

LCB File No. R166-99

NOTICE OF ADOPTION OF REGULATION

The Nevada Housing Division, adopted permanent regulations which pertain to chapter 319 of the Nevada Administrative Code on September 29, 1999. A copy of the regulations, as adopted, are attached hereto.

PROPOSED REGULATION OF THE HOUSING DIVISION
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY

AUTHORITY: NRS 319.140(1).

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Acquisition Cost" means the definition ascribed to such term under Section 143(k) of the Internal Revenue Code and Treasury Regulation Section 6a.103A-2(b)(8).

NAC 319.320 is hereby amended to read as follows:

"Deed of trust" ~~[includes a mortgage, whether or not in the form of a deed, or other instrument creating a first lien on a fee interest in real property located within the state.]~~ means a deed of trust, mortgage deed, mortgage or other instrument securing a deed of trust note, which creates a first lien on a fee interest in real property located within the state.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Deed of Trust Note" means a promissory note evidencing a loan from a participating lending institution to an eligible borrower, which finances the purchase of a qualified residence and is secured by a deed of trust.

NAC 319.330 is hereby amended to read as follows:

"Eligible borrower" ~~[means a family whose aggregate adjusted gross income does not exceed the maximum income levels and other requirements established by the division pursuant to chapter 319 of NRS and the Internal Revenue Code of 1986, as amended.]~~ means any person or persons desiring to finance the purchase of a qualified residence (1) who meet all underwriting guidelines and other requirements established by the division; (2) whose household income does not exceed the maximum income limit; and (3) except for cases where the person or persons will finance the purchase of a qualified residence with the proceeds of a targeted area mortgage loan, have not had a present ownership interest in a principal residence (other than a manufactured home not permanently affixed to real property) at any time within the previous three-year period ending upon the date the mortgage loan is

originated.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Eligible Lending Institution" means a bank, savings ~~{and loan association}~~ bank, mortgage banker or other financial institution that maintains an origination office in the State, customarily engages in originating and/or servicing loans and deeds of trust and meets the qualifications for a lending institution set forth in the act and these regulations.

NAC 319.340 is hereby repealed:

~~[319.340 "Existing mortgage loan" defined. "Existing mortgage loan" means a loan secured by a deed of trust made by a lending institution for the purchase of an owner-occupied single-family residence in the state before the date of the division's notice to a lending institution of the acceptance of its application.]~~

NAC 319.350 is hereby repealed:

~~[319.350 "Family" defined. "Family" means a person or a group of persons consisting of, but not limited to, the head of a household and any related persons in the household who are allowable as personal exemptions for federal income tax purposes.]~~

NAC 319.360 is hereby repealed:

~~[319.360 "Forward commitment mortgage loan" defined. "Forward commitment mortgage loan" means a loan secured by a deed of trust which is made by a lending institution to an eligible borrower for the purchase of an owner-occupied single-family residence in the state on or after the date of the division's notice of acceptance to the lending institution.]~~

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Household Income" means the income of the mortgagors and all other household members, 18 years of age or older, who reside in a qualified residence and shall be determined by taking into account the regulations prescribed under Section 8 of the United States Housing Act of 1937, or any corresponding or future law.

NAC 319.370 is hereby amended to read as follows:

"Invitation" ~~[means the division's current invitation to a lending institution for an application to sell a mortgage loan to the division.]~~ means the document submitted to eligible lending institutions with respect to each program of the division which invites participating lending institutions to originate and sell mortgage loans to the division or to originate and sell mortgage loans to the division and to service mortgage loans for the division. For each program of the division, the invitation shall describe, but not necessarily be limited to, the documents required to be submitted by a participating lending institution to the division prior to the sale of the mortgage loan, the maximum purchase price, the maximum income limits,

and the purchase price at which the division will purchase a mortgage loan from a participating lending institution.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Maximum Income Limit" means the amount established by the division in accordance with the policies of the division and the provisions of the Internal Revenue Code, section 143(f).

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Maximum Purchase Price" means the maximum purchase price for qualified residences located in targeted or non-targeted areas. For each program, the division shall establish the maximum purchase price for a qualified residence in accordance with the policies of the division and the provisions of the Internal Revenue Code, section 143(e).

NAC 319.380 is hereby repealed:

~~[319.380 "Mobile home" defined. "Mobile home" means a structure which is:
—1. Transportable in one or more sections;
—2. Doublewide in configuration;
—3. Consists of at least 1,000 square feet as measured from the exterior walls;
—4. Built on a permanent chassis;
—5. Designed to be used as a dwelling with or without a permanent foundation; and
—6. Connected to all required utilities including, but not limited to plumbing, heating, and electrical systems.]~~

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Mortgage Loan" means a loan (1) evidenced by a deed of trust note and secured by a deed of trust, (2) made to an eligible borrower to finance the acquisition of a qualified residence and (3) which is offered for purchase to or is purchased by the division pursuant to a mortgage purchase agreement and the selling supplement.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Mortgage Purchase Agreement" means the written agreement entered into between the participating lending institution and the division, including any documents incorporated by reference therein, whereby the division agrees to purchase from the participating lending institution all the right, title and interest of the participating lending institution in the mortgage loan referenced in such mortgage purchase agreement.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Participating Lending Institution" means an eligible lending institution that has been

approved by the division to originate and sell mortgage loans to the division, or to originate and sell mortgage loans to the division and to service mortgage loans for the division.

NAC 319.420 is hereby amended to read as follows:

"Program" means ~~[the division's program for purchase of notes evidencing mortgage loans and the accompanying security for single family residences.]~~ *each single family mortgage purchase program under which the division issues bonds and utilizes the proceeds of the bonds to purchase mortgage loans from the participating lending institutions.*

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Program Bulletin" means a circular issued by the division to participating lending institutions for the purpose of (1) notifying participating lending institutions of any amendments, changes, or modifications to the terms of the selling supplement, the servicing supplement, or the uniform reporting supplement; or (2) notifying participating lending institutions of any newly-implemented policies of the division or changes in existing policies of the division.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Qualified Residence" means a single family residence, the acquisition cost of which does not exceed the maximum purchase price.

NAC 319.440 is hereby repealed:

~~[319.440 "Residential use" defined. "Residential use" means primary use of a structure as the principal residence of the eligible borrower and does not include use as a recreational home or property for investment in a trade or business. Any portion of the structure designed or used for any purpose other than as a principal residence must not exceed 15 percent of the usable area of the structure.]~~

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Selling Supplement" means the document entitled "Nevada Housing Division Selling Supplement", dated June 1, 1996, as amended from time to time, which sets for the agreements and obligations of the division and the participating lending institution in connection with the sale of mortgage loans to the division.

NAC 319.450 is hereby repealed:

~~[319.450 "Servicing agreement" defined. "Servicing agreement" means an agreement between the division and a lending institution, or its designated servicing organization as approved by the~~

~~division, for the servicing of mortgage loans purchased by the division.]~~

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Servicing Supplement" means the document entitled "Nevada Housing Division Servicing Supplement", dated June 1, 1996, as amended from time to time, which sets forth the agreements and obligations of the division and the participating lending institution in connection with the servicing of mortgage loans purchased by the division.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

"Uniform Reporting Supplement" means the documents entitled "Nevada Housing Division Uniform Reporting Supplement", dated June 1, 1996, as amended from time to time, which governs the accounting and reporting procedures to be used by the division and participating lending institutions in processing and servicing mortgage loans.

NAC 319.460 is hereby repealed:

~~[319.460 Applications to sell mortgage loans.~~

~~—1.— The division will from time to time mail invitations to lending institutions to apply to sell mortgage loans to the division. The invitations will be mailed with application forms and all other necessary documents to each lending institution at least 14 days before the applications must be submitted to the division.~~

~~—2.— An application must include:~~

~~—(a) The types of mortgage loans which the lending institution desires to sell to the division;~~

~~—(b) Information regarding the lending institution's total assets, capital, net worth, reserves and income as of its most recently available report;~~

~~—(c) Information regarding the aggregate principal amount of loans made for residential mortgages in the state by the lending institution during the 24 months preceding the date specified by the division in the application form, and the increase, if any, in the amount of mortgage loans made during the second 12 months of the period compared with the first 12 months of the period; and~~

~~—(d) The unconditional agreement of the lending institution, upon acceptance of the application by the Division, to sell mortgage loans to the division which comply with the terms of the notice of acceptance.~~

~~—3.— The division will inform applicants of:~~

~~—(a) The date by which the application must be submitted to the division to be considered for an allocation of money to purchase mortgage loans and the date by which the division will return a notice of acceptance;~~

~~—(b) The basic terms and conditions of the application and the documents that must be executed and returned therewith; and~~

~~—(c) The schedule of any fees or charges of the division which must accompany the application.]~~

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

Application to participate

1. *The division will from time to time mail invitations to eligible lending institutions to apply to originate and sell mortgage loans to the division or to originate and sell mortgage loans to the division and to service mortgage loans for the division.*

2. *Upon request an application will be forwarded to the eligible lending institutions. The application, when completed and returned to the division, must be accompanied by an opinion of counsel in the form required by the division and a copy of the eligible lending institutions latest audited annual financial statement.*

NAC 319.470 is hereby amended to read as follows:

~~[Allocation of money.]~~ *Acceptance of applications.*

1. ~~[Money which is available to the division through the sale of its bonds will be allocated among eligible lending institutions submitting applications.]~~ To be eligible *to participate*, a lending institution must:

- (a) Have a net worth of at least \$500,000;
- (b) Maintain at least one office within the state;
- (c) Be qualified to do business in this state;
- (d) Be licensed as required by applicable law;
- (e) Be authorized to commence business under a certificate issued by the administrator of financial institutions, if required by law;~~[and]~~

(f) Be in good standing with the federal, state or local regulatory agency having jurisdiction~~[,]~~;
~~[if any.]~~

(g) *Be an FHA and VA approved mortgagee; or*

(h) *Be an approved seller/servicer of mortgage loans to and for FHLMC or FNMA.*

~~[2. In making allocations, the division will consider:~~

~~—(a) The financial condition of each lending institution which has submitted an application.~~

~~—(b) The amount of mortgage loans for single family residences made in this state during the past 24 months by each applicant.~~

~~—(c) The amount of federally insured or guaranteed and privately insured mortgage loans for single family residences made in this date during the past 24 months by each applicant.~~

~~—(d) The location and number of offices which each applicant has within the state.~~

~~—(e) The percentage of mortgage loans for newly constructed residences and mortgage loans for existing residences which each applicant proposes to originate.~~

~~—(f) The past and reasonably anticipated future performance of each applicant in underwriting loans submitted to the division for purchase pursuant to the division's programs.~~

~~—(g) The terms and conditions of the mortgage loans offered for sale by each applicant.~~

~~—(h) The aggregate principal balances of mortgage loans offered for sale by each applicant compared with the aggregate offered for sale by all the applicants.~~

~~—(i) The past and reasonably anticipated future ability of each applicant to service mortgage loans which are sold to the division.~~

~~—(j) The extent of previous participation, if any, of each applicant in the division's programs.~~

~~—(k) The number and location of the lending institutions needed to operate the division's programs efficiently in areas of the state which are deficient in adequate housing.~~

- ~~—3.— The minimum allocation to each applicant is \$500,000.~~
- ~~—4.— The allocation of money by the division is final.]~~

NAC 319.480 is hereby amended to read as follows:

1. The division will purchase ~~[insured or guaranteed]~~ mortgage loans for the financing of mobile homes.
2. To be financed by the division a mobile home must:
 - (a) ~~[Have been manufactured after June 15, 1976, and inspected and approved by the United States Department of Housing and Urban Development as evidenced by a structural certification label, data plate and heating zone certificate indicating construction for use in Nevada;]~~ **Meet the requirements of either FHA, VA, or PMI, as the case may be;**
 - (b) ~~[Have a shingle roof;]~~ **Be permanently affixed to a parcel of land; and**
 - (c) ~~[Have permanent wood siding or other siding acceptable to the division which extends from the top of each exterior wall to the ground around the entire perimeter of the mobile home; vertical metal siding which is traditionally used as siding for trailers is not acceptable;]~~ **Be placed on the real property tax roll by the county assessor.**
 - ~~[(d) Have an overhang or an eave which has been approved by the Department of Housing and Urban Development which projects at least 15 inches from the exterior wall and extends around the entire length and width of the mobile home;]~~
 - ~~(d)[e]~~ **Have the running gear removed;**
 - ~~[(f) Be permanently affixed to the parcel of land which is owned by the owner of the mobile home, and, if permanently affixed before July 1, 1979, the owner must have filed with the county assessor by May 1, 1980, a statement declaring his desire to have the mobile home classified as real property;~~
 - ~~—(g) Have been inspected and approved, with an installation seal affixed, by the local building department or the manufactured housing division of the department of business and industry;~~
 - ~~—(h) Be placed on the real property tax roll by the county assessor; and~~
 - ~~—(i) Contain at least 1,000 square feet measured from the exterior walls where the walls enclose interior space, including expandable rooms and bay windows but not porches, drawbars, couplings, hitches, wall and room extensions, or other attachments.~~
- ~~—3.— The division will purchase a mortgage for the financing of a mobile home only if any alteration, modification or improvement which has been made, was performed in accordance with applicable building codes and has been inspected and approved by the local building inspector.~~
- ~~—4.— The division will only purchase loans on mobile homes which are insured or guaranteed loans on real property.~~

- ~~—5.— In determining whether a mobile home meets the requirements in subsection 3 of NAC 319.570, the land to which the mobile home has been permanently affixed will be valued at the actual purchase price to the owner without regard to the date the owner purchased the land.]~~

NAC 319.490 is hereby amended to read as follows:

Notice of acceptance. The *division shall issue a* notice of acceptance to each lending institution

which is ~~[selected]~~ **accepted** by the division to ~~[receive an allocation of money for mortgage loans includes the following:]~~ **participate in a program.**

- ~~[1.— That the aggregate principal balance of mortgage loans which the division agrees to purchase from any lending institution will not exceed the aggregate for each type of loan offered for sale by the lending institution and may be in an amount less than that requested.~~
- ~~—2.— Whether mortgage loans must be delivered to the division within specific calendar quarters, by geographic area, by loans on newly constructed residences, existing residences or mobile homes, or by any combination of these factors.~~
- ~~—3.— When the notices of acceptance are mailed by the division, each lending institution is obligated to sell mortgage loans in accordance with the terms of the application, the agreement to purchase mortgages and the servicing agreement.~~
- ~~—4.— That the obligation of the division to purchase any mortgage loans is subject to the issuance and sale of bonds or other obligations of the division within the period prescribed by the application in an amount sufficient to permit the purchase.]~~

319.510 is hereby amended to read as follows:

Conditions of loans.

1. Each mortgage loan which is purchased under ~~[this]~~ **a** program must:
 - (a) ~~[Be insured by the Federal Housing Administration, by private insurance, or guaranteed by the Veterans' Administration;]~~ **Satisfy the requirements of the invitation, mortgage purchase agreement, selling supplement and any document incorporated by reference therein.**
 - ~~[(b) Be secured by a deed of trust on a single family residence in this state; and~~
 - ~~—(c) Meet the applicable terms and conditions of the agreement to purchase mortgages.~~
- ~~—2.— Mortgage loans must require, to the extent allowed by any federal or state law or regulation, that:~~
 - ~~—(a) The loan may be assumed only by an eligible borrower; and~~
 - ~~—(b) The interest rate on the loan will be accelerated to the prevailing interest rate at the time the loan was made, or, at the option of the division; the loan will be accelerated to maturity if the borrower rents the residence to another without the consent of the division or otherwise fails to occupy the dwelling as his principal residence.]~~
- 2.~~[3.]~~ In making its decision to purchase a ~~[forward commitment]~~ mortgage loan the division must have the financial records of the applicant at its disposal. The division will issue to the applicant a notice which states substantially the following:

Regarding your application for a home loan, pursuant to the program of the housing division of this state, the division has examined your application file and financial records. This notice is sent to you pursuant to subsection 3 of NRS 239A.090 to notify you that the examination of your financial records has occurred and the reason for the examination. The examination ~~[reviewed]~~ **included a review of** all documents submitted with the application, including financial records, credit reports, income tax information and supporting documents.

The decision on the loan has been communicated to your lender who will communicate with you.

- ~~[4.— Whenever requested to do so by the division, a lending institution must submit a forward commitment mortgage loan to the division for approval before the loan is made.—Loans~~

~~which have not been submitted for approval as requested are originated at the risk of the lending institution.~~

~~—5.— The division will not purchase a construction or development loan.~~

~~—6.— The proceeds from the sale of existing mortgage loans must be reinvested in mortgage loans:~~

~~—(a) Secured by a deed of trust for the purchase of a single family residence by an eligible borrower;~~

~~—(b) Which have a stated maturity of not less than 25 years from the date they are made unless a shorter term is specifically requested in writing by the mortgagor;~~

~~—(c) Made pursuant to written commitments issued after the date of the notice of acceptance to the lending institution unless an exception is expressly approved in writing by the division;~~

~~—(d) Which meet all governmental and other requirements applicable to the lending institution; and~~

~~—(e) Which are not forward commitment mortgage loans.~~

~~—7.— The lending institution must regularly report the commitment and disbursement of the proceeds from the sale of existing mortgages in the manner provided by the agreement to purchase mortgages. A penalty equal to a specified percentage per month of the sum of the uncommitted balances and any undisbursed balances of the proceeds may be assessed and collected in accordance with the provision of the agreement.]~~

NAC 319.520 is hereby repealed:

~~[Yield on mortgage loans.~~

~~—1.— Mortgage loans sold to the division must bear interest at rates, and be sold to the division at prices which in the aggregate produce a yield to the division sufficient to:~~

~~—(a) Pay interest on the related issue of the division's bonds or other obligation;~~

~~—(b) Furnish an adequate reserve for the holders of the division's bonds or other obligation whenever necessary;~~

~~—(c) Cover the operating cost of the division; and~~

~~—(d) Meet or exceed the minimum yield required by the general certificate or trust indenture governing the series of bonds.~~

~~—2.— The yield on mortgage loans must not exceed the maximum permitted by application of the provisions of the Internal Revenue Code which are contained in 26 U.S.C. §§ 141 to 149, inclusive, and applicable regulations of the United States Treasury Department.]~~

Chapter 319 of NAC is hereby amended to read as follows:

Loan servicing. All mortgage loans purchased by the division must be serviced by *either the division or* a servicer approved by the division. ~~[pursuant to a servicing agreement.] [The division will notify all servicers of the requirements of NAC 319.300 to 319.570, inclusive, in the servicing agreement. The servicing agreement may be amended by a bulletin issued by the division.]~~

Chapter 319 of NAC is hereby amended to read as follows:

319.550 Examinations of books and records. The division may conduct an examination of the books and records of each *participating* lending institution which has sold mortgage loans to the division, as the division deems necessary or appropriate to determine compliance with the provisions of chapter 319 of NRS, NAC 319.300 to 319.570, inclusive, ~~[the agreement to purchase mortgages]~~ *the selling agreement* and the servicing ~~[agreement]~~ *supplement* and ~~[may]~~ *shall* require each *participating* lending institution to pay the cost of the examination.

NAC 319.570 is hereby amended to read as follows:

Determination of borrower's eligibility for loan.

1. ~~[The division determines the maximum levels of income and other requirements for eligible borrowers.]~~ *In order to determine the eligibility of a borrower, the division shall apply the underwriting criteria as set forth by FHA, VA, or PMI, as the case may be, and the underwriting criteria set forth in the division's underwriting guidelines.* ~~[making the determinations, the division will consider:~~

- ~~—(a) The median income of the residents in each county in the state;~~
- ~~—(b) The requirements and standards, including standards governing maximum levels of income, of applicable federal and state statutes and regulations;~~
- ~~—(c) The family's verified gross income, including:~~
 - ~~—(1) Salary or wages;~~
 - ~~—(2) Income from overtime;~~
 - ~~—(3) Tips;~~
 - ~~—(4) Income from part-time employment;~~
 - ~~—(5) Bonuses;~~
 - ~~—(6) Dividends;~~
 - ~~—(7) Interest;~~
 - ~~—(8) Royalties;~~
 - ~~—(9) Pensions;~~
 - ~~—(10) Compensation received from the Veterans' Administration;~~
 - ~~—(11) Net rental income;~~
 - ~~—(12) Alimony;~~
 - ~~—(13) Payments for child support;~~
 - ~~—(14) Public assistance;~~
 - ~~—(15) Compensation for disability;~~
 - ~~—(16) Payments received from social security;~~
 - ~~—(17) Compensation for unemployment;~~
 - ~~—(18) Military allowances;~~
 - ~~—(19) Income received from business activities or investments; and~~
 - ~~—(20) Income received from trusts;~~
- ~~—(d) Total assets available to the family, not to exceed 50 percent of the selling price of the residence which is being purchased;~~
- ~~—(e) Whether the family is able to obtain a mortgage loan for decent, safe and sanitary housing without the aid of the division;~~
- ~~—(f) The ratio of the family's expenses to its income;~~
- ~~—(g) Whether any member of the family is a veteran;~~

- ~~—(h) The size of the family;~~
- ~~—(i) The family's credit rating;~~
- ~~—(j) The stability of the family's employment.~~
- ~~—2. No family may obtain more than one loan through the division's program.~~
- ~~—3. The division determines the maximum price of residences which qualify for mortgage loans under the program. In making the determination, the division will consider:~~
 - ~~—(a) The maximum loan which is allowable under current federal regulation or under private mortgage insurance; and~~
 - ~~—(b) The number, cost and condition of residences which are currently for sale.]~~

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Agencies” means FHA, VA, PMI, FNMA, OR FHLMC, as the case may be.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Down Payment and Closing Cost Loan” means a qualified mortgage loan evidenced by a note and secured by a second deed of trust made to a qualified applicant for down payment assistance and/or for the payment of closing costs.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Qualified Applicant” means any person or persons whose household income is less than the qualified maximum income limit who purchases a qualified residence, whose liquid assets after closing may not exceed \$8,000.00, who obtains a mortgage loan under a program and who meets all underwriting guidelines as established by the program, the qualified program, the agencies, and who has successfully completed a home buyer training course approved by the division.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Qualified Household Income” means the income of the mortgagors and all other household members 18 years old or older who reside in the qualified residence and shall be determined by taking into account the regulations prescribed under Section 8 of the United States Housing Act of 1937, or any corresponding or future law.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Qualified Maximum Income Limit” means 80% of state median income as defined by the department of housing and urban development.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Qualified Maximum Loan Limit” means (i) \$3,500.00 for a qualified applicant with qualified household income between 61% and 80% of state median income and (ii) \$5,000.00 for a qualified applicant with qualified household income at or below 60% of state median income.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Qualified Mortgage Loans” means second mortgage loans.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Qualified Participating Lending Institution” means a participating lending institution that has been approved by the division to originate and sell qualified mortgage loans to the division.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Qualified Program” means the Nevada Housing Division Down Payment and Closing Cost Loan Program.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Qualified Servicer” means the division.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Second Deed of Trust” means a second deed of trust, mortgage deed, mortgage or other instrument creating a junior lien on a fee interest in real property located within the state.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Second Deed of Trust Note” means a note evidencing a loan for down payment and/or closing cost assistance, which is secured by a second deed of trust.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

“Second Mortgage Loan” means a mortgage loan evidenced by a note, which is secured by a second deed of trust.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

Determination of amount available for down payment and closing cost loan program.

1. On an annual basis, the division shall determine the amount of funds available for the down payment and closing cost loan program.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

Determination of qualified participating lending institutions.

1. In determining the lending institutions that shall participate in the down payment and closing cost loan program the division shall:

- (a) Verify the lending institution is a participating lending institution;*
- (b) Review of the level of participation of the participating lending institution;*
- (c) Review of quality of participation of the participating lending institution;*
- (d) Review of extent of previous participation in the down payment and closing cost loan program; and*
- (e) Consider the number and location of participating lending institutions needed to operate the down payment and closing cost loan program efficiently.*

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

Notice of acceptance.

- 1. The division shall issue a notice of acceptance to each lending institution which is selected by the division to participate in a qualified program.*

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

Mortgage Purchase and Selling Agreement.

- 1. The division shall produce a mortgage purchase and selling agreement for each qualified program.*
- 2. The mortgage purchase and selling agreement shall:*
 - (a) Set forth the general requirements and policies with respect to the qualification of qualified applicants; and*
 - (b) Set forth the basic requirements which all qualified mortgage loans must meet in order to be purchased by the division under the down payment and closing cost loan program.*

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

Servicing.

- 1. The division shall service the qualified mortgage loans originated under the down payment and closing cost loan program.*

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

Condition of loans.

- 1. Each qualified mortgage loan which is purchased under this program must:*
 - (a) Be made to a qualified applicant;*
 - (b) Be evidenced by a note and secured by a second deed of trust on a single-family residence in this state; and*
 - (c) Meet the applicable terms and conditions of the mortgage purchase and selling agreement.*

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

Determination of borrower's eligibility for loan.

1. In order to determine the eligibility of a borrower, the division shall apply the underwriting guidelines as set forth by FHA, VA, or PMI, as the case may be, and the underwriting guidelines as set forth in the division document entitled "Underwriting Guidelines".

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

Examinations of books and records.

The division may conduct an examination of the books and records of each qualified participating lending institution that has sold qualified mortgage loans to the division, as the division deems necessary and appropriate to determine compliance with the provisions of chapter 319 of NRS, NAC 319.____ to 319.____, inclusive, and the mortgage purchase and selling agreement. The division shall require the qualified participating lending institution to pay the cost of the examination.

Chapter 319 of NAC is hereby amended by adding thereto a new section to read as follows:

Consent to jurisdiction of district courts.

Each agreement must require the qualified participating lending institution to consent to the jurisdiction of the First Judicial District Court (Carson City) of this state in any proceeding to enforce compliance with the provisions of chapter 319 of NRS, NAC 319.____ to 319.____, inclusive, the mortgage purchase and selling agreement.

**PROPOSED REGULATION OF THE HOUSING DIVISION
OF THE DEPARTMENT OF BUSINESS AND INDUSTRY**

**INFORMATIONAL STATEMENT
(For Permanent Regulations – Nevada Housing Division)**

AS REQUIRED BY THE ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 319.

- 1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The Notice of Intent to Act Upon a Regulation and Notice of Workshop were posted at all Nevada County Public Libraries, the State Library, the Nevada Housing Division's Carson City and Las Vegas office and at the Attorney General's Office on or about August 24, 1999. There was no public comment. A copy of the transcript of the hearing/workshop may be obtained by calling the Nevada Housing Division at (702) 486-7220 or by writing to the Division at 1771 E. Flamingo Rd., Suite 206B, Las Vegas, NV 89119. No written public response to the regulations was received by the Division.

- 2. The number of persons who:**

- | | |
|---|----------|
| a. Attended each hearing: | 0 |
| b. Testified at each hearing: | 0 |
| c. Submitted to the agency written comments: | 0 |

- 3. 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 by the notices, as outlined in #1. There were no persons or businesses subscribing to the Division's mailing list.

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

There were no public comments to the regulations, so no changes were made.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public.

There is no adverse or beneficial economic effect of the regulations on businesses they regulate, except that the lenders will need to become familiar with the new regulations in order to comply. The immediate economic effect and long term economic effect to the lenders will be a better understanding of what is required for the down payment and closing cost loan programs, thereby making the process more “user friendly.” There is neither an immediate nor long-term estimated economic effect on the public. There is no adverse or beneficial economic effect on the public. Further, the Division determined that the proposed regulations do not impose a significant economic burden upon small business or restricts the formation, operation or expansion of small business.

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

There is no additional cost to the agency for enforcement of this regulation.

7. 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 and the name of the regulating federal agency.

The regulations duplicate the regulations adopted by the Internal Revenue Service and the United States Department of Housing and Urban Development. The Division has adopted the regulations promulgated by the federal government for ease of application and consistency of programs for both the lenders and the public.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The regulations are not more stringent than the federal regulations.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The regulations do not propose a new fee or increase an existing fee.