

**ADOPTED REGULATION OF
THE COMMISSIONER OF MORTGAGE LENDING**

LCB File No. R120-15

§§1 to 63, 65 to 107 and 109 become effective upon the later of January 1, 2016, or the date this regulation is filed with the Secretary of State.

§§ 64 and 108 of this regulation become effective on the date on which the Congress of the United States repeals the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child, or are in arrears in the payment for the support of one or more children.

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

AUTHORITY: §§1 and 109, NRS 645F.255, 645F.390 and section 86.4 of Assembly Bill No. 480, chapter 477, Statutes of Nevada 2015, at page 2806; §§2 and 56-107, NRS 645F.390; §§3-32, 35 to 55 and 108, NRS 645F.255 and section 86.4 of Assembly Bill No. 480, chapter 477, Statutes of Nevada 2015, at page 2806; §§33 and 34, NRS 645F.280, as amended by section 86.4 of Assembly Bill No. 480, chapter 477, Statutes of Nevada 2015, at page 2809 and section 92 of Assembly Bill No. 480, chapter 477, Statutes of Nevada 2015, at page 2806.

A REGULATION relating to mortgage servicers; enacting the Nevada Mortgage Servicer Regulations; establishing requirements and application procedures for licensure; establishing fees for application and licensure; prescribing grounds for disciplinary action; prescribing procedures and penalties for disciplinary action; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the regulation of mortgage servicers by the Commissioner of Mortgage Lending and authorize the Commissioner to adopt regulations establishing the requirements for the licensure and supervision of mortgage servicers in this State. (Sections 86.2-93 of Assembly Bill No. 480, chapter 477, Statutes of Nevada 2015, at page 2806) **Section 17** of this regulation requires that any person engaging in the business of a mortgage servicer in this State must be licensed. **Section 19** of this regulation provides for a supplemental license for licensed mortgage professionals engaging in mortgage servicing activities. **Sections 20 and 21** of this regulation prescribe the procedures for applying for a license as a mortgage servicer. **Section 22** of this regulation prescribes the conditions under which a license as a mortgage servicer will be granted to an applicant.

Sections 23 and 24 of this regulation set forth requirements for the principal office and qualified employee of a mortgage servicer. **Sections 25 and 45** of this regulation establish reporting requirements for mortgage servicers. **Section 26** of this regulation prescribes minimum net worth requirements for a mortgage servicer. **Sections 27-29** of this regulation prescribe surety bond requirements and the procedure for filing a claim against a bond.

Sections 30 and 31 of this regulation prescribe requirements for the transfer of a license or change of business name or location of an office. **Section 32** of this regulation establishes the expiration date of a license and the procedure for renewal. **Section 33** of this regulation establishes various fees for the application, renewal and supervision and examination of licensees.

Section 34 of this regulation prescribes the powers and duties of the Commissioner relating to mortgage servicers. **Section 35** of this regulation sets forth the confidentiality of information received by the Commissioner.

Sections 36-43 describe the required and prohibited actions of mortgage servicers. **Section 44** of this regulation describes recordkeeping requirements for mortgage servicers. **Sections 46-55** of this regulation describe the procedure for the investigation of complaints and the imposition of disciplinary action by the Commissioner.

Sections 2 and 56-107 of this regulation make conforming changes.

Section 1. Chapter 645F of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 55, inclusive, of this regulation.

Sec. 2. *This section and NAC 645F.005 to 645F.920, inclusive, may be referred to as the Nevada Covered Service Provider Regulations.*

Sec. 3. *Sections 3 to 55, inclusive, of this regulation may be referred to as the Nevada Mortgage Servicer Regulations.*

Sec. 4. *As used in the Nevada Mortgage Servicer Regulations, unless the context otherwise requires, the words and terms defined in NRS 645F.010 to 645F.065, inclusive, and sections 5 to 16, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 5. *“Applicant” means a person that has made application for a license pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.*

Sec. 6. *“Borrower” means a person that is a debtor on a mortgage loan.*

Sec. 7. *“Branch office” means any place of business, other than the principal office, from which a person engages in the activities of a mortgage servicer related to a dwelling located in this State.*

Sec. 8. 1. *“Control person” means:*

(a) An executive officer, director, general partner, trustee, member, qualified employee or shareholder of a mortgage servicer, licensee or applicant; or

(b) A person who is authorized to participate in direct or indirect control of the management or policies of a mortgage servicer, licensee or applicant.

2. *As used in this section, “executive officer” means an officer, manager, partner or managing member of a mortgage servicer, 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.*

Sec. 9. *“Dwelling” means a structure that contains one to four residential units, whether or not that structure is attached to real property. The term includes, without limitation, an individual condominium unit, cooperative unit, mobile home and trailer, if it is used as a residence.*

Sec. 10. *“License” means a license or other authority granted by the Commissioner pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.*

Sec. 11. *“Licensee” means a person who is licensed pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.*

Sec. 12. 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 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.

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

Sec. 13. *“Mortgage Servicer” means a person who engages in any activity for which a license is required.*

Sec. 14. *“Person” means a natural person, any form of business or social organization, governmental entity or political subdivision of a governmental entity, and any other legal entity, including, without limitation, a corporation, partnership, limited-liability company, association, trust or unincorporated organization.*

Sec. 15. *“Principal office” means the office where the principal executive offices of a mortgage servicer, licensee or applicant are located.*

Sec. 16. *“Shareholder” includes, without limitation:*

1. Any person that owns, or is authorized to vote directly or indirectly, any percentage of a class of voting securities or voting interests of a mortgage servicer, applicant or licensee if the mortgage servicer, applicant or licensee has fewer than 20 stockholders or owners.

2. Any person that owns, or is authorized to vote directly or indirectly, 10 percent or more of a class of voting securities or voting interests of a mortgage servicer, applicant or licensee if the mortgage servicer, applicant or licensee has 20 or more stockholders or owners.

Sec. 17. *Except as otherwise provided in section 86.7 of Assembly Bill No. 480, chapter 477, Statutes of Nevada 2015, at page 2807, a person shall not advertise services as, provide any of the services of, act as or conduct business as a mortgage servicer or otherwise engage in, carry on or hold himself or herself out as engaging in or carrying on the activities of a mortgage servicer unless the person has a license issued pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.*

Sec. 18. *A person claiming an exemption pursuant to section 86.7 of Assembly Bill No. 480, chapter 477, Statutes of Nevada 2015, at page 2807, has the burden of demonstrating that the person qualifies for such an exemption.*

Sec. 19. *1. A person that holds a license issued pursuant to chapter 645B or 645E of NRS must file an application for and obtain a supplemental mortgage servicer license pursuant to this section before acting as, offering to act as or providing the services of, a mortgage servicer on one or more mortgage loans that the person did not make or arrange under a license issued pursuant to chapter 645B or 645E of NRS, as applicable.*

2. An application for a supplemental mortgage servicer license must be made to the Commissioner through the Registry and must include:

(a) All content and information required to be included in the application by the Commissioner.

(b) The fee required pursuant to section 33 of this regulation.

(c) A financial statement which is compliant with the requirements of section 25 of this regulation and which demonstrates that the applicant meets the minimum net worth set forth in section 26 of this regulation.

(d) Evidence of a surety bond that meets the requirements of section 27 of this regulation.

(e) A list of the locations of the principal office and each branch office, if any, and the name, telephone number and electronic mail address for a contact person for each such office.

3. A supplemental mortgage servicer license issued pursuant to this section expires on December 31 of the year in which it was issued, unless it is renewed pursuant to section 32 of this regulation.

4. An applicant for a supplemental mortgage servicer license is not subject to sections 20, 21 and 22 of this regulation.

5. Except as otherwise provided in this section, a person holding or required to hold a supplemental mortgage servicer license pursuant to this section is subject to and must comply with all other provisions of the Nevada Mortgage Servicer Regulations.

Sec. 20. An application for a license as a mortgage servicer must be made to the Commissioner through the Registry and must include:

1. The fee required pursuant to section 33 of this regulation.

2. All content and information required to be included in the application by the Commissioner.

3. *Written consent authorizing the Commissioner to conduct a background investigation of the applicant and, if applicable, each control person of the applicant, including, without limitation, authorization to obtain:*

(a) An independent credit report from a consumer reporting agency described in section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f);

(b) A criminal history report from the Federal Bureau of Investigation or any criminal history repository of any state, national or international governmental agency or entity; and

(c) Information related to any administrative, civil or criminal proceedings in any jurisdiction in which the applicant, or a control person of the applicant, is or has been a party.

4. *A complete set of fingerprints of the applicant or, if the applicant is not a natural person, a complete set of fingerprints of each control person of the applicant to forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.*

5. *Any other information requested by the Commissioner, required by the Nevada Mortgage Servicer Regulations or required in connection with the evaluation and investigation of the applicant's qualifications and suitability for licensure.*

FIRST
PARALLEL
SECTION

Sec. 21. 1. *In addition to any other requirements set forth in chapter 645F of NRS and the Nevada Mortgage Servicer Regulations:*

(a) A natural person who applies for the issuance or renewal of a license as a mortgage servicer or, if the applicant is not a natural person, each control person of the applicant, shall include the social security number of the applicant or control person, as applicable, in the application submitted to the Commissioner.

(b) A natural person who applies for the issuance or renewal of a license as a mortgage servicer or, if the applicant is not a natural person, each control person of the applicant, shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520.

2. The Commissioner will include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license as a mortgage servicer may not be issued or renewed by the Commissioner if the applicant or any control person of an applicant:

(a) Fails to submit the statement required by subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he or she is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant or a control person indicates on the statement submitted pursuant to subsection 1 that he or she is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner will advise the applicant or control person, as applicable, to contact the district attorney or other public agency enforcing the order to determine the actions that he or she may take to satisfy the arrearage.

5. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to an applicant or control person, the Commissioner will deem that license to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the applicant or control person by the district attorney or other public agency pursuant to NRS 425.550 stating that he or she has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

6. The Commissioner will reinstate a license as a mortgage servicer that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the applicant or a control person of the applicant stating that the applicant or control person, as applicable, has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 22. 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 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 section 24 of this regulation and each qualified employee has been approved by the Commissioner.

6. Have deposited the surety bond required pursuant to section 27 of this regulation.

7. Have provided the financial statements required pursuant to sections 25 and 26 of this regulation.

Sec. 23. *1. An applicant for a license shall obtain a license for its principal office.*

2. An applicant for a license that will engage in the activities of a mortgage servicer related to any dwelling located in this State:

(a) From one or more branch offices must include in all its applications a list of the location of any branch office and the name, telephone number and electronic mail address for a contact person for each branch office.

(b) Under one or more assumed names must apply for and obtain a separate license for each assumed name.

3. A licensee may not conduct business in any name other than the name approved by the Commissioner or from any location other than those locations filed with the Commissioner.

Sec. 24. 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 section 22 of this regulation or is a mortgage agent 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 pursuant to chapter 645B or 645E of NRS;

(b) Holds a supplemental mortgage servicer license pursuant to section 19 of this regulation; and

(c) Engages in activities as a mortgage servicer and mortgage broker or mortgage banker 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 or 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. 25. 1. Each applicant and licensee shall submit to the Commissioner an independently audited financial statement:

- (a) At the time of application; and**
- (b) Not later than 90 days after the end of each fiscal year of the mortgage servicer.**

2. The financial statement required by subsection 1 must:

- (a) Be dated not earlier than the last day of the fiscal year;**
- (b) Be prepared in accordance with generally accepted accounting principles; and**
- (c) Demonstrate that the applicant or licensee meets the minimum net worth requirement set forth in section 26 of this regulation.**

2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage servicer requests such an extension before the date on which the financial statement is due.

Sec. 26. 1. An applicant must demonstrate a minimum net worth of \$100,000.

2. Each mortgage servicer shall continuously maintain a minimum net worth of \$100,000.

Sec. 27. 1. Each mortgage servicer shall deposit with the Commissioner and maintain in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 3, which is executed by a corporate surety satisfactory to the Commissioner and which names as principals the mortgage servicer and the employees or agents of the mortgage servicer.

2. The bond must be in a form prescribed by the Commissioner.

3. Each mortgage servicer shall deposit a corporate surety bond that complies with the provision of this section as follows:

(a) For an annual mortgage loan servicing volume of less than \$50,000,000, the mortgage servicer must maintain a corporate surety bond of not less than \$100,000.

(b) For an annual mortgage loan servicing volume of \$50,000,000 but less than \$500,000,000, the mortgage servicer must maintain a corporate surety bond of not less than \$200,000.

(c) For an annual mortgage loan servicing volume of \$500,000,000 or more, the mortgage servicer must maintain a corporate surety bond of not less than \$300,000.

4. For the purposes of subsection 3, the Commissioner will determine the annual mortgage loan servicing volume using the activity reports filed with the Commissioner by the mortgage servicer pursuant to section 45 of this regulation.

5. The Commissioner may prescribe a single bond form pursuant to this section that will satisfy the bonding requirements of the Nevada Mortgage Servicer Regulations and chapter 645B or 645E of NAC for a person who has been issued a supplemental mortgage servicer license pursuant to section 19 of this regulation.

Sec. 28. 1. The surety may cancel a bond upon giving 60 days' notice, by certified mail, to the Commissioner and to the mortgage servicer who is the principal on the bond. Upon receipt by the Commissioner of such a notice, the Commissioner will immediately notify the mortgage servicer who is the principal on the bond of the effective date of cancellation of the bond, and that the license will be summarily suspended on that date and thereafter revoked unless an equivalent bond is furnished before the effective date of the cancellation. The notice must be sent to the mortgage servicer by certified mail to the last address of record filed in the office of the Division.

2. If the mortgage servicer does not comply with the requirements set out in the notice from the Commissioner, the license of the mortgage servicer must be revoked in accordance with the Nevada Mortgage Servicer Regulations and the requirements of chapter 233B of NRS. During the pendency of the revocation proceedings, the license must be summarily suspended in accordance with chapter 233B of NRS.

Sec. 29. 1. Subject to the requirements of this section, any person claiming against a surety bond may bring an action in a court of competent jurisdiction on the bond for damages to the extent covered by the bond.

2. A claim filed pursuant to subsection 1 may only be filed against a mortgage servicer by the loan servicing customers of the mortgage servicer or the Commissioner.

3. Claims against a bond by a loan servicing customer may only involve mortgage loans secured by a mortgage loan in this State. The amount of the claim must not exceed the actual fees paid by the loan servicing customer, overcharges or misapplication of principal and interest, and excess escrow collections charged by the mortgage servicer and paid by the claimant to the mortgage servicer or the agent of the mortgage servicer.

4. A claim on a bond may not be commenced after the expiration of 3 years following the commission of the act upon which the claim is based.

5. The Commissioner may file a claim against a bond for the payment of fines or fees due and payable to the Commissioner. A claim filed by the Commissioner is subordinate to any claim filed by a loan servicing customer of the mortgage servicer.

6. As used in this section, "loan servicing customer" has the same meaning ascribed to "borrower" in section 6 of this regulation.

Sec. 30. 1. A license issued pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations may not be transferred or assigned without the prior written consent and approval of the Commissioner.

2. A transfer, sale or conveyance of outstanding voting stock or ownership interest that will result in the cumulative transfer of 25 percent or more of a licensee's outstanding voting stock or ownership interest from the date upon which the original license was issued is deemed to be a change of control. A licensee shall make prior written application to the Commissioner for the approval of a change of control. The application must include:

(a) The transfer fee required by section 33 of this regulation.

(b) The name and percentage of ownership of each person who has obtained or is obtaining ownership resulting in a cumulative transfer of 25 percent or more of the licensee's outstanding voting stock or ownership interest.

(c) A personal interrogatory and a complete set of fingerprints of each 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 conduct an investigation of the person's background in the same manner as provided for in section 20 of this regulation.

4. The Commissioner will conduct an investigation of an application submitted pursuant to this section to determine whether the requirements necessary for licensure pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations are met.

5. No change of control of a licensee is effective until approved by the Commissioner.

Sec. 31. 1. *A mortgage servicer shall not conduct the business of a mortgage servicer in any name other than what appears on its license or from any address that has not been filed with the Commissioner.*

2. To amend its name or the address of its principal office, or to add or remove a branch office, a mortgage servicer must make written application to the Commissioner.

3. An application submitted pursuant to subsection 2 must:

(a) Be submitted to the Commissioner not less than 30 days before the anticipated effective date of the proposed name change or not more than 10 days after any change of address or opening or closing of a principal or branch office.

(b) Be in a form prescribed by the Commissioner.

(c) Include the fee required by section 33 of this regulation.

(d) Include any other information required by the Commissioner.

4. No amendment to the name or address of a mortgage servicer is effective until approved by the Commissioner.

Sec. 32. 1. *Each license issued pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations expires on December 31 of the year in which it is issued unless it is renewed pursuant to this section.*

2. To renew a license, a licensee must submit to the Commissioner an application for renewal not earlier than November 1 and not later than December 31 of the year in which the license will expire.

3. An application for renewal must:

(a) Be in a form prescribed by the Commissioner;

(b) Include the annual renewal fee required by section 33 of this regulation;

(c) Provide satisfactory proof that the applicant is in compliance with the applicable requirements of chapter 645F of NRS and the Nevada Mortgage Servicer Regulations; and

(d) Include any other information required by the Commissioner.

Sec. 33. 1. *The following fees will be assessed and collected pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations:*

(a) To file an initial application for a license as a mortgage servicer, not more than \$2,500 for the principal office.

(b) To file an initial application for a supplemental mortgage servicer license, not more than \$1,000 for the principal office.

(c) To obtain a duplicate copy of a license or to amend the name of the business or the address of the principal office, not more than \$50.

(d) To transfer the ownership or change control of a license, not more than \$500, and any expenses or costs incurred to conduct the investigation.

(e) To renew a license, not more than \$1,000 for the principal office.

2. A licensee that fails to submit a complete application for renewal on or before December 31 may reinstate the license if, before February 28 of the following year, the licensee files a complete application for renewal and pays the renewal fee and a reinstatement fee of not more than \$200.

3. For the purposes of funding the cost of administration and enforcement of the Nevada Mortgage Servicer Regulations, the Division will bill each principal mortgage servicer licensee and supplemental mortgage servicer licensee a supervision fee calculated pursuant to subsection 4.

4. A mortgage servicer with an annual mortgage loan servicing volume of:

- (a) Less than \$1,500,000 will not be assessed a supervision fee.*
 - (b) At least \$1,500,000 but not more than \$2,500,000 shall pay a supervision fee calculated as 7 cents per \$1,000 of its loan servicing volume.*
 - (c) More than \$2,500,000 but not more than \$5,000,000 shall pay a supervision fee calculated as 6 cents per \$1,000 of its loan servicing volume.*
 - (d) More than \$5,000,000 but not more than \$10,000,000 shall pay a supervision fee calculated as 5 cents per \$1,000 of its loan servicing volume.*
 - (e) More than \$10,000,000 but not more than \$30,000,000 shall pay a supervision fee calculated as 4 cents per \$1,000 of its loan servicing volume.*
 - (f) More than \$30,000,000 but not more than \$100,000,000 shall pay a supervision fee calculated as 3 cents per \$1,000 of its loan servicing volume.*
 - (g) More than \$100,000,000 but not more than \$1,300,000,000 shall pay a supervision fee calculated as 2 cents per \$1,000 of its loan servicing volume.*
 - (h) More than \$1,300,000,000 shall pay a supervision fee calculated as 1 cent per \$1,000 of its loan servicing volume.*
- 5. The Commissioner will determine the annual mortgage loan servicing volume using the activity reports filed with the Commissioner by the mortgage servicer pursuant to section 45 of this regulation.*
- 6. A mortgage servicer shall pay the actual travel, lodging and meal expenses incurred by any employee or contract employee of the Division who travels out of state to conduct an examination or investigation of the mortgage servicer pursuant to this section.*
- 7. Each mortgage servicer shall pay to the Commissioner the annual assessment established by the Commissioner and levied pursuant to NRS 645F.290.*

8. *A mortgage servicer that fails to submit timely a financial statement or report required pursuant to section 25 or 45 of this regulation may be subject to a late penalty of not more than \$25 for each day that the statement or report is late, up to a maximum of \$1,000, and may be subject to other discipline provided for pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.*

9. *Any fee, assessment or late penalty required to be paid pursuant to this section must be paid to the Commissioner through the Registry.*

10. *All fees, assessments or penalties received pursuant to this section are in addition to any fees that may be required by the Registry and are nonrefundable. All fees, assessments and penalties received pursuant to this section must be deposited in the Account for Mortgage Lending created by NRS 645F.270.*

Sec. 34. 1. *Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner will exercise general supervision and control over all mortgage servicers governed by chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.*

2. *In addition to the other duties imposed upon him or her by law, and except as otherwise provided in section 86.6 of Assembly Bill No. 480, chapter 477, Statutes of Nevada 2015, at page 2807, the Commissioner may:*

(a) *Require that any application for the initial issuance or renewal of a license or the submission of any report or filing required pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations be submitted directly to the Division or to the Division through the Registry.*

(b) Require that any fee or administrative fine due or assessment levied pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations be submitted directly to the Division or to the Division through the Registry.

(c) Issue or approve or refuse to issue or approve a license, an amendment to a license or transfer of a license as provided in chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

(d) Revoke, suspend or place conditions on a license as provided in chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

(e) Impose administrative fines and assess administrative fees or assessments or attorney's fees as provided in chapter 645F of NRS and the Nevada Mortgage Servicer Regulations or under applicable law.

(f) Impose any other discipline as provided in chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

(g) Bring an action in any county in this State to enforce an order or subpoena issued under chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

(h) Advise the Attorney General or prosecuting attorney of any county in this State that a mortgage servicer is conducting business or engaging in any activity that violates chapter 645F of NRS or the Nevada Mortgage Servicer Regulations.

(i) Conduct such examinations or investigations as may be necessary to determine whether a person has violated any provision of chapter 645F of NRS or the Nevada Mortgage Servicer Regulations and to efficiently enforce the provisions of chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

(j) In the conduct of any examination or investigation made pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations:

(1) Issue subpoenas to compel the appearance of any person or production of any documents, books or records, administer oaths and examine any person pursuant to NRS 645F.291.

(2) Have free access during regular business hours to the principal or branch offices, places of business or other locations where a licensee or an affiliate of a licensee maintains documents related to his or her business as a mortgage servicer, and to the books, accounts, papers, records, files, documents, safes and vaults of a licensee.

(3) Assess a fee upon any mortgage servicer pursuant to NRS 645F.280, as amended by section 92 of Assembly Bill No. 480, chapter 477, Statutes of Nevada 2015, at page 2809, for any special audit, investigation or examination conducted of that mortgage servicer pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

(4) By procedure, order or regulation, classify as confidential certain records and information when:

(I) The records or information are obtained from a governmental entity upon the express condition that those records or information remain confidential; or

(II) The records or information contain private and personal information related to a natural person, the release of which would result in an unwarranted invasion of privacy.

3. Notwithstanding subparagraph (4) of paragraph (j), all records of the Commissioner may be examined by the Legislative Auditor or the Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS and sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (Chapter 363C of NRS).

4. For purposes of conducting any examination or investigation pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations, the Commissioner may:

(a) Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of such examinations or investigations.

(b) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing resources, standardized or uniform methods or procedures, and documents, records, information or evidence obtained pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

(c) Use, hire, contract with or employ public or privately available analytical systems, methods or software to examine or investigate a licensee or other person subject to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

(d) Accept and rely on reports of examinations or investigations made by other state or federal government officials.

(e) Accept audit reports prepared by an independent certified public accountant for the licensee or other person subject to the Nevada Mortgage Servicer Regulations, in the course of that part of the examination covering the same general subject matter as the audit and incorporate the audit report in the report of the examination, report of investigation or other writing of the Commissioner.

5. The Commissioner may designate a hearing officer to conduct any hearing required pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

Sec. 35. 1. Except as otherwise provided in the Nevada Mortgage Servicer Regulations or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations are public records and open to public inspection. Notwithstanding the foregoing, the Commissioner may withhold from public inspection or refuse to disclose to a person, for such time as the Commissioner considers necessary, any information that, in the Commissioner's judgment, would:

(a) Impede or otherwise interfere with an investigation or examination that is currently pending against a mortgage servicer;

(b) Have an undesirable effect on the welfare of the public or result in an unfair competitive advantage in the mortgage industry; or

(c) Reveal personal information in violation of NRS 239B.030.

2. Information obtained during an examination or investigation conducted pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations is confidential and may not be available for public inspection or copying, or divulged to any person, except as provided in this section. The information may be disclosed:

(a) To the Attorney General.

(b) To any regulatory agency.

(c) In connection with an enforcement action brought pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations or another applicable statute or regulation.

(d) To a law enforcement official.

(e) To persons authorized by a court of competent jurisdiction to receive the information.

3. *Except as otherwise provided in this section and NRS 239.0115, a complaint filed with the Commissioner, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.*

4. *An order that imposes discipline and the findings of fact and conclusions of law supporting that order, including all documents, records, information and testimony relied upon in the order, unless otherwise entered under protective order or confidential under chapter 645F of NRS and the Nevada Mortgage Servicer Regulations, are public records.*

5. *Notwithstanding subsections 2 and 3 and except as otherwise provided by applicable law, the Commissioner may disclose any information, documents or records in his or her possession or control to the public if, in the Commissioner's discretion, the Commissioner determines that such information is in the public interest.*

Sec. 36. 1. *A mortgage servicer shall exercise reasonable supervision and control over the activities, and be responsible for the actions or inactions, of his or her employees or agents.*

2. *The Commissioner may prescribe standards for determining whether a mortgage servicer has exercised reasonable supervision and control over the activities of his or her employees or agents pursuant to this section.*

Sec. 37. 1. *A mortgage servicer has a duty of good faith and fair dealing in its communications, transactions and course of dealings with each borrower in connection with the servicing of the borrower's mortgage loan.*

2. *In addition to any duties imposed by other statutes or at common law, a mortgage servicer shall:*

- (a) Safeguard and account for any money handled for the borrower or lender.*
- (b) Follow reasonable and lawful instructions from the borrower or lender.*
- (c) Act with reasonable skill, care and diligence.*
- (d) File with the Commissioner a complete and current schedule of the ranges of costs and fees the mortgage servicer charges a borrower for its servicing-related activities with its application and renewal and with any of its supplemental filings.*
- (e) At the time a mortgage servicer accepts assignment of servicing rights for a mortgage loan, the mortgage servicer shall disclose to the borrower:*
 - (1) Any notice required by federal law or regulation.*
 - (2) A schedule of the ranges and categories of its costs and fees for its servicing-related activities, which must comply with state and federal law and which must not exceed those reported to the Commissioner pursuant to paragraph (d).*

Sec. 38. *1. A mortgage servicer shall 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., as amended, and any regulations promulgated thereunder.*

2. In addition to any other remedies provided by law, a violation of any such law or regulation shall be deemed a violation of this section and a basis upon which the Commissioner may impose discipline pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

Sec. 39. *A person shall not transfer mortgage servicing rights or obligations to a person unless that person holds a license as a mortgage servicer or is a person otherwise exempt from*

holding a license pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

Sec. 40. *A mortgage servicer that acts as a mortgage servicer for another party, or a mortgage servicer that contracts with another party to service mortgage loans on behalf of the mortgage servicer, shall have a written agreement with the other party specifying the terms of the mortgage servicing agreement.*

Sec. 41. *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 section 26 of this regulation.*
- 6. Fail to maintain the minimum surety bond required by section 27 of this regulation.*
- 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, 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 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, mortgage agent or covered service provider unless properly licensed under chapter 645B, 645E or 645F of NRS, as applicable.

Sec. 42. 1. A mortgage servicer shall report to the Commissioner any disciplinary or enforcement action, denial of an application for a license or registration, settlement agreement or other similar action involving the mortgage servicer and another state or federal regulator. The mortgage servicer shall file a report with the Commissioner within 10 days after the action, in a manner prescribed by the Commissioner.

2. A mortgage servicer shall report to the Commissioner any bankruptcy petitions filed by or against the mortgage servicer. The mortgage servicer shall file the report with the Commissioner within 10 days after the bankruptcy petition is filed, in a manner prescribed by the Commissioner.

Sec. 43. 1. A licensee may surrender a license by delivering to the Commissioner the original license, if applicable, with written notice that the licensee surrenders the license.

2. A licensee whose original license has been destroyed or lost may comply with this section by submitting to the Commissioner a notarized affidavit of the loss accompanied by written notice that the licensee surrenders the license.

3. A licensee may not surrender a license or close his or her principal office until:

(a) The licensee has returned his or her original license or licenses; and

(b) The Commissioner has approved the closure.

4. The request for approval of the closure of the principal office of the licensee must be in the form and contain the information prescribed by the Commissioner.

Sec. 44. 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 section 33 of this regulation.

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, 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. 45. 1. Upon request, a mortgage servicer shall submit to the Commissioner, on a date and in a form prescribed by the Commissioner, a report of the mortgage servicer's activity in this State. The report must specify:

- (a) The total number of mortgage loans the mortgage servicer is servicing.*
- (b) The total dollar volume of mortgage loans the mortgage servicer is servicing.*
- (c) The type and characteristics of mortgage loans the mortgage servicer is servicing.*
- (d) The number of such mortgage loans in default, along with a breakdown of 30-, 60- and 90-day delinquencies.*
- (e) Information on foreclosures commenced by the mortgage servicer.*
- (f) Any other information required by the Commissioner.*

2. The Commissioner may require a mortgage servicer to submit the report described in subsection 1 on a quarterly, semiannual or annual basis on the date or dates set by the Commissioner.

Sec. 46. 1. Any person may file a complaint with the Commissioner alleging that another person has violated any provision of chapter 645F of NRS, the Nevada Mortgage Servicer Regulations or any order of the Commissioner. If the complaint is made by the Commissioner, he or she must designate one or more employees of the Division to act as the person filing the complaint.

2. A complaint filed pursuant to this section must:

- (a) Be in writing;*

(b) Be signed by the person filing the complaint or the designee of the person filing the complaint;

(c) Contain an address and a telephone number for the person filing the complaint or the designee of the person filing the complaint;

(d) Describe the nature of the alleged violation in as much detail as possible;

(e) Include as exhibits copies of all documentation supporting the complaint; and

(f) Include any other information or supporting materials required by chapter 645F of NRS, the Nevada Mortgage Servicer Regulations or an order of the Commissioner.

Sec. 47. 1. If the Commissioner conducts an investigation of a complaint filed pursuant to section 46 of this regulation, the Commissioner will determine from the investigation whether there is reasonable cause to believe that the person committed the alleged violation.

2. If, upon investigation, the Commissioner determines that there is reasonable cause to believe that the person committed the alleged violation, the Commissioner may take any disciplinary action authorized by chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

Sec. 48. If the Commissioner finds that an applicant, licensee or mortgage servicer has violated, or directly or indirectly counseled, aided or abetted in a violation of, chapter 645F of NRS or the Nevada Mortgage Servicer Regulations, the Commissioner may take any of the following actions, either singly or in any combination:

1. Refuse to issue or renew an applicant's application for a license or renewal of a license pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations.

2. Assess an administrative fine against the applicant of not more than \$25,000 for each violation, whether or not the applicant is issued a license.

3. Assess an administrative fine against a mortgage servicer or a control person of not more than \$25,000 for each violation, or not more than \$50,000 for each violation if the violation involved activity requiring licensure pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations at a time when the person did not hold a license.

4. Place conditions upon or suspend or revoke a license.

5. Require a mortgage servicer or control person of a mortgage servicer to make restitution to each person injured if the Commissioner finds that the violation resulted in an injury to one or more persons. Notwithstanding the provision of paragraph (m) of subsection 1 of NRS 622A.120, payment of restitution must be done in a manner consistent with the provision of chapter 622A of NRS.

6. An order issued or administrative fine assessed under the Nevada Mortgage Servicer Regulations may be enforced or sued for and recovered by and in the name of the Commissioner and may be collected and enforced by summary proceedings by the Attorney General.

7. In determining the amount of an administrative fine levied pursuant to the Nevada Mortgage Servicer Regulations, whether to suspend or revoke a license, the amount of restitution or whether to deny an application for or renewal of a license, the Commissioner will consider, without limitation:

(a) The extent to which the violation was a knowing and willful violation;

(b) The extent of the injury suffered because of the violation;

(c) The corrective action taken by the person to ensure the violation will not be repeated;

(d) The record of the mortgage servicer in complying with chapter 645F of NRS and the Nevada Mortgage Servicer Regulations; and

(e) Any other factor the Commissioner considers relevant.

Sec. 49. 1. If a person engages in an activity in violation of any provision of chapter 645F of NRS or the Nevada Mortgage Servicer Regulations, 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 served personally or sent by certified mail to the last known address of the person or by other means reasonably calculated to obtain service on the person 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 as required by chapter 645F of NRS and the Nevada Mortgage Servicer Regulations; or

(b) In a manner that violates the provisions of chapter 645F of NRS or the Nevada Mortgage Servicer Regulations.

3. Not later than 30 calendar days after receiving an order pursuant to this section, the person who receives the order may file a written notice with the Commissioner to request a hearing. Upon receipt of the written notice, 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 on which 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 a hearing:

(1) Not later than 60 calendar days after the date on which the written notice is filed; or

(2) On a date agreed to by the Commissioner and the person; or

(b) Render a written decision within 45 days after the date on which the hearing is concluded.

4. A hearing held pursuant to this section must be conducted under the provisions of chapter 233B of NRS and other applicable provisions of law.

5. If a person fails to file a written notice to request a hearing within 30 calendar days after receiving the order, the Commissioner will issue a final order.

6. A final order issued pursuant to subsection 5 or the decision of the Commissioner after a hearing is a final decision for the purposes of judicial review.

Sec. 50. *1. The Commissioner will give notice to a licensee of his or her intention to enter an order suspending or revoking a license, or notice to an applicant of a refusal to issue a license, or notice to a mortgage servicer, licensee or applicant of intention to assess an administrative fine, in writing and served personally or sent by certified mail to the mortgage servicer, licensee or applicant or by other means reasonably calculated to obtain service.*

2. Within 20 days after the notice of the intention to enter an order suspending or revoking a license, a refusal to issue a license, or intention to assess an administrative fine, pursuant to subsection 1, the mortgage servicer, licensee or applicant may request a hearing to contest the order or refusal. If a hearing regarding a suspension, revocation, refusal or fine is not requested, the Commissioner will enter a final order regarding the suspension, revocation, refusal or fine. A hearing must be conducted under the provisions of chapter 233B of NRS and other applicable provisions of law.

Sec. 51. *The expiration, revocation or suspension of a license by operation of law or by order or decision of the Commissioner or a court of competent jurisdiction, or the voluntary surrender of a license, does not:*

- 1. Prohibit the Commissioner from initiating or continuing an investigation of, or action or disciplinary proceeding against, the licensee as authorized pursuant to the provisions of chapter 645F of NRS and the Nevada Mortgage Servicer Regulations;*
- 2. Prevent the Commissioner from revoking the license or imposing or collecting any fine or penalty authorized pursuant to the provisions of chapter 645F of NRS or the Nevada Mortgage Servicer Regulations;*
- 3. Affect the licensee's administrative, civil or criminal liability for acts committed before the surrender, revocation, expiration or suspension; or*
- 4. Impair or affect the obligation of a preexisting contract between the licensee and another person, except as otherwise provided by law.*

Sec. 52. 1. After an investigation has been conducted pursuant to section 46 of this regulation and before conducting a hearing, the Commissioner may issue an order summarily suspending a license pursuant to subsection 3 of NRS 233B.127, based upon an affidavit by a person familiar with the facts set forth in the affidavit or, if appropriate, based upon an affidavit, on information and belief, that an imminent threat of financial loss or imminent threat to the public welfare exists.

2. Pursuant to a proceeding commenced under subsection 3 of NRS 233B.127, an administrative law hearings examiner shall grant a request to dissolve a summary suspension order unless the examiner finds that an imminent threat of financial loss or imminent threat to the public welfare exists which requires emergency action and continuation of the summary suspension order.

3. The record created at the hearing of the summary suspension must become part of the record on the complaint at a subsequent hearing in a contested case.

Sec. 53. 1. In addition to any other action that is required or permitted pursuant to chapter 645F of NRS and the Nevada Mortgage Servicer Regulations, if the Commissioner has reasonable cause to believe that:

(a) The assets or capital of a mortgage servicer are impaired;

(b) A mortgage servicer is negligently failing to service mortgage loans in accordance with the terms of chapter 645F of NRS and the Nevada Mortgage Servicer Regulations or the terms of the servicing contracts; or

(c) A mortgage servicer is conducting business in an unsafe and injurious manner that may result in danger to the public,

↪ the Commissioner may petition for an order appointing the Commissioner or some other competent disinterested person as receiver or conservator and directing the receiver or conservator to take sole control of the affairs of the mortgage servicer and possession of the books, records, contracts and property of the mortgage servicer. A person other than the Commissioner appointed as receiver or conservator may be required to supply a bond or other security as required by the Commissioner.

2. The receiver or conservator shall take such action as necessary to assure that the mortgage loans are serviced in accordance with the terms of chapter 645F of NRS and the Nevada Mortgage Servicer Regulations and the terms of the servicing contracts, and may cause the servicing rights to be transferred or assigned to another person approved by the Commissioner.

3. If the Commissioner is satisfied that the termination of the receivership or conservatorship may be done safely and is in the public interest, the Commissioner may petition to have the receivership or conservatorship terminated and permit the mortgage

servicer to resume the servicing of mortgage loans subject to any terms, conditions and limitations as the Commissioner may prescribe.

4. The Division must be reimbursed out of the assets of the receivership or conservatorship for actual expenses incurred by it in connection with the receivership or conservatorship. All expenses of a receivership or conservatorship must be paid out of the assets of the mortgage servicer, upon approval of the Commissioner or court. These expenses must be fully paid before any final distribution or payment of dividends is made to creditors or shareholders.

5. All compensation and expenses required to be reimbursed to the Division in connection with a receivership or conservatorship and all expenses for state supervision of a receivership or conservatorship under chapter 645F of NRS and the Nevada Mortgage Servicer Regulations must be deposited in the Account for Mortgage Lending created by NRS 645F.270. Money in the Account must only be disbursed on proper vouchers, approved by the Commissioner, to reimburse the Division for expenses incurred by the Division in connection with the receivership or conservatorship.

Sec. 54. The hearing procedures set forth in the Nevada Mortgage Servicer Regulations apply to any hearing conducted under the Nevada Mortgage Servicer Regulations.

Sec. 55. A summary suspension order, cease and desist order or injunctive relief issued or granted in relation to a license are in addition to and not in place of an informal conference, or proceeding to deny, revoke or suspend a license, or any other legal action.

Sec. 56. NAC 645F.005 is hereby amended to read as follows:

645F.005 As used in ~~[this chapter,]~~ *the Nevada Covered Service Provider Regulations*, unless the context otherwise requires, the words and terms defined in chapter 645F of NRS and

NAC 645F.010 to 645F.060, inclusive, have the meanings ascribed to them in that chapter and those sections.

Sec. 57. NAC 645F.015 is hereby amended to read as follows:

645F.015 1. “Associated licensee” means a licensee who:

(a) Is an employee of or independent contractor for an independent licensee; and

(b) Is authorized by the independent licensee to engage in, on behalf of the independent licensee, any activity that would require a person to be licensed pursuant to ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and ~~{chapter 645F of NRS.}~~ *NRS 645F.300 to 645F.450, inclusive.*

2. The term does not include a person who performs only clerical or ministerial tasks for an independent licensee.

Sec. 58. NAC 645F.040 is hereby amended to read as follows:

645F.040 “Licensee” means a person licensed under ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS.

Sec. 59. NAC 645F.105 is hereby amended to read as follows:

645F.105 For the purposes of subsection 1 of NRS 645F.380, a person who:

1. Is not an attorney at law; and

2. Engages in any activity for which a license under ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS is required,

↪ must be appropriately licensed under ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS without regard to whether the person is employed by or otherwise associated with an attorney at law.

Sec. 60. NAC 645F.200 is hereby amended to read as follows:

645F.200 A person shall not advertise services as, provide any of the services of, act as or conduct business as a covered service provider, foreclosure consultant or loan modification consultant or otherwise engage in, carry on or hold himself or herself out as engaging in or carrying on the activities of a covered service provider, foreclosure consultant or loan modification consultant unless the person has a license as a covered service provider, foreclosure consultant or loan modification consultant, as applicable, issued pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS.

Sec. 61. NAC 645F.205 is hereby amended to read as follows:

645F.205 1. A person who desires to be licensed as a covered service provider, foreclosure consultant or loan modification consultant must file a written application for a license with the Commissioner and pay a nonrefundable application fee as set forth in NAC 645F.315. An application for a license as a covered service provider, foreclosure consultant or loan modification consultant must:

(a) State the name and business address of the applicant and the location of the principal office and each branch office, if any, at which the applicant will conduct business, including, without limitation, any office or other place of business located outside this State from which the applicant will conduct business in this State.

(b) If the applicant is a natural person, state the residence address of the applicant.

(c) If the applicant will be conducting business using a fictitious name, state the fictitious name under which the applicant will conduct business.

(d) If the applicant is not a natural person, list the name, residence address and business address of:

(1) Each person who will have an interest in the applicant as an owner, principal, partner, officer, director or trustee, specifying the capacity and title of each such person; and

(2) Each person whom the applicant proposes to be a qualified employee for the applicant.

(e) If the applicant will be an independent licensee, list the name, residence address and business address of each associated licensee, if any, who will be employed by or otherwise associated with the applicant.

(f) If the applicant will be an associated licensee, include a verified statement from the independent licensee with whom the applicant will be associated that expresses the intent of the independent licensee to associate the applicant with the independent licensee and to be responsible for the activities of the applicant as a covered service provider, foreclosure consultant or loan modification consultant.

(g) Include a signed and notarized personal history form, provided by the Commissioner, from the applicant or, if the applicant is not a natural person, each natural person holding an ownership interest of 25 percent or more in the applicant and each natural person who has the power to direct the management of the applicant.

(h) Include a written consent giving the Commissioner authority to conduct an investigation of the credit history, criminal history and background of:

(1) If the applicant is a natural person, the applicant. The written consent must be signed by the applicant.

(2) If the applicant is not a natural person, any natural person holding an ownership interest of 25 percent or more in the applicant or who has the power to direct the management of the applicant. The written consent must be signed by each such person.

(i) Include a complete set of fingerprints of the applicant or, if the applicant is not a natural person, any natural person holding an ownership interest in the applicant. The Commissioner may forward these fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(j) If the applicant will be an independent licensee, indicate the general plan and character of the applicant's business and describe the policies and procedures that the applicant and any associated licensees who will be employed by or otherwise associated with the applicant will follow in providing services and conducting activities pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and ~~chapter 645F of NRS~~ *NRS 645F.300 to 645F.450, inclusive*.

(k) State the length of time the applicant has been engaged in the business of a covered service provider, foreclosure consultant or loan modification consultant.

(l) If the applicant will be an independent licensee, include a financial statement of the applicant.

(m) Include any other information required by the Commissioner, including, but not limited to, information concerning the education, training and experience of any applicable person.

(n) Include the applicable fee set forth in NAC 645F.315.

2. If the applicant is a natural person who will be an associated licensee, the Commissioner may waive the requirement of an investigation of the credit history, criminal history and background of the applicant if such an investigation has been conducted within 6 months immediately preceding the date on which the application is submitted.

3. If an applicant will conduct business at one or more branch offices, the applicant must apply for a license for each such branch office on forms prescribed by the Commissioner and pay

the applicable fee set forth in NAC 645F.315. An application for a branch license shall be deemed abandoned if the applicant fails to respond to any written request by the Commissioner for information concerning the application within 30 days after the date of the request.

4. An applicant for a license may apply for a license for an office or other place of business located outside this State from which the applicant will conduct business in this State if the applicant agrees to:

(a) Make available at a location within this State the books, accounts, papers, records and files of the office or place of business located outside this State to the Commissioner or a representative of the Commissioner; or

(b) Pay the reasonable expenses for travel, meals and lodging of the Commissioner or a representative of the Commissioner incurred during any investigation or examination made at the office or place of business located outside this State.

↪ The applicant must be allowed to choose between paragraph (a) or (b) in complying with the provisions of this subsection.

5. Except as otherwise provided in ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS, the Commissioner will issue a license to an applicant if:

(a) The application and information submitted by the applicant in support of the application is verified by the Commissioner;

(b) The application and information submitted by the applicant in support of the application complies with the *applicable* requirements of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS; and

(c) Each person identified in paragraph (h) of subsection 1 and, if the applicant is a partnership, corporation or unincorporated association, each general partner, officer or director of the applicant:

(1) Has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of a covered service provider, foreclosure consultant or loan modification consultant in a manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

(2) Has not been convicted of, or entered a plea of guilty or nolo contendere to, a felony related to the practice of a covered service provider, foreclosure consultant or loan modification consultant or any crime involving fraud, misrepresentation or moral turpitude.

(3) Has not made a false statement of material fact on the application.

(4) Has not had a professional license or a financial services license or registration that was issued in this State or any other state, the United States, any district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of the application.

(5) Has not violated any provision of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or ~~chapter 645F of~~ NRS *645F.300 to 645F.450, inclusive*, or any order of the Commissioner.

Sec. 62. NAC 645F.210 is hereby amended to read as follows:

645F.210 1. If applicable, an applicant must submit with the application for a license as a covered service provider, foreclosure consultant or loan modification consultant:

(a) If the applicant is a corporation, a copy of:

(1) Its articles of incorporation and its bylaws; and

(2) If applicable, its balance sheet and a statement of the profit and loss of the corporation for the 2 years immediately preceding the year of the application.

(b) If the applicant is a partnership or joint venture, a copy of the agreement of partnership or joint venture and the financial statements of the general partners for the 2 years immediately preceding the year of the application.

(c) If the applicant is a corporation being organized, a copy of its proposed articles of incorporation and its bylaws.

(d) If the applicant is a limited-liability company, a copy of:

(1) Its articles of organization and operating agreement; and

(2) If applicable, a statement of the profit and loss of the limited-liability company for the 2 years immediately preceding the year of the application.

2. Before the issuance of a license, an applicant must submit:

(a) If applicable, a copy of the certificate filed by the covered service provider, foreclosure consultant or loan modification consultant pursuant to chapter 602 of NRS indicating the fictitious name of the covered service provider, foreclosure consultant or loan modification consultant;

(b) If applicable, supporting documentation that the applicant is in good standing with the Secretary of State, and the most recent list of its officers, members or managers, and registered agents that is filed with the Secretary of State;

(c) A copy of a lease or other document which indicates the address of the place of business and telephone number of the applicant;

(d) If applicable, a copy of the applicant's business license or, if the applicant has not yet obtained a business license, the applicant's application for such a license;

(e) If applicable, a copy of the applicant's state business ~~license~~ *registration* or, if the applicant has not yet obtained a state business ~~license~~ *registration*, the applicant's application for such a ~~license~~ *registration*;

(f) If applicable, a bond or other substitute security required by NAC 645F.605 or 645F.610;

(g) If the applicant is a natural person, documentation, acceptable to the Commissioner, that the applicant has completed the educational requirements for initial licensure required by NAC 645F.500;

(h) If the applicant is not a natural person, documentation, acceptable to the Commissioner, that all applicable persons have completed the educational requirements for initial licensure required by NAC 645F.500;

(i) If the applicant is a natural person and will be an independent licensee, documentation, acceptable to the Commissioner, that the applicant has at least 2 years of verifiable experience working in the real estate, mortgage, foreclosure or loan modification industries or applicable financial or legal fields;

(j) If the applicant is not a natural person and will be an independent licensee, documentation, acceptable to the Commissioner, that each proposed qualified employee for the applicant has at least 2 years of verifiable experience working in the real estate, mortgage, foreclosure or loan modification industries or applicable financial or legal fields; and

(k) Any other information deemed necessary by the Commissioner to complete the application.

3. If an applicant has received a letter from the Commissioner which imposes additional requirements that the applicant must satisfy to obtain a license as a covered service provider, foreclosure consultant or loan modification consultant, the applicant must comply with those

requirements within 30 days after the date on which the letter was issued by the Commissioner or such other time as provided in the letter. If the applicant does not satisfy all additional requirements set forth in the letter within the period prescribed in this subsection, the application will be deemed to have been abandoned and the applicant must reapply to obtain a license. The Commissioner may, for good cause, extend the 30-day or other period prescribed in this subsection.

4. If an applicant does not maintain an office in this State, or if its corporate office is located outside of this State, the applicant must sign an authorization and agreement that any actions brought by the Commissioner related to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS will be brought in the applicable court of the State of Nevada.

FIRST
PARALLEL
SECTION

Sec. 63. NAC 645F.215 is hereby amended to read as follows:

645F.215 1. In addition to any other requirements set forth in ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS:

(a) A natural person who applies for the issuance of a license as a covered service provider, foreclosure consultant or loan modification consultant must include the social security number of the applicant in the application submitted to the Commissioner.

(b) A natural person who applies for the issuance or renewal of a license as a covered service provider, foreclosure consultant or loan modification consultant must submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner will include the statement required by subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license as a covered service provider, foreclosure consultant or loan modification consultant may not be issued or renewed by the Commissioner if the applicant is a natural person who:

(a) Fails to submit the statement required by subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner will advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a covered service provider, foreclosure consultant or loan modification consultant, the Commissioner will deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder

of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

6. The Commissioner will reinstate a license as a covered service provider, foreclosure consultant or loan modification consultant that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

SECOND
PARALLEL
SECTION

Sec. 64. NAC 645F.215 is hereby amended to read as follows:

645F.215 1. In addition to any other requirements set forth in ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS, a natural person who applies for the issuance or renewal of a license as a covered service provider, foreclosure consultant or loan modification consultant must submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Commissioner will include the statement required by subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license as a covered service provider, foreclosure consultant or loan modification consultant may not be issued or renewed by the Commissioner if the applicant is a natural person who:

- (a) Fails to submit the statement required by subsection 1; or
- (b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner will advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

5. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license as a covered service provider, foreclosure consultant or loan modification consultant, the Commissioner will deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

6. The Commissioner will reinstate a license as a covered service provider, foreclosure consultant or loan modification consultant that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public

agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 65. NAC 645F.230 is hereby amended to read as follows:

645F.230 The provisions of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* do not limit the authority of the Commissioner to refuse to issue a license to an applicant for any other lawful reason or pursuant to any other provision of law.

Sec. 66. NAC 645F.250 is hereby amended to read as follows:

645F.250 A person who holds a license as a covered service provider, foreclosure consultant or loan modification consultant is not precluded from also holding other licenses which may be issued pursuant to *this chapter or* chapter 645, 645B, 645E or 645F of NRS.

Sec. 67. NAC 645F.260 is hereby amended to read as follows:

645F.260 1. A licensee may conduct business using a new fictitious name only if the licensee:

(a) Obtains a certified copy, issued by the appropriate county clerk, of the certificate filed by the licensee pursuant to chapter 602 of NRS indicating the new fictitious name;

(b) Files with the Commissioner, 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 of the licensee; and

(c) Receives from the Commissioner an amended license indicating the new fictitious name.

2. A licensee may conduct business using more than one fictitious name only if the licensee obtains a separate license issued pursuant to ~~this chapter~~ *the Nevada Covered Service Provider*

Regulations and chapter 645F of NRS for each fictitious name under which the licensee intends to do business. A licensee who conducts business in this State using more than one fictitious name is responsible for the conduct of each person employed by or otherwise associated with the licensee regardless of the license or name under which the conduct takes place.

Sec. 68. NAC 645F.270 is hereby amended to read as follows:

645F.270 1. A license issued pursuant to ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS expires each year on July 1, unless it is renewed. The licensee may not renew the license until all fees, assessments and fines owed to the Commissioner are paid. To renew a license, the licensee must submit to the Commissioner on or before May 31 of each year:

(a) An application for renewal that includes all information required by the Commissioner to determine that the licensee complies with the *applicable* requirements of ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS;

(b) If the licensee is a natural person, satisfactory proof that the licensee has attended at least the number of hours of approved courses of continuing education required by NAC 645F.505 in subject areas relevant to ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS, as determined by the Commissioner, during the 12 months immediately preceding the date on which the license expires; and

(c) The fee required to renew the license as set forth in NAC 645F.315.

2. If the licensee fails to submit any item required by subsection 1 to the Commissioner on or before May 31 of any year, the license is cancelled as of July 1 of that year. The Commissioner may reinstate a cancelled license within 6 months after its cancellation if the licensee submits to the Commissioner:

- (a) An application for renewal that complies with the *applicable* requirements of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS;
- (b) The fee required to renew the license as set forth in NAC 645F.315; and
- (c) The fee required to reinstate the license as set forth in NAC 645F.315.

Sec. 69. NAC 645F.275 is hereby amended to read as follows:

645F.275 1. Any licensee who is a natural person and who is called into the military service of the United States will be, upon request, relieved from compliance with the provisions of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and ~~chapter 645F of~~ NRS *645F.300 to 645F.450, inclusive* and placed on inactive status for the period of such military service and for a period of 6 months after discharge therefrom.

2. At any time within 6 months after termination of such service, if the licensee complies with the provisions of subsection 1, the licensee may be reinstated without having to meet any qualification or requirement other than the payment of the reinstatement fee as set forth in NAC 645F.315, as applicable, and the licensee is not required to make payment of the renewal fee for the current year.

3. Any licensee seeking to qualify for reinstatement, as provided in subsections 1 and 2, must present a certified copy of his or her honorable discharge or certificate of satisfactory service to the Commissioner.

Sec. 70. NAC 645F.315 is hereby amended to read as follows:

645F.315 1. The Commissioner will charge and collect the following nonrefundable fees from an independent licensee or from an applicant for a license who will be an independent licensee:

(a) To file an original application for a license, \$750 for the principal office and \$100 for each branch office, and such additional expenses incurred in the process of investigation as the Commissioner deems necessary.

(b) To be issued a license, \$500 for the principal office and \$150 for each branch office.

(c) To renew a license, \$500 for the principal office and \$100 for each branch office.

(d) To reinstate a cancelled license, \$100.

2. The Commissioner will charge and collect the following nonrefundable fees from an associated licensee or from an applicant for a license who will be an associated licensee:

(a) To file an original application for a license and, if approved, issued a license, \$185.

(b) To renew a license, \$170.

(c) To reinstate a cancelled license, \$75.

3. To change the independent licensee with whom an associated licensee is employed or otherwise associated, the associated licensee must pay to the Commissioner a nonrefundable fee of \$25. Such a change includes, without limitation, an associated licensee reactivating his or her license with an independent licensee with whom the associated licensee was previously employed or otherwise associated.

4. To be issued a duplicate copy of a license, the licensee must make a satisfactory showing of its loss and pay to the Commissioner a nonrefundable fee of \$25.

5. To file an application for a change of control, the applicant must pay to the Commissioner a nonrefundable fee of \$250.

6. Except as otherwise provided in ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS, all fees received must be deposited in the Account for Mortgage Lending created by NRS 645F.270.

Sec. 71. NAC 645F.320 is hereby amended to read as follows:

645F.320 1. An independent licensee shall not:

(a) Employ or otherwise associate with a person as a covered service provider, foreclosure consultant or loan modification consultant if that other person is not licensed with the Commissioner pursuant to ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS; or

(b) Authorize a person to be employed by or otherwise associated with the independent licensee as a covered service provider, foreclosure consultant or loan modification consultant if that other person is not licensed with the Commissioner pursuant to ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS.

2. An associated licensee shall not:

(a) Employ another licensee;

(b) Have another licensee as an independent contractor for the associated licensee;

(c) Be an employee of or an independent contractor for another associated licensee; or

(d) Be an employee of or an independent contractor for more than one independent licensee at the same time.

3. An associated licensee may be employed by or otherwise associated with an independent licensee at only one licensed office location of the independent licensee.

Sec. 72. NAC 645F.325 is hereby amended to read as follows:

645F.325 1. An independent licensee shall exercise reasonable and adequate supervision over the activities of the associated licensees, if any, who are employed by or otherwise associated with the independent licensee, including, without limitation, by establishing a system to review, oversee and inspect the activities of the associated licensees.

2. In determining whether an independent licensee has maintained reasonable and adequate supervision of an associated licensee, the Commissioner will consider whether:

(a) The independent licensee has made a reasonable effort to investigate the background and experience of a prospective associated licensee and hire only such associated licensees whose background and experience indicate that they are trustworthy and competent to conduct the business of a covered service provider, foreclosure consultant or loan modification consultant, as applicable;

(b) The independent licensee has adopted and followed policies and procedures, written or oral, relating to the supervision and training of associated licensees;

(c) The associated licensee has followed the policies and procedures of the independent licensee, written or oral, governing the activities of the associated licensee;

(d) The independent licensee has established and followed a system of review for compliance with the written or oral policies and procedures established by the independent licensee;

(e) The policies and procedures of the independent licensee require regular review of the work of the associated licensee, including, without limitation, communications between the associated licensee and other parties to a transaction;

(f) The independent licensee reviewed the work of the associated licensee in the case under examination by the Commissioner;

(g) The policies and procedures of the independent licensee include, without limitation, training in the requirements of ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and ~~{chapter 645F of NRS;}~~ *NRS 645F.300 to 645F.450, inclusive;*

(h) The independent licensee makes copies of ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS available to the associated licensee;

(i) The policies and procedures of the independent licensee include, without limitation, a provision for continuing education for associated licensees;

(j) The licensee or the applicable qualified employee of the licensee spends a sufficient amount of time in the office where the associated licensee is working;

(k) The independent licensee has received or acted on previous reports of alleged misconduct by the associated licensee;

(l) The independent licensee has reviewed the handling by the associated licensee of any fee, deposit or money paid to the independent licensee or an associated licensee who is employed by or otherwise associated with the independent licensee, or held in trust by the independent licensee or an associated licensee who is employed by or otherwise associated with the independent licensee, pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS; and

(m) The independent licensee's review of the previous work of the associated licensee would have disclosed a problem with the conduct or issue being examined by the Commissioner.

3. The Commissioner will allow an independent licensee to take into consideration the total number of associated licensees who are employed by or otherwise associated with the independent licensee when the independent licensee determines the form and extent of the policies and procedures for those associated licensees and the system to review, oversee and inspect the activities of those associated licensees.

Sec. 73. NAC 645F.400 is hereby amended to read as follows:

645F.400 1. If a licensee is not a natural person, the licensee must designate a natural person as a qualified employee to act on behalf of the licensee.

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

- (a) Is licensed in good standing pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS;
- (b) Is designated by the licensee to act on behalf of the licensee and to supervise the conduct of the business of the licensee and any associated licensee employed by or otherwise associated with the licensee;
- (c) Will be present at the licensed office location for which that person is the qualified employee for the majority of the time that the office is open to the public;
- (d) Has at least 2 years of verifiable experience working in the real estate, mortgage, foreclosure or loan modification industries or applicable financial or legal fields; and
- (e) Meets the requirements of subsection 3.

3. If the licensee which is not a natural person is licensed as:

- (a) A covered service provider, the qualified employee designated pursuant to subsection 1 must be licensed as a covered service provider.
- (b) A foreclosure consultant, the qualified employee designated pursuant to subsection 1 must be licensed as a covered service provider or a foreclosure consultant.
- (c) A loan modification consultant, the qualified employee designated pursuant to subsection 1 must be licensed as a covered service provider, foreclosure consultant or loan modification consultant.

4. 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 licensee 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 licensee that the initial qualified employee designated pursuant to subsection 1 is not approved; or

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

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

Sec. 74. NAC 645F.410 is hereby amended to read as follows:

645F.410 1. Except as otherwise provided in this subsection, the Commissioner will charge and collect a fee of \$60 per hour from each licensee for any supervision, examination, audit, investigation or hearing conducted pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS. The Commissioner may charge a fee equivalent to the estimated or actual fee charged to the Commissioner for the time of an attorney required in any examination, investigation or hearing conducted pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS.

2. The Commissioner will bill each licensee upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 calendar days after the date the bill is received by the licensee. 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.

3. The failure of a licensee to pay the fee required in subsection 1 constitutes grounds for the imposition of any discipline authorized pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or ~~chapter 645F of NRS,~~ *NRS 645F.300 to 645F.450, inclusive*, including, without limitation, revocation of his or her license.

4. Upon written request by a licensee, the Commissioner will provide an accounting of the time billed to the licensee pursuant to this section.

Sec. 75. NAC 645F.415 is hereby amended to read as follows:

645F.415 1. If a licensee is not a natural person and has voting stock:

(a) The Commissioner must be notified of a transfer of 5 percent or more of the outstanding voting stock of the licensee; and

(b) Any transfer of voting stock of the licensee which constitutes a change of control must be approved by the Commissioner.

2. A person who acquires voting stock resulting in a change of control of the licensee shall apply to the Commissioner for approval of the transfer. The application must contain the applicable fee and satisfactory information which shows that the requirements of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS for obtaining a license will be satisfied after the change of control. Except as otherwise provided in subsection 3, the Commissioner will conduct an investigation to determine whether those requirements will be satisfied. If, after the investigation, the Commissioner denies the application, the Commissioner may forbid the applicant from participating in the business of the licensee.

3. The applicant may submit a written request to the Commissioner to waive the investigation required by subsection 2. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his or her employment with a financial institution.

Sec. 76. NAC 645F.435 is hereby amended to read as follows:

645F.435 1. In addition to the other duties imposed upon the Commissioner by law for the general supervision of licensees, the Commissioner will:

(a) Conduct such investigations as may be necessary to determine whether any person has violated any provision of ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS or any order of the Commissioner.

(b) Conduct an examination of each independent licensee doing business in this State within 3 months after the independent licensee commences business in this State and at least annually thereafter. The examination must include, without limitation, a formal exit review with the independent licensee.

(c) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding licensees.

2. For each special audit, investigation or examination, a licensee shall pay a fee based on the rate established pursuant to NRS 645F.280 and NAC 645F.410.

Sec. 77. NAC 645F.440 is hereby amended to read as follows:

645F.440 1. In the conduct of any examination, periodic or special audit, investigation or hearing, the Commissioner may:

(a) Compel the attendance of any person by subpoena.

(b) Compel any person to produce records related to the activity of a licensee.

(c) Compel the production of any document by subpoena.

(d) Administer oaths.

(e) Examine any person under oath concerning the business and conduct of affairs of any person subject to the provisions of ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS and, in connection therewith, require the production of any books, records or papers relevant to the inquiry.

2. Any person subpoenaed under the provisions of this section who willfully refuses or willfully neglects to appear at the time and place named in the subpoena or to produce books, records or papers required by the Commissioner, or who refuses to be sworn or answer as a witness, is guilty of a misdemeanor.

3. In addition to the authority to recover attorney's fees and costs pursuant to any other provision of law, the Commissioner may assess against and collect from a person all costs, including, without limitation, reasonable attorney's fees, that are attributable to any examination, periodic or special audit, investigation or hearing that is conducted to examine or investigate the conduct, activities or business of the person pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS.

Sec. 78. NAC 645F.445 is hereby amended to read as follows:

645F.445 An examiner, auditor or investigator conducting an examination, periodic or special audit, or investigation of a licensee pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS may:

1. Require the licensee to produce, for the purposes of the examination, audit or investigation, all documents:

(a) Related to business conducted by the licensee pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS;

(b) Required to be kept by the licensee pursuant to any federal or state law or regulation; or

(c) Related to the operation of the business of the licensee or any affiliated business that conducts business activities which are directly related to the business of the licensee.

2. Inspect and copy any documents which are in the possession, control or custody of the licensee and which are related to business conducted pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS.

Sec. 79. NAC 645F.455 is hereby amended to read as follows:

645F.455 1. Not more than 30 days after the completion of an examination of a licensee, the examiner that performed the examination shall prepare a draft report of the examination and provide the draft report to the Commissioner. The draft report must include only:

(a) Facts that are contained in the files, books, records or other documents of the licensee that were examined by the examiner;

(b) Facts that are contained in statements made by the licensee or officers or agents of the licensee, if any, or other persons that the examiner interviewed concerning the licensee; 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 licensee pursuant to NAC 645F.450.

2. Not more than 15 days after the draft report of an examination is received by the Commissioner, the Commissioner will deliver to the licensee who was examined:

(a) A copy of the draft report; and

(b) Notice that the licensee 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 licensee received a rating of “3,” “4” or “5” pursuant to NAC 645F.450 and submitted written comments or objections within the period specified in subsection 2, the Commissioner will:

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

(b) Review the draft report, together with the written submissions or objections made by the licensee 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 licensee 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 licensee is responsible for the costs attributable to the reopened examination pursuant to NAC 645F.410.

4. If a licensee:

(a) Received a rating of “1” or “2” pursuant to NAC 645F.450 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. The rating of an examination is not open to public inspection until the review process pursuant to this section is completed, and no information other than the rating will be released

except upon the express finding of the Commissioner that such release would not impede an investigation and or that the public will not be harmed by such a release.

6. If the examination and report reveal that a licensee is operating in violation of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS or a previous order of the Commissioner, the Commissioner may order the licensee to take any action the Commissioner deems necessary or appropriate to correct the violation. The Commissioner may also take disciplinary action pursuant to NAC 645F.835.

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

Sec. 80. NAC 645F.480 is hereby amended to read as follows:

645F.480 1. Except as otherwise provided in this section or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS are open to public inspection.

2. Except as otherwise provided in subsection 3, the Commissioner may withhold from public inspection or refuse to disclose to a person, for such time as the Commissioner considers necessary, any information that, in the Commissioner's judgment, would:

- (a) Impede or otherwise interfere with an investigation or examination that is currently pending against a licensee;
- (b) Have an undesirable effect on the welfare of the public; or
- (c) Reveal personal information in violation of NRS 239B.030.

3. Except as otherwise provided by law, the Commissioner will disclose the following information concerning a licensee to any person who requests it:

(a) The findings and results of any investigation which:

(1) Has been completed during the immediately preceding 5 years against the licensee pursuant to the provisions of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS;

(2) Resulted in a finding by the Commissioner that the licensee violated a provision of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS;

(3) Resulted in an administrative complaint or an order of the Commissioner; and

(4) Led to administrative action or a stipulated settlement agreement;

(b) The nature of any disciplinary action that has been taken during the immediately preceding 5 years against the licensee pursuant to the provisions of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS;

(c) If the licensee is not a natural person, any information in the possession of the Commissioner regarding the present and past ownership and management structure of the licensee; and

(d) The rating for each examination of a licensee and an explanation of the standards for determining that rating.

Sec. 81. NAC 645F.485 is hereby amended to read as follows:

645F.485 1. Except as otherwise provided in subsection 2, the Commissioner may classify as confidential certain records and information obtained by the Commissioner when those matters are obtained from a governmental agency upon the express condition that they remain confidential. This subsection does not limit examination by:

- (a) The Legislative Auditor; and
- (b) The Department of Taxation, if necessary, to carry out the provisions of chapter 363A of NRS ~~H~~ *and sections 2 to 61, inclusive, of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2878 (chapter 363C of NRS).*

2. Except as limited by agreement with the governmental agency that provided the records and information, the Commissioner may release the information and records to the Office of the Attorney General with respect to its criminal and civil divisions, any district attorney or any other local, state or federal law enforcement organization. Nothing contained in this subsection prevents the Commissioner from redacting social security numbers and personal, nonpublic information from any documents.

Sec. 82. NAC 645F.500 is hereby amended to read as follows:

645F.500 1. A natural person who is an applicant for an initial license as a covered service provider, foreclosure consultant or loan modification consultant must complete at least:

- (a) If the applicant is applying for a license as a covered service provider, 25 hours of instruction.

- (b) If the applicant is applying for a license as a foreclosure consultant, 20 hours of instruction.

- (c) If the applicant is applying for a license as a loan modification consultant, 15 hours of instruction.

2. The required hours of instruction may be through live instruction in a classroom or through distance education.

3. The hours of instruction required by subsection 1 must include:

(a) Three hours of professional ethics, which must include instruction on fraud, consumer protection and fair lending issues;

(b) Six hours of federal law and regulations relating to mortgage lending, which must include not less than:

(1) Two hours regarding the Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 et seq.;

(2) Two hours regarding the Truth in Lending Act, 15 U.S.C. §§ 1601 et seq., and Regulation Z, 12 C.F.R. Part 226; and

(3) Two hours regarding other federal laws and regulations, including, without limitation, information related to the tax consequences of loan modification or foreclosure and federal programs designed to assist homeowners facing foreclosure; and

(c) Four hours of Nevada law and regulations relating to mortgages, at least 2 hours of which must be related to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS.

4. In addition to the hours of instruction specified in subsection 3, an applicant for an initial license must complete an adequate number of hours of instruction in elective subjects to meet the number of hours of instruction required by subsection 1.

5. An applicant for an initial license must provide to the Commissioner one or more certificates of completion, in a form satisfactory to the Commissioner, indicating that the applicant has successfully completed the hours of instruction required by this section.

Certificates issued for all such courses must bear the name of the certifying organization.

Sec. 83. NAC 645F.505 is hereby amended to read as follows:

645F.505 1. A licensee who is a natural person must complete, during the 12 months immediately preceding the date on which his or her license expires, at least:

(a) If the licensee is a covered service provider, 10 hours of instruction in approved courses of continuing education.

(b) If the licensee is a foreclosure consultant, 7 hours of instruction in approved courses of continuing education.

(c) If the licensee is a license as a loan modification consultant, 5 hours of instruction in approved courses of continuing education.

2. An approved course of continuing education must focus on the practical application of transactions conducted by covered service providers, foreclosure consultants or loan modification consultants.

3. Of the hours of instruction required by subsection 1, a licensee must complete:

(a) Two hours of professional ethics, which must include instruction on fraud, consumer protection and fair lending issues;

(b) Two hours of federal law and regulations relating to mortgage lending; and

(c) One hour of Nevada law and regulations relating to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS or other Nevada laws and regulations relating to mortgages.

4. In addition to the hours of instruction specified in subsection 3, a covered service provider or foreclosure consultant must complete an adequate number of hours of instruction in elective subjects to meet the number of hours of instruction required by subsection 1.

Sec. 84. 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) ~~This chapter~~ *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 and mortgage agents;

(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. 85. NAC 645F.515 is hereby amended to read as follows:

645F.515 1. A provider that wishes to offer approved courses to meet the educational requirements for licensure or continuing education under ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS must apply to the Commissioner before

offering any approved courses and annually thereafter on or before December 31 for approval on a form prescribed by the Commissioner. The application must include, without limitation:

- (a) The name and address of the provider;
- (b) The type of provider and a description of its facilities;
- (c) Any information requested by the Commissioner concerning the ownership of the provider, including the business organization and the names and addresses of all directors, principals, officers and others having interests as owners;
- (d) A list of the instructors;
- (e) A list of the courses to be offered and a hard copy of course materials for each course;
- (f) The allotment of time for each subject;
- (g) A tentative schedule of courses;
- (h) The titles, authors and publishers of all required textbooks;
- (i) A copy of each examination to be used and the correct answer for each question;
- (j) A statement of:
 - (1) The purpose of the provider;
 - (2) The fees to be charged;
 - (3) The days, times and locations of classes;
 - (4) The number of quizzes and examinations for each course;
 - (5) The grading systems, including the methods of testing and standards of grading for each course;
 - (6) The requirements for attendance; and
 - (7) The location of the students' records;

(k) A statement as to whether the provider or any instructor employed by the provider has been disciplined by any governmental agency in this State or any other state; and

(l) A statement that educational courses will not be provided free of charge as an inducement for students or their employers to use the services of the provider for any activities related to covered service providers, foreclosure consultants or loan modification consultants.

2. The Commissioner may waive the requirements of this section for courses offered by or through a federal or state governmental agency.

3. If the application of the provider is denied, the provider may appeal the decision of the Commissioner to deny approval of the provider by filing an appeal with the Commissioner not later than 20 days after the date on which the denial or withdrawal of the approval of the provider becomes effective, and the provider will have a right to a hearing.

4. The Commissioner has the right to be awarded and recover costs and attorney's fees from the provider related to a hearing in which the hearing officer affirms the denial or withdrawal of approval of a provider.

Sec. 86. NAC 645F.520 is hereby amended to read as follows:

645F.520 1. Within 15 days after the occurrence of any material change in the information provided by a provider in its application pursuant to NAC 645F.515 which would affect its approval by the Commissioner, the provider shall give the Commissioner written notice of that change.

2. To qualify for annual renewal of approval by the Commissioner, a provider must submit to the Commissioner on or before December 31 of each year:

(a) A written certification, in a form prescribed by the Commissioner, declaring that the provider has met all applicable requirements of ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS; and

(b) A sworn statement, in a form prescribed by the Commissioner, declaring that the information contained in the original application is current or, if it is not current, a list of all material changes.

3. The Commissioner may deny renewal of approval to any provider that does not meet the standards required by ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS.

4. Within 60 days after a decision is made to deny the renewal of approval of a provider, the Commissioner will give written notice of the decision and the basis for that decision by certified mail to the last known address of the provider.

Sec. 87. NAC 645F.545 is hereby amended to read as follows:

645F.545 1. If the Commissioner determines, through an audit or otherwise, that an approved course does not meet the standards for such a course set forth in ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS, the Commissioner will notify the provider of the approved course of the Commissioner's intent to withdraw approval of the course. The notice must include the specific reasons upon which the Commissioner is basing the decision to withdraw approval of the course. Not later than 20 days after the date on which the provider receives the notice, the provider may provide a written response to the Commissioner that clearly sets forth the reasons why approval of the course should not be withdrawn and outlining any corrective measures that the provider will undertake. After the 20-

day period has elapsed, the Commissioner will review the notice and any response submitted by the provider and:

- (a) Withdraw approval of the course;
- (b) Allow the course to remain approved if certain specific enumerated conditions are met; or
- (c) Allow the continued approval of the course.

➡ If the Commissioner decides to withdraw approval of the course, the withdrawal of approval of the course becomes effective upon the mailing of the Commissioner's decision to withdraw approval to the provider by certified mail, return receipt requested, to the provider's last known business address.

2. If the Commissioner withdraws approval of a course, the Commissioner will give credit to a student for completing the course if the student began the course before the provider received written notice of the withdrawal of approval of the course.

3. The provider may appeal the decision of the Commissioner to withdraw approval of a course or an instructor of an approved course by filing an appeal with the Commissioner not later than 20 days after the date on which the withdrawal of the approval of the course becomes effective, and the provider will have the right to a hearing.

Sec. 88. NAC 645F.550 is hereby amended to read as follows:

645F.550 1. A provider approved by the Commissioner to offer courses to meet the requirements for licensure or continuing education under ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS shall maintain a record of each student's attendance and certification in any of those courses for 4 years after the student's enrollment and shall have such records open to inspection by the Commissioner, upon request, during the provider's business hours.

2. A provider that is licensed to operate by the Commission on Postsecondary Education shall provide evidence of such licensure to the Commissioner.

Sec. 89. NAC 645F.555 is hereby amended to read as follows:

645F.555 A provider approved by the Commissioner shall not make any misrepresentation in its advertising about any approved course which it offers to fulfill requirements for licensing or continuing education under ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS.

Sec. 90. NAC 645F.560 is hereby amended to read as follows:

645F.560 A provider that conducts approved courses:

1. May employ as instructors of the approved courses only persons who meet the qualifications set forth in NAC 645F.565.
2. Shall limit guest lecturers who are experts in related fields, excluding Division personnel, to 25 percent of the total hours of instruction per approved course.
3. Shall include a statement that the provider is approved by the Commissioner on all advertisements of the provider.
4. Shall require each student to attend the entire approved course as a condition of receiving certification for the approved course.
5. Shall certify the completion of only the number of hours for which the approved course has been approved by the Commissioner. Except as otherwise provided in subsection 2 of NAC 645F.590, completion of a portion of an approved course does not satisfy the requirements for certification.
6. Shall update its course materials at least annually to reflect changes in the law and the marketplace.

7. Shall not allow a student to pass an approved course by taking an examination without having the required attendance. In addition, an owner, instructor, affiliate or other person associated with the provider may not take an examination administered by the provider to meet the requirements for initial licensure or continuing education under ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS.

8. Shall admit the Commissioner to audit and evaluate the presentation of the approved course without prior notice by the Commissioner or cost to the Commissioner.

9. Shall not present an approved course for the main purpose of selling products or services and shall limit the announcement of products or services during the approved course to not more than 1 minute for each credit hour.

10. Shall not provide, distribute, disseminate or otherwise make available to students the answers to examination questions.

Sec. 91. NAC 645F.600 is hereby amended to read as follows:

645F.600 1. A licensee shall include his or her name, license number and street address in each advertisement that the licensee uses. The street address must be the physical address of the licensee and may not be the address of a mail processing business. An advertisement used by an associated licensee must include his or her name and license number as well as the name, address and license number of the independent licensee with whom the associated licensee is employed or associated.

2. Each advertisement that a licensee uses in conducting business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

3. A licensee 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.

4. A licensee shall not refer to an existing lender or financial institution on any advertising material without the written consent of the lender or financial institution.

5. Except as otherwise provided in subsection 6, an advertisement for an activity which is licensed pursuant to ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or ~~{chapter 645F of}~~ NRS *645F.300 to 645F.450, inclusive*, must be separate and distinct from an advertisement for an activity which is not licensed pursuant to ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or ~~{chapter 645F of NRS}~~ *NRS 645F.300 to 645F.450, inclusive*.

6. A licensee may advertise jointly with another person if each business is disclosed separately in the advertisement and each business incurs a pro rata share of the cost associated with the advertisement.

7. An Internet link on a website of the licensee 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 licensee.

8. A licensee shall not use advertising material, including, without limitation, any Internet domain name or address, that represents that it is approved by or affiliated with a governmental agency or nonprofit organization unless it is approved by or affiliated with the governmental agency or nonprofit organization.

9. A licensee shall not advertise that he or she is licensed or certified by any entity or organization unless the licensee has such a license or certification and may only advertise services authorized by ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or ~~chapter 645F of NRS.~~ *NRS 645F.300 to 645F.450, inclusive.*

10. A licensee shall not use advertising material which guarantees that the homeowner will be successful in obtaining a loan modification or that the homeowner will be able to successfully avoid or stop foreclosure.

11. For the purposes of this section, “advertising” includes commercial messages that promote the availability of products or services offered by or through the licensee. 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; and

(i) Websites or other Internet sites that promote services by a covered service provider, foreclosure consultant or loan modification consultant.

Sec. 92. NAC 645F.625 is hereby amended to read as follows:

645F.625 1. The term of the surety bond or substitute for the surety bond, if applicable, must be not less than 1 year.

2. If the independent licensee deposits a surety bond, the independent licensee shall keep accurate records of the surety bond and the payments made on the premium. The records must be open to inspection by the Commissioner during business hours. The independent licensee shall notify the Commissioner not later than 30 days before the date of expiration of the surety bond and provide written proof of the renewal of the surety bond to the Commissioner.

3. The Commissioner may reject any surety bond or substitute for the surety bond which fails to conform to the requirements of ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS.

4. An independent licensee may change the form of security deposited with the Commissioner. If the independent licensee changes the form of the security, the Commissioner may retain for not more than 1 year any portion of the security previously deposited by the independent licensee as security for claims arising during the time the previous security was in effect.

5. If the amount of the deposited security falls below the amount required by ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS for that security, the

license of the independent licensee must be revoked as of the date the deposited security falls below the amount required.

Sec. 93. NAC 645F.630 is hereby amended to read as follows:

645F.630 In addition to the requirements of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS, before a licensee provides any covered service, the licensee shall provide a written contract to the homeowner, in simple English and in at least 10-point type, that includes, without limitation:

1. A statement, on the top of the first page of the written contract and in at least 12-point boldface type, as follows:

The amount of fees you agree to pay to (here insert name of licensee) is not fixed by Nevada law, and is negotiable between you and (here insert name of licensee). You may be able to obtain the same services at no cost from a housing counselor or by doing them yourself.

2. Full disclosure of the exact nature of each of the services to be provided, the costs associated with each phase of the services, that the licensee may not take the fees associated for any phase of services until the phase of service has been fully completed and the total amount and terms of payment of all compensation. The percentage of the total payment collected, or to be collected, for each phase of service must be reasonable in relation to the work required to complete that phase.

3. The business address, telephone number, full name and license number of the independent licensee and each associated licensee, if any, who will be involved in the transaction.

4. The signature and date of the signature of the homeowner and the licensee. The originally signed contract must be given to the homeowner and a copy of the original retained by the licensee.

Sec. 94. NAC 645F.670 is hereby amended to read as follows:

645F.670 1. In addition to any other duties set forth in ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS, any person licensed pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS has a fiduciary obligation to a client.

2. For the purposes of this section, a person's fiduciary obligation does not impose a requirement to obtain access to products or services for a client other than those that are available to the person at the time of the transaction.

3. As used in this section, "fiduciary obligation" means a duty of good faith and fair dealing, including, without limitation, the duty to:

- (a) Act in the client's best interest;
- (b) Conduct only those services which are suitable for the client's needs;
- (c) Disclose any financial, business, professional or personal interest the person has in conducting a transaction for the client;
- (d) Disclose any material fact that the person knows or should know may affect the client's rights or interests or the ability to obtain the intended benefit from a transaction;
- (e) Provide an accounting to the client that lists all money received from the client; and

(f) Exercise reasonable care in performing any other duty relating to the provision of services as a covered service provider, foreclosure consultant or loan modification consultant, as applicable.

Sec. 95. NAC 645F.800 is hereby amended to read as follows:

645F.800 It is unlawful for any person to provide or offer to provide any of the services of a covered service provider, foreclosure consultant or loan modification consultant or otherwise to engage in, carry on or hold himself or herself out as engaging in or carrying on the business of a covered service provider, foreclosure consultant or loan modification consultant without first obtaining the applicable license issued pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS, unless the person:

1. Is exempt from the provisions of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS; and
2. Complies with the requirements for that exemption.

Sec. 96. NAC 645F.805 is hereby amended to read as follows:

645F.805 1. A person may file with the Commissioner a complaint alleging that another person has violated a provision of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS or an order of the Commissioner.

2. A complaint filed pursuant to this section must:

- (a) Be in writing;
- (b) Be signed by the person filing the complaint or the authorized representative of the person filing the complaint;
- (c) Contain an address and a telephone number for the person filing the complaint or the authorized representative of the person filing the complaint;

- (d) Describe the nature of the alleged violation in as much detail as possible;
- (e) Include as exhibits copies of all documentation supporting the complaint; and
- (f) Include any other information or supporting materials required by the Commissioner.

Sec. 97. NAC 645F.810 is hereby amended to read as follows:

645F.810 1. If a person properly files a complaint with the Commissioner pursuant to ~~this~~ *chapter* *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS, the Commissioner may investigate each violation alleged in the complaint, unless the Commissioner has previously investigated the alleged violation.

2. If the Commissioner does not conduct an investigation of an alleged violation pursuant to subsection 1 because he or she previously has investigated the alleged violation, the Commissioner may provide to the person who filed the complaint a written summary of the previous investigation and the nature of any disciplinary action that was taken as a result of the previous investigation.

3. If the Commissioner conducts an investigation of an alleged violation pursuant to subsection 1, the Commissioner may determine from the investigation whether there is reasonable cause to believe that the person committed the alleged violation.

4. If, upon investigation, the Commissioner determines that there is not reasonable cause to believe that the person committed the alleged violation, the Commissioner may provide the reason for the determination, in writing, to the person who filed the complaint and to the person alleged to have committed the violation.

5. If it is determined that a violation has occurred, the Commissioner may take any actions within his or her authority.

Sec. 98. NAC 645F.815 is hereby amended to read as follows:

645F.815 1. Whether or not a complaint has been filed, the Commissioner may investigate a licensee or other person if, for any reason, it appears that:

(a) The licensee or other person is conducting business in an unsafe and injurious manner or in violation of any provision of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS or any order of the Commissioner;

(b) The licensee or other person is offering or providing any of the services of a covered services provider, foreclosure consultant or loan modification consultant or otherwise engaging in, carrying on or holding himself or herself out as engaging in or carrying on the business of a covered services provider, foreclosure consultant or loan modification consultant without being appropriately licensed or exempt from licensing pursuant to the provisions of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS; or

(c) The licensee or other person is violating any other provision of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS or any order of the Commissioner.

2. If, upon investigation, the Commissioner has reasonable cause to believe that the licensee or other person has engaged in any conduct or committed any violation described in subsection 1, the Commissioner will notify the Attorney General of the conduct.

Sec. 99. NAC 645F.820 is hereby amended to read as follows:

645F.820 1. In addition to any other action that is required or allowed pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS, if the Commissioner has reasonable cause to believe that:

(a) The assets or capital of a licensee are impaired; or

(b) A licensee is conducting business in an unsafe and injurious manner that may result in danger to the public,

↳ the Commissioner may immediately take possession of all the property, business and assets of the licensee that are located in this State and may retain possession of them.

2. If the licensee, or the board of directors or any officer or person in charge of the offices of the licensee, if any, refuses to permit the Commissioner to take possession of the property of the licensee pursuant to subsection 1:

(a) The Commissioner will notify the Attorney General; and

(b) The Attorney General may immediately bring such proceedings as may be necessary to place the Commissioner in immediate possession of the property of the licensee.

3. If the Commissioner takes possession of the property of the licensee, the Commissioner will:

(a) Make or have made an inventory of the assets and known liabilities of the licensee;

(b) File one copy of the inventory in the Office of the Commissioner;

(c) If the licensee's principal office is located within this State, file one copy in the office of the clerk of the district court of the county in which the licensee has his or her principal office;

(d) If the licensee's principal office is not located within this State, file one copy in the office of the clerk of the Eighth Judicial District Court of the State of Nevada in and for Clark County;

(e) Mail one copy to the licensee and to each stockholder, partner, officer, director or associate of the licensee, if any, at the last known address of each person; and

(f) If the licensee maintains any trust accounts, not later than 5 business days after the date on which the Commissioner takes possession of the property of the licensee, mail notice of such possession to the last known address of each person whose money is deposited in such an

account or whose money was or should have been deposited in such an account during the preceding 12 months.

4. The clerk of the court with whom the copy of the inventory is filed shall file it as any other case or proceeding pending in the court and shall give it a docket number.

Sec. 100. NAC 645F.835 is hereby amended to read as follows:

645F.835 1. For each violation committed by an applicant for a license issued pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS, whether or not the applicant is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than \$10,000 if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by the applicant, would have rendered the applicant ineligible to be licensed pursuant to the provisions of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS; or

(c) Has violated any provision of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS or any order of the Commissioner in completing and filing the application for a license or during the course of the investigation of the application for a license.

2. A person who engages in an activity for which licensure as a covered service provider, foreclosure consultant or loan modification consultant is required under ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS, without regard to whether the person is licensed under ~~this chapter~~ *the Nevada Covered Service Provider*

Regulations and chapter 645F of NRS, may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS or an order of a court of competent jurisdiction.

3. For each violation committed by a person who engages in an activity for which licensure as a covered service provider, foreclosure consultant or loan modification consultant is required under ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS, without regard to whether the person is licensed under ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS, the Commissioner may impose upon the person an administrative fine of not more than \$10,000, and if the person holds a license as a covered service provider, foreclosure consultant or loan modification consultant, the Commissioner may suspend, revoke or place conditions upon the person's license, or may do both, if the person, whether or not acting as such:

- (a) Is insolvent;
- (b) Is grossly negligent or incompetent in performing any act for which the person is required to be licensed pursuant to the provisions of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS;
- (c) Does not conduct business in accordance with law or has violated any provision of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS or any order of the Commissioner;
- (d) Is in such financial condition that the person cannot continue in business with safety to his or her customers;

- (e) Has made a material misrepresentation in connection with any transaction governed by ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS;
- (f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS which the person knew or, by the exercise of reasonable diligence, should have known;
- (g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the person possesses and which, if submitted to the Commissioner, would have rendered the person ineligible to be licensed pursuant to the provisions of ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS;
- (h) Has failed to account to persons interested for all money received for a trust account or has failed to refund money for rescinded or cancelled contracts;
- (i) Has refused to permit an examination by the Commissioner of his or her books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS;
- (j) Has been convicted of, or entered a plea of guilty or nolo contendere to, a felony relating to the practice of covered service providers, foreclosure consultants or loan modification consultants or any crime involving fraud, misrepresentation or moral turpitude;
- (k) Has refused or failed to pay, within a reasonable time, any fines, fees, assessments and costs that the person is required to pay pursuant to ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS;

- (l) Has failed to satisfy a claim made by a client which has been reduced to judgment;
- (m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;
- (n) Has commingled the money or other property of a client with the person's own or has converted the money or property of others to his or her own use;
- (o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;
- (p) Has repeatedly violated the policies and procedures required of a licensee;
- (q) As a qualified employee, has failed to exercise reasonable supervision over the activities of associated licensees working under the qualified employee;
- (r) Has instructed an associated licensee to commit an act that would be cause for the revocation of the license of the associated licensee, whether or not the associated licensee commits the act;
- (s) If the person is an independent licensee, has employed a person as an associated licensee or authorized a person to be associated with the independent licensee as an associated licensee at a time when the independent licensee knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:
 - (1) Had been convicted of, or entered a plea of guilty or nolo contendere to, a felony relating to the practice of covered service providers, foreclosure consultants or loan modification consultants or any crime involving fraud, misrepresentation or moral turpitude; or
 - (2) Had a professional license or a financial services license or registration that was issued in this State or any other state, the United States, any district or territory of the United States or

any foreign country suspended or revoked within the 10 years immediately preceding the date of his or her application;

(t) Has failed to pay ~~the~~ *any* tax as required pursuant to ~~the provisions of chapter 363A of~~ NRS;

(u) Has allowed a person not licensed pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* and chapter 645F of NRS to act as a covered service provider, foreclosure consultant or loan modification consultant;

(v) If the person is an associated licensee, has violated the policies and procedures of the independent licensee who employs the associated licensee;

(w) Has offered or provided any services prescribed under ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS requiring licensure and the person did not have such a license and was not exempt from licensing at the time the person engaged in the activities; or

(x) Has failed to deposit money to a trust account when required to do so or has removed money from a trust account when not authorized to do so.

Sec. 101. NAC 645F.840 is hereby amended to read as follows:

645F.840 1. If a licensee violates any provision of NAC 645F.460, 645F.465 and 645F.470 and the licensee fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a licensee to provide information, make a report or permit an examination of the licensee's books or affairs pursuant to ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS and

the licensee fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner may:

- (a) Suspend or revoke the license of the licensee; and
- (b) Conduct a hearing to determine whether the licensee is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the licensee pursuant to NAC 645F.820.

2. In no case is a licensee entitled to a hearing for the imposition of disciplinary action by the Commissioner, unless, within 20 days after receiving a written notice, the licensee requests a hearing from the Commissioner in the manner set forth in the written notice from the Commissioner.

3. If the licensee fails to timely request a hearing, the Commissioner will enter a final order imposing disciplinary action as set forth in the notice sent to the licensee.

Sec. 102. NAC 645F.850 is hereby amended to read as follows:

645F.850 1. If a person engages in an activity in violation of the provisions of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS or an order of the Commissioner, 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 as required by ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS; or
- (b) In a manner that violates the provisions of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS or an order of the Commissioner.

3. A person who receives an order to cease and desist pursuant to this section shall not engage in any activity governed by ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS after receiving the order unless the order is suspended or rescinded.

4. Not later than 20 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 a 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 days after the date the hearing is concluded.

5. The decision of the Commissioner after a hearing is a final decision of the Commissioner for the purposes of judicial review.

Sec. 103. NAC 645F.875 is hereby amended to read as follows:

645F.875 1. If a hearing has been requested in a timely manner as set forth in ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS, each party must provide to the opposing party and to the hearing officer, 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 in this subsection

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 and documentation to an opposing party.

2. Not less than 10 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 allowed by the hearing officer.

Sec. 104. NAC 645F.890 is hereby amended to read as follows:

645F.890 If a person is alleged to have engaged in any conduct or committed any violation related to a trust account, or is alleged to have committed a violation of any other provision of ~~this chapter~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS or any order of the Commissioner, and the person fails to appear, without reasonable cause, at a hearing before the Commissioner concerning the alleged conduct or violation, the Commissioner may conduct the hearing in the person's absence, draw any conclusions that the Commissioner deems appropriate from the person's failure to appear and render a decision concerning the alleged conduct or violation.

Sec. 105. NAC 645F.895 is hereby amended to read as follows:

645F.895 The Division has the burden of proof in any hearing pursuant to ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS. The standard of proof in such a hearing is substantial evidence.

Sec. 106. NAC 645F.915 is hereby amended to read as follows:

645F.915 1. The provisions of ~~{this chapter}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS do not affect or limit the authority of the Commissioner, 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 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.

Sec. 107. NAC 645F.920 is hereby amended to read as follows:

645F.920 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}~~ *the Nevada Covered Service Provider Regulations* or chapter 645F of NRS 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.

Sec. 108. Section 21 of this regulation is hereby amended to read as follows:

1. In addition to any other requirements set forth in chapter 645F of NRS and the Nevada Mortgage Servicer Regulations ~~[-~~:

~~—(a) A natural person who applies for the issuance or renewal of a license as a mortgage servicer or, if the applicant is not a natural person, each control person of the applicant, shall include the social security number of the applicant or control person, as applicable, in the application submitted to the Commissioner.~~

~~—(b) A]~~, a natural person who applies for the issuance or renewal of a license as a mortgage servicer or, if the applicant is not a natural person, each control person of the applicant, shall submit to the Commissioner the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520.

2. The Commissioner will include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the Commissioner.

3. A license as a mortgage servicer may not be issued or renewed by the Commissioner if the applicant or any control person of an applicant:

(a) Fails to submit the statement required by subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he or she is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant or a control person indicates on the statement submitted pursuant to subsection 1 that he or she is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Commissioner will advise the applicant or control person, as applicable, to contact the district attorney or other public agency enforcing the order to determine the actions that he or she may take to satisfy the arrearage.

5. If the Commissioner receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to an applicant or control person, the Commissioner will deem that license to be suspended at the end of the 30th day after the date on which the court order was issued unless the Commissioner receives a letter issued to the applicant or control person by the district attorney or other public agency pursuant to NRS 425.550 stating that he or she has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

6. The Commissioner will reinstate a license as a mortgage servicer that has been suspended by a district court pursuant to NRS 425.540 if the Commissioner receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the applicant or a control person of the applicant stating that the applicant or control person, as applicable, has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec.109. 1. This section and sections 1 to 63, inclusive, and 65 to 107, inclusive, of this regulation become effective upon the later of:

- (a) January 1, 2016; or
- (b) The date this regulation is filed with the Secretary of State.

2. Sections 64 and 108 of this regulation become effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↪ are repealed by the Congress of the United States.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE NO. R120-15**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 645F.

1. A clear and concise explanation of the need for the adopted regulation.

To implement sections 86.2 through 86.7 of Assembly Bill 480 (“AB 480”), adopted into law during the 78th Session of the Nevada Legislature (2015), amended NRS 645F to require the licensing and supervision of mortgage servicers.

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 proposed regulation, notice of workshop and notice of intent to act upon the regulation were e-mailed to Division licensees, current mortgage loan servicer registrants under NRS 645F.265, persons who were known to have an interest in the regulations, 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 <http://www.mld.nv.gov>, the Nevada Public Notice Website at <http://notice.nv.gov>, mailed to the State Library and all county libraries in Nevada, and posted at the Division’s office.

A workshop was held on October 1, 2015 in Las Vegas and video conferenced to Carson City. Minutes of those workshops are attached hereto. The Division received recommendations for proposed changes. Thereafter, on November 20, 2015, the Commissioner of the Division of Mortgage Lending (Commissioner) posted a Notice of Intent to Act Upon a Regulation, which incorporated in the proposed amendments the suggestions of the parties attending the October workshop as well as the written comments received by the Division.

A public hearing on the proposed regulation was held on December 21, 2015. The hearing was video conferenced between Las Vegas and Carson City. Minutes of the hearing are attached hereto and include summaries of the public comment.

A copy of the summary of the public response to the proposed regulation may be obtained from the Division of Mortgage Lending, 7220 Bermuda Road, Suite A., Las Vegas, NV 89119, or by e-mailing a request to sslack@mld.nv.gov.

3. The number of persons who:	<u>CC</u>	<u>LV</u>
Attended workshop: 10-1-15	1	5
Testified at workshop	0	1

Submitted written comments:		1
Attended hearing 12-21-15:	2	6
Testified at Hearing	0	0
Submitted written comments:	0	0

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, for each person identified in #3, as provided to the agency, is attached as Exhibit A.**
5. **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation 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. The Summary may be obtained in the same manner as instructed in the response to question #2.

The industry comment included:

1. Request to clarify the requirements relating to the supplemental mortgage servicer license including possible simplification of the process, the ability to reduce bonding requirements by the amount of bonds currently filed with the Division by current NRS 645B and 645E licensees, allowing for the same Qualified Employee under the Supplemental License as designated under current NRS 645B and 645E licenses, possible use of financial statements and reports submitted through the Nationwide Multi-State Licensing System, the issuance of one license to cover principal and all branch locations, removing certain prohibitions in Section 1315, and the transition of current licensed escrow agencies under NRS 645A to obtain a servicer license, if applicable.
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.**

Not applicable. The permanent regulation was adopted on December 21, 2015 and included changes suggested at the workshop held on October 1, 2015.
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 proposed regulation may have an adverse economic impact on small business as it will impose fees on applicants and licensees for initial licensing, annual license renewals, and license amendments, and assess costs for supervision and examination. The proposed regulation also sets minimum net worth and surety bond requirements.

The foreclosure crisis revealed the significant risk of consumer and homeowner harm that may arise from the servicing of mortgage loans. Until the passage of AB 480, foreign mortgage servicers have not been subject to licensure or supervision under Nevada law. Through the passage of the proposed regulation there will be a regulatory watchdog over the many non-depository entities servicing Nevada mortgage loans to ensure that they are complying with applicable laws and properly accounting for the loans they are servicing.

- (b) Both immediate and long-term effects.
See Item #7(a)

8. The estimated cost to the agency for enforcement of the adopted regulation.

The Division anticipates costs for the implementation and enforcement of the proposed regulation to be approximately \$425,000 in fiscal year 2016, and \$483,943 in fiscal year 2017. The estimated costs include the necessary positions to carry out the Division's licensing and supervisory responsibilities.

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.

The Proposed Permanent Regulation does not overlap regulations of other state or governmental agencies.

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 Proposed Permanent Regulation does not include provisions which are more stringent than federal regulation.

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.

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