;

(b) The original or an exact copy of each note, mortgage, deed of trust or other evidence of indebtedness and any assignment;

(c) The name and address of the mortgage broker or lender, if any, involved in the mortgage loan transaction;

- (d) A copy of any servicing agreement;
- (e) A copy of any disclosures or notifications provided to the borrower which are required by state or federal law or regulation;
- (f) A copy of any bankruptcy plan approved in a proceeding filed by a borrower or co-owner of real property subject to a mortgage loan;
- (g) A communication log which documents all verbal or written communications with a borrower or a borrower's representative; and
- (h) A copy of all notices sent to the borrower relating to any foreclosure proceeding filed against the encumbered property.

4. Any additional books and records that must be maintained or readily accessible at each place of business of the mortgage banker, including, but not limited to:

- (a) Any book or record that evidences compliance with applicable federal and state laws and regulations;
- (b) A copy of each item of advertising material that was published or distributed by or on behalf of the mortgage banker, in the format in which the material was published or distributed;
- (c) A copy of any written complaint received by the mortgage banker, together with all correspondence, notes, responses and other documentation related to the disposition of the complaint;
- (d) All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, cancelled checks and other records that relate to the business of the mortgage banker;



(e) Copies of all federal tax withholding forms, reports of income for federal taxation and evidence of payments to all employees, independent contractors and other persons that worked for the mortgage banker;

(f) Copies of all documents evidencing a contractual relationship between the mortgage banker and any third-party provider of services related to mortgages, including, but not limited to, contracts, invoices, billings and remittances to the provider by or on behalf of the mortgage banker;

(g) Copies of all material correspondence related to the business of the mortgage banker, including, but not limited to, electronic messages; and

(h) Copies of all reports, audits, examinations, inspections, reviews, investigations or other similar activities relating to the business of the mortgage banker performed by any third party, including, but not limited to, any regulatory or supervisory authority.

**645E.360 Retention and maintenance of certain records. (NRS 645E.300, 645E.350)**

1. Each mortgage banker shall retain records of all its completed mortgage transactions for a period of at least 4 years after the date of the last activity relating to the transaction.

2. Each mortgage banker shall retain applications for mortgages that were denied or withdrawn for a period of at least 1 year or as otherwise required by federal law.

3. Each mortgage banker may maintain in an electronic format the records required to be maintained by this section if:

(a) The records are maintained and made available to the Commissioner or his or her designee in a software format that allows the Commissioner or his or her designee complete access to all records;

(b) The mortgage banker ensures that the Commissioner or his or her designee has the ability to download and print, from all office locations of the mortgage banker, any or all of the records maintained in electronic format;

(c) The mortgage banker provides, within 24 hours after a request for a record and in printed form, any or all of the records maintained in an electronic format upon request of the Commissioner or his or her designee; and

(d) The records are maintained on a medium that:

(1) Is not erasable;

(2) Does not allow changes to a document stored on the medium;

(3) Is consistent with the minimum standards of quality approved by the National Institute of Standards and Technology of the United States Department of Commerce or the Association for Information and Image Management; and

(4) Contains written authentication identifying the electronic record as an exact, unaltered copy of the document which the record purports to be.

**645E.400 Preparation of appraisal submitted to lender. (NRS 645E.300)** An appraisal submitted to a lender by a mortgage banker must meet, at a minimum, the standards set forth in the Uniform Standards of Professional Appraisal Practice adopted by reference pursuant to NAC 645C.400, must not be prepared by the mortgage banker and must:

1. If the appraised property is located in this State, be prepared by an appraiser who holds the appropriate license, certificate or permit issued by the Real Estate Division of the Department of Business and Industry; or

2. If the appraised property is located outside this State, be prepared by an appraiser who is authorized to perform the appraisal by the appropriate agency of the state in which the property is located.

**645E.500 Referral of certain suspected violations to and cooperation and sharing of information with federal and state agencies for investigation and action of certain suspected violations; grounds for disciplinary action. (NRS 645E.300, 645E.670, 645F.292, 645F.293)**

1. The Commissioner may refer to and cooperate and share information with the appropriate federal or state agency for investigation and appropriate action each suspected violation of:

(a) The Truth in Lending Act, 15 U.S.C. §§ 1601 to 1667f, inclusive, including, without limitation, the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1639, or Regulation Z, 12 C.F.R. Part 226.

(b) The Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 to 1691f, inclusive, or Regulation B, 12 C.F.R. Part 202.

(c) The Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 to 2617, inclusive, or Regulation X, 24 C.F.R. Part 3500.

(d) The S.A.F.E. Mortgage Licensing Act.

(e) Any other applicable federal or state law or regulation related to mortgage transactions.

2. For the purposes of NRS 645E.670, a mortgage banker commits a violation if the mortgage banker:

(a) Engages in a deceptive trade practice as defined in chapter 598 of NRS;

(b) Fails to refund any fees collected in excess of the actual cost the mortgage banker incurs or pays for any appraisal, credit report or any other product or service provided by a third party in connection with the making of a loan;

(c) Improperly influences or attempts to improperly influence the proper development, reporting, result or review of a real estate appraisal with respect to the making of a mortgage loan; or

(d) Violates a provision of:

(1) The Truth in Lending Act, 15 U.S.C. §§ 1601 to 1667f, inclusive, including, without limitation, the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1639, or Regulation Z, 12 C.F.R. Part 226.

(2) The Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 to 1691f, inclusive, or Regulation B, 12 C.F.R. Part 202.

(3) The Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 to 2617, inclusive, or Regulation X, 24 C.F.R. Part 3500.

(4) The S.A.F.E. Mortgage Licensing Act, including, without limitation, section 1505(e) of the Act regarding the submission of reports of condition to the Registry.

(5) Any other applicable federal or state law or regulation related to mortgage transactions.

3. Nothing in this section shall be construed to prohibit a mortgage banker from requesting an appraiser of real estate to do one or more of the following:

(a) Consider any appropriate information relating to the property;



- (b) Provide additional details, substantiations or explanations in support of the appraiser's valuation of the property; or
- (c) Correct errors in the appraisal report.

**645E.505 Reporting of violations to Registry; procedure for challenging report. (NRS 645E.300, 645F.292, 645F.293)**

1. The Division shall regularly report violations of this chapter and chapter 645E of NRS, enforcement actions and other relevant information, including, without limitation, violations of any applicable federal law or regulation, to the Registry pursuant to the protocols of the Registry.
2. A person may challenge information provided by the Division to the Registry.
3. A challenge must be sent in writing by regular mail to the Division and addressed to the Office of the Commissioner.
4. Once received, the Division shall consider the merits of a challenge and provide the person with a written reply which must be sent by regular mail to the person within 30 days after receipt of the challenge.
5. The person may send a written rebuttal within 30 days after receipt of the Division's reply by regular mail to the Division and addressed to the Office of the Commissioner.
6. Upon receipt of the written rebuttal, the Commissioner will make a written final decision concerning the written rebuttal and underlying challenge and send the final decision by regular mail to the person within 30 days.
7. If, pursuant to subsection 6, the Commissioner upholds a challenge, the Commissioner will promptly take action to correct the information submitted to the Registry.

8. The Commissioner will not submit a challenge, reply, rebuttal or final decision described in this section to the Registry unless otherwise required by law.

**645E.510 Orders to cease and desist from certain activities. (NRS 645E.300)**

1. If a person engages in an activity in violation of the provisions of this chapter or chapter 645E of NRS, the Commissioner may issue an order to the person directing the person to cease and desist from engaging in the activity.

2. The order to cease and desist must be in writing and must state that, in the opinion of the Commissioner, the person has engaged in an activity:

(a) For which the person has not received a license or certificate of exemption as required by chapter 645E of NRS; or

(b) In a manner that violates the provisions of this chapter or chapter 645E of NRS.

3. A person who receives an order to cease and desist pursuant to this section shall not engage in any activity governed by chapter 645E of NRS after receiving the order unless the order is suspended or rescinded.

4. Not later than 30 calendar days after receiving an order pursuant to this section, the person who receives the order may file a verified petition with the Commissioner to request a hearing. Upon receipt of the verified petition, the Commissioner may, for good cause shown, suspend the order pending the hearing. The Commissioner will hold the hearing on a date not later than 30 calendar days after the date the petition is filed unless the Commissioner and the person agree to another date. The order to cease and desist is rescinded if the Commissioner fails to:

(a) Hold the hearing:

- (1) Not later than 30 calendar days after the date the petition is filed; or
  - (2) On a date agreed to by the Commissioner and the person; or
  - (b) Render a written decision within 45 calendar days after the date the hearing is concluded.
5. The decision of the Commissioner after the hearing is a final decision of the Division for the purposes of judicial review.

**645E.515 Coordination and notice of time and location. (NRS 645E.300)** The hearing officer shall:

1. Attempt to coordinate the time and location of the hearing with the parties before setting the matter; and
2. Advise the Commissioner or his or her designee in writing of the time and location of the hearing in such a manner as to allow the Division to comply with the notice requirements of NRS 233B.121.

**645E.520 Continuances. (NRS 645E.300)**

1. The time of a hearing may be continued by the hearing officer upon the written petition of a party only for good cause shown.
2. The party requesting a continuance must serve the written petition upon the opposing party at the time that the request is made, and the opposing party may file an objection to the request for a continuance within 3 days after receipt of the written petition.

**645E.522 Designation of hearing officer. (NRS 645E.300)** The Commissioner may designate a hearing officer to conduct any hearing required pursuant to this chapter or chapter 645E of NRS.

**645E.525 Representation of respondent. (NRS 645E.300)** A respondent may represent himself or herself at the hearing or be represented by an attorney.

**645E.530 Disclosure of exhibits and list of witnesses; limitations on discovery. (NRS 645E.300)**

1. If a hearing has been requested pursuant to NRS 645E.750 in a timely manner, each party must provide to the opposing party, not less than 10 days before a hearing, a copy of all papers, records, data or documents expected to be used as exhibits at the hearing and a list of witnesses expected to testify at the hearing. Nothing herein prohibits a party from calling a rebuttal witness or offering other rebuttal evidence which has not been disclosed if allowed by the hearing officer. The filing of a motion does not toll the time for providing information to an opposing party.

2. Not less than 5 days before a hearing, each party must provide to the hearing officer a copy of all papers, records, data or documents expected to be used as exhibits at the hearing and a list of witnesses expected to testify at the hearing.

3. If a party fails to provide any document required to be provided by the provisions of this section, the hearing officer may exclude the document.

4. Neither party may serve interrogatories on the other party or conduct depositions, and neither party may engage in any other discovery unless otherwise required by law and permitted by the hearing officer.

**645E.535 Motions. (NRS 645E.300)**

1. All motions, unless made to exclude a witness, must be in writing.

2. A written motion must be served on the opposing party and the hearing officer at least 15 days before the time set for the hearing on the motion unless good cause is shown to the hearing officer.

3. An opposing party may file a written response to a motion at least 7 days before the time set for the hearing on the motion by serving the written response on all parties and the hearing officer.

4. No motion for summary judgment will be allowed.

**645E.540 Procedure. (NRS 645E.300)**

1. The hearing officer shall:

(a) Ascertain whether all persons ordered to appear under subpoena are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room.

(b) Administer the oath to the reporter as follows:

Do you solemnly swear or affirm that you will report this hearing to the best of your stenographic ability?

(c) Administer the oath to all persons whose testimony will be taken as follows:

Do you and each of you solemnly swear or affirm to tell the truth and nothing but the truth in these proceedings?



(d) Ascertain whether either party desires to have a witness excluded from the hearing room until the witness is called. A witness may be excluded upon the motion of the hearing officer or upon the motion of either party. If a witness is excluded, he or she will be instructed not to discuss the case during the pendency of the proceeding. The respondent will be allowed to remain present at the hearing. The Division may designate a person who is a member of the staff of the Division and who may also be a witness to act as its representative. Such a representative will be allowed to remain present at the hearing.

(e) Ascertain whether a copy of the complaint or decision to deny has been filed and whether an answer has been filed as part of the record in the proceedings.

(f) Hear any preliminary motions, stipulations or orders upon which the parties agree and address any administrative details.

(g) Request the Division to proceed with the presentation of its case.

2. Parties may waive opening and closing statements.

3. The respondent may cross-examine witnesses in the order that the Division presents them.

4. Witnesses or counsel may be questioned by the hearing officer at any time during the proceeding.

5. Evidence which will be introduced or which is used by a witness:

(a) Must first be marked for identification; and

(b) May be received by the hearing officer at any point during the proceeding.

6. When the Division has completed its presentation, the hearing officer shall request the respondent to proceed with the introduction of evidence and calling of witnesses on the respondent's behalf.

7. The Division may cross-examine witnesses in the order that the respondent presents them.

8. When the respondent has completed his or her presentation, the Division may call any rebuttal witnesses.

9. When all testimony for the Division and respondent has been given and all evidence has been submitted, the hearing officer may request the Division and the respondent to summarize their presentations.

10. The hearing officer may, in his or her discretion, waive or modify any provision of this section if necessary to expedite or ensure the fairness of the hearing.

**645E.545 Burden and standard of proof. (NRS 645E.300)** The Division has the burden of proof in any hearing pursuant to this chapter. The standard of proof in such a hearing is a preponderance of the evidence.

**645E.550 Rules of evidence; informality of proceedings. (NRS 645E.300)**

1. In conducting any hearing, the hearing officer is not bound by the technical rules of evidence, and any informality in any proceeding or in the manner of taking testimony does not invalidate any order or decision of the hearing officer. The rules of evidence of courts of this State will be followed generally but may be relaxed at the discretion of the hearing officer if deviation from the technical rules of evidence will aid in determining the facts.

2. Any evidence offered at a hearing must be material and relevant to the issues of the hearing.

3. Sworn declarations may be introduced in lieu of testimony if a witness resides outside the State of Nevada.

4. The hearing officer may exclude inadmissible, incompetent, repetitious or irrelevant evidence or order that the presentation of that evidence be discontinued.

5. A party who objects to the introduction of evidence shall briefly state the grounds of the objection at the time the evidence is offered. The party who offers the evidence may present a rebuttal argument to the objection.

**645E.555 Decision of hearing officer. (NRS 645E.300)** The hearing officer shall issue and serve upon all parties a written decision meeting the requirements of NRS 233B.125 within 30 days after the close of the hearing.

**645E.560 Posthearing motions. (NRS 645E.300)**

1. A party may file a posthearing motion only to request a rehearing or to request a modification of the discipline, fine, costs or attorney's fees imposed against a respondent.

2. Any posthearing motion must be filed within 15 days after service of the decision by the hearing officer.

3. The opposing party may file an opposition within 10 days after a posthearing motion is filed, and the moving party may file a final reply within 5 days after an opposition is filed.

4. The hearing officer shall issue and serve upon all parties a written decision on any posthearing motion within 30 days after the posthearing motion is filed.

**645E.565 Informal disposition of contested cases; consent and settlement agreements.**

**(NRS 645E.300)**

1. The provisions of this chapter do not affect or limit the authority of the Commissioner or his or her designee, at any stage of a contested case, to make an informal disposition of the contested case pursuant to subsection 5 of NRS 233B.121 or to enter into a consent or settlement agreement pursuant to NRS 622.330.

2. Any action taken by the Commissioner or his or her designee pursuant to subsection 1:

(a) Is not subject to approval by the hearing officer; and

(b) May have its terms placed into the record at the discretion of the Commissioner or his or her designee.

**645E.570 Immunity from civil liability. (NRS 645E.300)**

1. A person who provides a governmental entity, officer or employee with any information relating to a contested case is immune from any civil liability for providing that information if the person acted in good faith and without malicious intent.

2. A governmental entity, officer or employee is immune from any civil liability for:

(a) Any decision or action taken in good faith and without malicious intent in carrying out the provisions of this chapter or any law or regulation governing occupational licensing; or

(b) Communicating or cooperating with or providing any documents or other information to any other governmental entity, officer or employee conducting an investigation, disciplinary proceeding or civil or criminal prosecution.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066**

**Informational Statement**

**LCB FILE NO. R119-19**

The following statement is submitted for adopted amendments to Nevada Administrative Code ("NAC") Chapters 645A, 645B, 645E and 645F.

**1. A clear and concise explanation of the need for the adopted regulation.**

To comply with the Division's statutory duty to ensure the effectiveness of Chapter 645B of the Nevada Revised Statutes ("NRS"), to carry out the provisions of NRS 645B, and to conform with and implement revisions as necessitated by certain statutory changes made to NRS 645B, as well as NRS 622, resulting from passage of Assembly Bill 468, respectively, in the 79<sup>th</sup> Session (2017) of the Nevada Legislature. Under existing law, specifically at NRS 645B.060, the Commissioner of the Nevada Division of Mortgage Lending ("the Commissioner") has the authority to regulate mortgage brokers and mortgage agents.

To comply with the Division's statutory duty to ensure the effectiveness of Chapter 645E of the Nevada Revised Statutes ("NRS"), to carry out the provisions of NRS 645E, and to conform with and implement revisions as necessitated by certain statutory changes made to NRS 645E, as well as NRS 622, resulting from passage of Assembly Bill 468, respectively, in the 79<sup>th</sup> Session (2017) of the Nevada Legislature. Under existing law, specifically at NRS 645E.300, the Commissioner of the Nevada Division of Mortgage Lending ("the Commissioner") has the authority to regulate mortgage bankers.

Assembly Bill 468 was approved on June 8, 2017. NRS 645B and NRS 645E have been in effect as of January 1, 2020. The adopted regulations (1) amend the terms mortgage broker and mortgage bankers and adds the new term "mortgage company", (2) amend the term mortgage agent to the new term "mortgage loan originator", (3) revises the provisions of existing law that applied primarily to the mortgage brokers to apply to mortgage companies instead, and (4) repeals as redundant provisions of law that applied to mortgage bankers. The existing regulations for NAC 645B change the terms mortgage broker and mortgage bankers to mortgage company or mortgage agent to mortgage loan originators. The existing regulations for NAC 645A change the term mortgage broker to mortgage company or mortgage agent to mortgage loan originators. The existing regulations for NAC 645F change the terms mortgage broker and mortgage banker to mortgage company or mortgage agent to mortgage loan originators. Repealing the existing regulations of NAC 645B.045, NAC 645B.0665 and NAC 645E as redundant along with.



**2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.**

Copies of the text of the proposed regulation, notice of workshop (as combined with the workshop noticed for NRS 645B and NRS 645E (governing mortgage brokers, mortgage agents and mortgage bankers as subject of LCB File No. R119-19), small business impact statement, and notice of intent to act upon the regulation were e-mailed to Division licensees and other interested parties on the Division's mailing list as well as any persons who had specifically requested such notice. These documents were also made available at the Division of Mortgage Lending's Website at <http://www.mld.nv.gov> and the Nevada Public Notice Website at <http://notice.nv.gov>. Further, in addition to the Nevada Legislature's website at <https://www.leg.state.nv.us/App/Notice/A/>, such documents were posted at prominent Nevada offices which included the Nevada State Business Center in Las Vegas, the Division's office in Las Vegas, the Office of the Department of Business and Industry in Carson City, and the Nevada State Library and Archives in Carson City.

On November 14, 2022, in anticipation of the Division's workshop to be held in this matter, the Division e-mailed approximately 1,228 of its licensees under NRS 645B and NRS 645E as well as other interested parties concerning the proposed regulation amendments, in which it solicited comments concerning whether these would impose a direct and significant economic burden upon a small business, or directly restrict the formation operation, or expansion of a small business. Further, in addition, to solicitation of such comments through its website, the Division reached out to a variety of stakeholders, including the Nevada Mortgage Lenders Association and the Advisory Council on Mortgage Investments and Mortgage Lending.

In response to these solicitations of input, the Division received no comments.

As reflected in the Division's issued and publicly noticed workshops scheduled for December 6, 2022 (to be held in the identified Las Vegas, Nevada, location, video-conferenced to the identified Carson City, Nevada location and via WebEx), the Division subsequently solicited additional receipt of written comments, testimony, or documentary evidence, and advised that oral comments on the proposed regulations may be made at the meeting. No public response was received.

The duly-noticed workshop was held on December 6, 2022, in Las Vegas, video-conferenced to Carson City and via WebEx. Minutes of the workshop is attached hereto as "Exhibit A." In conformance with its noticed public workshop and agenda, the Commissioner conducted a 9:15 a.m. proceeding on this date to describe an introduction of the regulatory amendments to both NRS 645B and NRS 645E. None of the attendees at these proceedings provided any written or verbal comments.

Thereafter, on December 12, 2022, with respect to NRS 645B and NRS 645E, the Commissioner issued and posted a Notice of Intent to Act Upon a Regulation, Notice of Hearing for the Adoption and Amendment of Regulations of the Division based upon the LCB Draft of Proposed Regulation R119-19, dated July 11, 2022, as stated above, again soliciting comments. No public response

was received. The adoption hearing was scheduled for January 18, 2023 (to be held in the identified Las Vegas, Nevada, location, video-conferenced to the identified Carson City, Nevada location and via WebEx).

As duly-noticed, the public hearing for adoption of the proposed regulation was not held on January 18, 2023, in Las Vegas, video-conferenced to Carson City and via WebEx. The public hearing was postponed due to the Governor's Executive Order 2023-003 which froze the issuance of new regulations. On June 30, 2023, the Governor lifted the freeze on the regulatory process by his Executive Order 2023-008. On July 6, 2023, the Commissioner issued and posted a Notice of Intent to Act Upon a Regulation, Notice of Hearing for the Adoption and Amendment of Regulations of the Division based upon the LCB Draft of Proposed Regulation R119-19, dated July 11, 2022, as stated above, again soliciting comments. No public response was received.

The duly-noticed adoption hearing was held on September 11, 2023, in Las Vegas, video-conferenced to Carson City and via WebEx. Minutes of the adoption hearing is attached hereto as "Exhibit B." In conformance with its noticed public workshop and agenda, the Commissioner conducted at 10:08 a.m. proceeding on this date to describe an introduction of the regulatory amendments to both NRS 645B and NRS 645E. None of the attendees at these proceedings provided any written or verbal comments.

**3. The number of persons from the public who:**

	<u>Carson City</u>	<u>Las Vegas</u>	<u>WebEx</u>
<b>Attended December 6, 2022, workshop—</b>			
<b>9:00 a.m. proceeding:</b>	0	0	3
<b>Testified at the December 6, 2022, workshop:</b>	0	0	0
<b>Attended September 11, 2023, adoption hearing:</b>	0	0	3
<b>Testified at the September 11, 2023, adoption hearing:</b>	0	0	0
<b>Submitted written comments:</b>	No emails were received.		

**4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented (if provided to the agency), for each person who testified at each hearing and submitted to the agency written statements.**

No member of the public who appeared at the workshops and/or adoption hearing, at either the noticed Las Vegas or Carson City locations nor on WebEx for such, either testified or submitted written statements to the Division.

Testified at workshop: 0      Testified at adoption hearing: 0

- 5. A description of how comments were solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public as provided in response to Item #2, above. No public response was received.

- 6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

At the conclusion of the noticed public hearing on September 11, 2023, the *LCB Draft of Proposed Regulation R119-19*, dated July 11, 2022, was adopted.

- 7. The estimated economic effect of the adopted regulation on the businesses which it is to regulation and on the public. These must be stated separately, and each case must include:**
  - a. Both adverse and beneficial effects; and**
  - b. Both immediate and long-term effects.**

(a) Both adverse and beneficial effects.

The Division does not foresee any major adverse effects of the adopted regulation to either the business of a mortgage broker, mortgage agent, mortgage banker or to the public.

The Division anticipates that the beneficial effects of the adopted regulation may result in cost savings as provided in the adopted regulation without unnecessarily burdening business activity.

(b) Both immediate and long-term effects.

The Division anticipates that both the immediate and long-term beneficial effects of the adopted regulation will protect the health and welfare of Nevadans without unnecessarily burdening business activity.

- 8. The estimated cost to the agency for enforcement of the adopted regulation.**

The Division does not anticipate incurring additional costs for the implementation and enforcement of the proposed regulation. The agency will receive less fees by adopting these new regulations.

- 9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agencies regulations known by the Division that the adopted regulation overlaps or duplicates.

- 10. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The adopted regulation does not include provisions which are known to be more stringent than a federal regulation which regulates the same activity.

- 11. If the 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.**

The proposed regulations do not otherwise provide a new fee, and do not provide for any increase to an existing fee.