

**PROPOSED REGULATION OF THE DIVISION OF
MORTGAGE LENDING OF THE DEPARTMENT
OF BUSINESS AND INDUSTRY**

**NOTICE OF HEARING TO SOLICIT COMMENTS ON
PROPOSED PERMANENT REGULATIONS
NOTICE OF INTENT TO ACT UPON PERMANENT REGULATIONS**

**Notice of Hearing for the Adoption of Permanent Regulations of the Department of
Business and Industry, Division of Mortgage Lending.**

The Department of Business and Industry, Division of Mortgage Lending (Division) will hold a public hearing at 9:00 a.m., on May 28, 2004, at the Bradley Building, 2501 E. Sahara Avenue, Manufactured Housing Division Conference Room, 2nd Floor, Las Vegas, Nevada 89104. Interested persons may also participate through a simultaneous video-conference conducted at the hearing room of the offices of the Department of Business and Industry, 788 Fairview Drive, Carson City, Nevada 89701. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of:

REGULATION CONCERNING CHANGES IN NAC 645A (Exhibit 1), NAC 645B (Exhibit 2), and NAC 645E (Exhibit 3) PERTAINING TO THE REGULATION OF ESCROW AGENCIES, MORTGAGE BROKERS AND MORTGAGE BANKERS

The following information is provided pursuant to the requirements of NRS 233B.060:

1. The need for and the purpose of the proposed regulation or amendment:

These regulations, some of which are mandated by the State Legislature, are needed to implement changes made by the 2003 Nevada Legislature when it created the Division of Mortgage Lending and required the licensure of mortgage agents. Regulations are needed to make certain changes in chapter 645A, 645B and 645E of NRS mandated by the Legislature or necessary for the Commissioner of Mortgage Lending to carry out his duties under these chapters of NRS and NAC.

2. Substance of the regulations to be adopted:

The proposed regulation (attached with changed provisions in bold) adds provisions to chapter 645A (escrow agencies), 645B (mortgage brokers) and 645E (mortgage bankers) of NAC. These regulations make changes in the following areas of law:

- A. Adds new provisions to chapter 645A of NAC relating to trust accounts and construction control.
- B. Establishes new continuing education standards and requirements for mortgage brokers.

- C. Establishes new examination, audit, rating and examination report procedures for mortgage brokers and mortgage bankers as permanent regulations.
- D. Amends NAC 645B.010, NAC 645B.015, and NAC 645B.300 and establishes new requirements for mortgage brokers and mortgage agents, who must now be licensed, and prohibits mortgage brokers from being compensated for employment in the real estate and/or financial services industry.
- E. Amends NAC 645B.030, NAC 645B.035, NAC 645E.210, NAC 645E.220 and NAC 645E.240 and establishes some new branch office requirements for mortgage brokers and mortgage bankers, requiring commercial offices, conspicuous signage and separate licenses for more than one fictitious name.
- F. Amends NAC 645B.060, NAC 645E.320 and NAC 645A.010 pertaining to examination expenses and increases the per hour rate;
- G. Books and Records; amends record keeping requirements under NAC 645B.077 for mortgage brokers.
- H. Amends the requirements for disclosure statements for mortgage brokers NAC 645B.080 and NAC 645B.215.
- I. Changes address of Division under NRS 645B.220.
- J. Addresses assessment of costs of Attorney General's Office pursuant to AB 490.
- K. Advertising requirements: amends NAC 645B.240 for mortgage brokers and NAC 645E.450 for mortgage bankers.
- L. Amends NAC 645B.280 to increase the period of time the Commissioner of Mortgage Lending has to approve a power of attorney for mortgage brokers.
- M. Amends NAC 645B.330 and NAC 645E.500 to update administrative actions to include violations of federal law.
- N. Pursuant to AB 490 (2003) – replaces mortgage 'company' with 'banker' for NAC 645E.

3. Estimated economic impact of the regulation on the business which it is to regulate and on the public:

On the business which it is to regulate:

The proposed regulation should not have either an immediate or long-term economic impact on escrow agencies, mortgage brokers or mortgage bankers.

(a) Both adverse and beneficial effects:

There are no significant adverse economic effects on escrow agencies, mortgage brokers or mortgage bankers. The regulation does raise the examination fee for escrow agencies from \$50.00 to \$60.00 per hour. The regulation also raises the examination fee for mortgage brokers and mortgage bankers from \$40.00 per hour to \$60.00 and requires that mortgage brokers and mortgage bankers be located in commercial offices and have conspicuous signage. Most mortgage brokers and mortgage bankers should already be complying with these requirements, which should not be overly burdensome in any case. There are no apparent beneficial economic effects of the regulation on these businesses.

(b) Both immediate and long term effects:

The immediate effects on these businesses are as mentioned above in section (a), and the long term effects are simply the immediate effects multiplied over the long term.

On the public:

The proposed regulation should have no significant economic impact on the public.

(a) Both adverse and beneficial effects:

The public should benefit from the requirements that mortgage brokers and mortgage bankers operate out of commercial offices and have conspicuous signage, as the offices of mortgage brokers and mortgage bankers will be easier to find. There are no other adverse or beneficial economic effects on the public.

(b) Both immediate and long term effects:

Other than as stated in paragraph (a) above, there are no apparent immediate or long term economic effects of this regulation on the public.

4. The estimated cost to the agency for enforcement of the proposed regulation:

The Division will not incur any additional expense to enforce the proposed regulation.

5. Overlap of other governmental regulations The Division is proposing to adopt as state standards certain federal laws including:

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

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

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

(4) Any other applicable federal code or regulation relating to mortgage transactions. The Division is not aware of any other overlap or duplication of the regulation with any state, local or federal regulation.

6. Whether the proposed regulation establishes a new fee or increases an existing fee.

As stated above, the proposed regulation does raise the fee for examinations for mortgage brokers from \$40.00 to \$60.00 per hour and for escrow agencies from \$50.00 to \$60.00 per hour. Other than that, there are no fee increases.

Persons wishing to comment upon the proposed action of the Division may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to the Division, 3075 E. Flamingo Rd., Ste. 104A, Las Vegas, Nevada, 89121, or 400 West King St., Ste. 406, Carson City, Nevada 89703. Written submissions must be received by the Division on or before May 21, 2004. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division may proceed immediately to act upon any written submissions.

A copy of this notice and the proposed regulation will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, and at the offices of the Division, 3075 E. Flamingo Rd., Ste. 104A, Las Vegas, Nevada, 89121, or 400 West King St., Ste. 406, Carson City, Nevada 89703, for inspection by members of the public during business hours. Additional copies of the notice and the proposed regulation will be available at the offices of the Division, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. Copies will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

Department of Business and Industry
Division of Mortgage Lending
400 West King St., Ste. 406
Carson City, NV 89703

Department of Business and Industry
Division of Mortgage Lending
3075 E. Flamingo Rd., Ste. 104A
Las Vegas, NV 89121

Manufactured Housing Division
2501 East Sahara Avenue, 2nd Floor
Las Vegas, NV 89104

Attorney General's Office
100 North Carson St.
Carson City, NV 89701

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify the Deputy Commissioner, Sue Eckhardt, at the Division, 3075 E. Flamingo Rd., Ste. 104A, Las Vegas, Nevada, 89121, Las Vegas, Nevada, (702) 486-0788.

DATED this 28th day of April, 2004.

By: _____
SCOTT BICE
Commissioner of Mortgage Lending

LCB File No. R088-04

**PROPOSED REGULATION OF THE DIVISION OF
MORTGAGE LENDING OF THE DEPARTMENT
OF BUSINESS AND INDUSTRY**

REGULATIONS CONCERNING AMENDMENTS TO
CHAPTER 645E OF THE NEVADA ADMINISTRATIVE CODE

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

Authority: NRS 645E.300

Sec. 1. Chapter 645E of NAC is hereby amended by adding thereto the provisions set forth as Sections 2 through 20, inclusive of this regulation.

Sec. 2. NAC Chapter 645E is hereby amended by adding thereto a new Section to read as follows:

- 1. An auditor, examiner or investigator conducting a periodic or special audit of a mortgage banker pursuant to NRS chapter 645E may:
 - a. Require the licensee to produce for purposes of the periodic or special audit, investigation or examination, any and all documents:
 - 1. Relating to the business conducted under NRS chapter 645E or NAC chapter 645E;*
 - or*
 - 2. Required to be kept as part of the licensee's business by federal or state law; or*
 - 3. Kept on the business premises or business storage area of the licensee and which is related to the operation of the licensee's or affiliated business.**
 - b. Inspect and copy, test, or sample, any and all documents, which are in the possession, control or custody of the licensee or related to the business conducted under NRS chapter 645E or NAC chapter 645E.**

Sec. 3. NAC Chapter 645E is hereby amended by adding thereto a new Section to read as follows:

- 1. An examiner or investigator conducting an examination or investigation pursuant to NRS 645E300(b)(c) (d), other examination pursuant to NRS 645E.300(b)(c) (d) may:
 - (a) Require the licensee to produce for purposes of the any examination pursuant to subsection 1 any and all documents:
 - (1) Relating to the business conducted under NRS chapter 645E or NAC chapter 645E; or*
 - (2) Required to be kept as part of the licensee's business by federal or state law; or*
 - (3) Kept on the business premises or business storage area of the licensee and which is related to the operation of the licensee or affiliated business.**
 - (b) Inspect and copy, test, or sample, any and all documents which are in the possession, control or custody of the licensee or related to the business conducted under NRS chapter 645E or NAC chapter 645E.**

Sec. 4 NAC Chapter 645E is hereby amended by adding thereto a new Section to read as follows:

1. Each licensee, upon completion of an examination, will be rated on a scale of 1 to 5, with 1 being the highest rating and 5 being the lowest rating as described herein. The ratings will be based primarily on compliance with applicable statutes and regulations and the perceived capability of management to achieve and maintain such compliance.

(a) The rating of "1" indicates the licensee and its management have demonstrated a high degree of compliance with applicable laws and regulations. Consideration of a "1" rating may be given if corrective action to a minor violation or deficiency exception was immediate and will likely prevent future violations.

(b) The rating of "2" indicates the licensee and its management have demonstrated substantial compliance with applicable laws and regulations. The deficiencies noted in the report can be remedied with a minimum of regulatory supervision. Consideration of a "2" rating may be given if minor violations have occurred and if corrective action was immediate and will likely prevent future violations.

(c) The rating of "3" indicates the licensee and its management have demonstrated less than satisfactory compliance with applicable laws and regulations. Regulatory supervision is required to determine correction of the violations and deficiencies noted in the report. Consideration of a "3" rating may be given if minor violations had previously occurred and corrective action was not taken.

(d) The rating of "4" indicates the licensee and its management have demonstrated substantial lack of compliance with applicable laws and regulations. Immediate remedial action to correct the noted violations is required. Close regulatory supervision is also necessary and disciplinary action will be recommended to the commissioner.

(e) The rating of "5" indicates the licensee and its management have demonstrated unsatisfactory compliance with applicable laws and regulations. Remedial action must be immediate and corrective and may include action by the commissioner to take possession of the business and assets of the licensee. Disciplinary action including the suspension, revocation of the licensee will be recommended to the commissioner.

Sec. 5. NAC Chapter 645E is hereby amended by adding thereto a new Section to read as follows:

1. No later than 15 days after the completion of an examination of a licensee, the examiner designated by the commissioner shall make and file a draft report thereof with the Division which must be comprised of facts appearing upon the files, books, records or other documents of the licensee examined, or as ascertained from statements of the officers or agents or other persons examined concerning the affairs of the licensee, and such conclusions and recommendations as may reasonably be supported from the facts. The format of the draft report will be consistent with the format utilized for a final report of examination.

2. No later than 15 days after receipt of the draft report of the examination, the commissioner or his designee shall deliver a copy of the report to the licensee examined, together with a notice affording the licensee 15 days, or such additional reasonable period as the commissioner for good cause may allow, within which to review the report and make any written submissions or objections to any matters contained in the report.

3. *If the licensee has been given a rating of ‘3’, ‘4’ or ‘5’, the licensee may prepare written submissions or objections to the Division within the time permitted by subsection 2, and the commissioner or his designee shall:*

(a) Hold an informal meeting with the licensee examined regarding the report within 15 days at the end of the period allowed for the receipt of written submissions or objections.

(b) Fully consider and review the report, together with any written submissions or objections and any relevant portions of the examiner’s working papers and within 15 days after the informal meeting:

(1) Adopt the report as filed or with modification or corrections; or allow for a notice and opportunity for hearing.

(2) Direct the examiner to reopen the examination for purposes of obtaining additional data, documents or information, and re-file the report pursuant to subsection 1 above. If the initial report findings are substantiated upon the further review, the licensee shall, pursuant to NAC 645B060, be responsible for the costs incurred resulting from the additional review.

4. *The results of the examination may not be opened to public inspection pursuant to NRS 645E.370 until any objections made by the licensee examined have been decided by the commissioner pursuant to subsection 3.*

5. *If the report reveals that the licensee is operating in violation of any law or regulation, under this chapter, or previous order of the commissioner, the commissioner may order the licensee to take any action the commissioner considers necessary or appropriate to cure the violation. The commissioner shall also have the authority to take disciplinary action pursuant to NRS 645E.320.*

6. *If the licensee does not file a written submission or objection within the time permitted by subsection 2, the draft report will be deemed a final report of examination pursuant to NRS 645E.320.*

7. *The commissioner may extend a time period under this Section. applicable to the examiner, the commissioner or his designee for up to an additional 15 days for good cause.*

Sec. 6 NAC Chapter 645E is hereby amended by adding thereto a new Section to read as follows:

1. A loan officer employed by the licensee may not be simultaneously employed by a mortgage broker and also be employed by a real estate broker as a real estate salesman in this state.

a. For the purposes of this Section, “real estate broker” has the meaning as defined in NRS 645.030. “real estate salesman” has the meaning as defined in NRS 645.035.

b. The purposes of this Section is to help maintain the separation between the business of real estate and the business of mortgage lending and investing and to minimize the possibility of unfair consumer steering activities by individuals who hold both a mortgage broker or mortgage agent license and are also licensed as a real estate broker or salesmen and may be compensated for both activities.

Sec. 7. NAC 645E.200 is hereby amended to read as follows:

An applicant for a license as a mortgage ~~company~~ **banker** must have:

1. At least 2 years of verifiable experience in lending money for real estate or mortgages; and
2. A knowledge of generally accepted accounting practices and bookkeeping procedures evidenced by verifiable experience in working in these areas or appropriate educational training.

3. A qualified employee may not be simultaneously employed by a mortgage broker and also be employed by a real estate broker or as a real estate salesman in this state.

a. For the purposes of this Section, “real estate broker” has the meaning as defined in NRS 645.030. “real estate salesman” has the meaning as defined in NRS 645.035.

b. The purposes of this Section. is to help maintain the separation between the business of real estate and the business of mortgage lending and investing and to minimize the possibility of unfair consumer steering activities by individuals who hold both a mortgage broker or mortgage agent license and are also licensed as a real estate broker or salesmen and may be compensated for both activities.

Sec. 8. NAC 645E.210 is hereby amended to read as follows:

1. A copy of his business license, when applicable, or his application for such a license if he has not obtained one.

2. A copy of the certificate filed by the mortgage [company] banker pursuant to chapter 602 of NRS indicating the fictitious name of the mortgage [company] banker, if any.

3. If the applicant is a corporation, a copy of:

(a) Its articles of incorporation and its bylaws;

(b) 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; and

(c) The most recent list of its officers and resident agents that is filed with the secretary of state.

4. 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 partners for the 2 years immediately preceding the year of the application.

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

6. If the applicant is a limited-liability company, a copy of:

(a) Its articles of organization and operating agreement;

(b) A statement of the profit and loss of the limited-liability company for the 2 years immediately preceding the year of the application; and

(c) The most recent list of its members or managers, and resident agents, that is filed with the secretary of state.

7. Before a license is issued, the licensee must provide to the Division a copy of the lease with the address of the licensee indicating a commercial business location.

8. A licensee may not share premises within another business without the express written approval of the commissioner and only then subject to local, state and federal law.

9. The licensee must have conspicuous signage, readily visible to the public and readable from the nearest public sidewalk, street or highway, at the licensed location displaying the name of the licensee.

10. If the broker’s place of business is located in an office building, the broker’s sign must be posted on the building directory or on the exterior of the entrance to the business.

11. The licensee applicant, upon receipt of a conditional approval letter from the Division, which sets forth additional criteria for licensee approval, must comply with the provisions set out in the conditional approval letter within 30 days or the application will be deemed expired and the applicant will be required to reapply. The commissioner can, for good cause, extend the period for compliance.

Sec. 9. NAC 645E.220 is hereby amended to read as follows:

NAC 645E.220 Application for, approval of and issuance of branch license; display of license; responsibilities of mortgage [company] banker regarding branch office.
(NRS 645E.200, 645E.300)

1. An applicant must submit with his application for a license for a branch office the name, residence address and telephone number of a qualified employee designated to manage the branch office.

2. *Unless waived by the commissioner for good cause shown, [The] the* commissioner will approve an application for a license for a branch office if:

(a) The principal office of the mortgage [company] banker has been examined by the commissioner and has received at least a satisfactory rating; and

(b) The commissioner approves the qualified employee designated to manage the branch office. The commissioner will not approve a qualified employee to manage a branch office if the qualified employee manages or has been designated and approved to manage another office.

3. A license for a branch office may be issued only in the name in which the mortgage [company] banker is licensed to conduct business at its principal office.

4. Each branch office must conspicuously display its license at the branch office.

5. A mortgage [company] banker is responsible for and shall supervise:

(a) Each branch office of the mortgage [company] banker ; and

(b) Each qualified employee authorized to conduct mortgage lending activity at a branch office of the mortgage [company] banker .

6. *Each branch office must have conspicuous signage, readily visible to the public and readable from the nearest public sidewalk, street or highway, at the licensed location displaying the name of the licensee.*

7. *If the branch is located in an office building, the sign must be posted on the building directory or on the exterior of the entrance to the business.*

8. *Each branch office must be located in an area designated as commercial business.*

Sec. 10. NAC 645E.240 is hereby amended to read as follows:

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

(a) Complies with the provisions of chapter 602 of NRS;

(b) Files with the division a certified copy, issued by the appropriate county clerk, of the certificate filed by the mortgage [company] banker pursuant to chapter 602 of NRS indicating the fictitious name; and

(c) Receives from the division a license or certificate of exemption indicating the fictitious name.

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

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

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

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

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

Sec. 11. NAC 645E.250 is hereby amended to read as follows:

1. The division shall not issue a license or certificate of exemption with a name that is the same as or confusingly similar to a name on a license or certificate of exemption previously issued by the division.
2. A mortgage **[company] banker** shall not conduct business using a name other than the name approved by the division and indicated on the license or certificate of exemption issued by the division to the mortgage **[company] banker** .

Sec. 12. NAC 645E.260 is hereby amended to read as follows:

1. A person conducts verifiable business as a mortgage **[company] banker** if he:
 - (a) Handles the arrangements between a borrower and a lender for a loan that is secured by a lien on real property and is consummated as a result of the arrangements; or
 - (b) Originates a loan secured by a lien on real property in the capacity of a lender or provider.
2. Evidence of activity described in subsection 1 must be submitted to the commissioner in the monthly report of activity.

Sec. 13. NAC 645E.270 is hereby amended to read as follows:

NAC 645E.270 Activity not constituting services as mortgage **[company] banker .**
(NRS 645E.300) A person does not hold himself out as being able to perform the services described in NRS 645E.100 if he only offers to provide money to invest in loans secured by an interest in real property to:

1. A mortgage **[company] banker** licensed pursuant to chapter 645E of NRS; or
2. A person exempt from the provisions of chapter 645E of NRS.

Sec. 14. NAC 645E.310 is hereby amended to read as follows:

1. Every partnership, corporation or limited-liability company doing business as a mortgage **[company] banker** in this state shall designate a qualified employee who may, upon approval by the commissioner, act on behalf of the partnership, corporation or limited-liability company.
2. The commissioner will approve the qualified employee designated pursuant to subsection 1 if the qualified employee meets the requirements of an applicant for a license as a mortgage **[company] banker** pursuant to chapter 645E of NRS.
3. The approval issued by the commissioner entitles the qualified employee to act pursuant to the terms and conditions of the license issued to the partnership, corporation or limited-liability

company by the commissioner pursuant to chapter 645E of NRS, but only as a qualified employee of the partnership, corporation or limited-liability company, and not on his own behalf.

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 as defined in NAC 645E.010, the partnership, corporation or limited-liability company shall designate another qualified employee pursuant to subsection 1 not later than:

(a) Thirty calendar days after the date that:

(1) The commissioner notifies the partnership, corporation or limited-liability company that the initial qualified employee designated pursuant to subsection 1 is not approved; or

(2) The qualified employee ceases to be a qualified employee as defined in NAC 645E.010; or

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

Sec. 15. NAC 645E.320 is hereby amended to read as follows:

1. Except as otherwise provided in this subsection, the commissioner will charge and collect a fee of ~~[\$40]~~ \$60 per hour from each mortgage ~~[company]~~ *banker* for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 645E of NRS. The commissioner may charge a fee of \$125 per hour for the time of an attorney required in any examination, investigation or hearing conducted pursuant to chapter 645E of NRS.

2. The commissioner will bill each mortgage ~~[company]~~ *banker* upon the completion of the activity for the fee established in subsection 1. The fee must be paid not later than 30 calendar days after the date the bill is received. 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. Upon written request by the licensee the Division will provide an accounting of time billed for the examination.

Sec. 16. NAC 645E.330 is hereby amended to read as follows:

1. Each mortgage ~~[company]~~ *banker* shall pay to the division an annual assessment in an amount calculated in accordance with NAC 658.030 to cover the costs related to the employment of a certified public accountant and the performance of audits and examinations by the division.

2. The division shall bill each mortgage ~~[company]~~ *banker* for the assessment. The assessment must be paid within 30 calendar days after the date the bill is received.

3. A charge of 10 percent of the assessment will be imposed on any mortgage ~~[company]~~ *banker* whose assessment is received by the division after the date on which the assessment is due. The commissioner may waive the penalty for good cause.

Sec. 17. NAC 645E.350 is hereby amended to read as follows:

1. Each mortgage ~~[company]~~ *banker* shall submit, for each month, on a form approved by the commissioner, a report on the volume of loans arranged by the mortgage ~~[company]~~ *banker* in that month. The monthly report must be submitted to the commissioner by the 15th day of the month following the month for which the report was made. If no loans were arranged in that month, the report must state that fact.

2. The commissioner may refuse to renew the license of a mortgage **[company] banker** that has not submitted a monthly report as required by subsection 1 for 1 or more of the preceding 12 months.

Sec. 18. NAC 645E.360 is hereby amended to read as follows:

1. Each mortgage **[company] banker** shall retain records of all its completed mortgage transactions for a period of at least 4 years after the date of the last activity relating to the transaction. After a record has been retained for 2 or more years, the mortgage **[company] banker** may cause the original record to be reproduced by the microphotographic process, optical disk imaging or any other equivalent technique designed to ensure an accurate reproduction of the original record. A record reproduced as authorized by this Section must be considered by the commissioner to be the same as the original record. Upon completion of the reproduction of a record as authorized by this Section., the original record may be destroyed.

2. The licensee shall retain denied or withdrawn applications for a period of 1 year or as otherwise required under federal law.

3. The mortgage broker and each branch location must maintain completed mortgage transaction records at the location at which the loan was made for one year from the date of the loan closing. Additional records subject to the provision of Section 1 may be maintained offsite if records are readily accessible. Records will be considered readily accessible if they are provided within 24 hours of the request.

4. For purposes of NRS 645E.350, complete and suitable records shall mean:

(a) A file, including the complete underwriting file and closing documents, as applicable to loan type and purpose, including but not limited to:

1. Real estate sales contract;

2. Escrow instructions;

3. Preliminary title report;

4. Loan application including any attachments, supplements;

5. Uniform Residential Appraisal Report;

6. Verifications;

7. Credit report;

8. Good Faith Estimate(s) & Truth in Lending disclosures;

9. Uniform Settlement Statement;

10. Other federal and State disclosures including if applicable the disclosure required under NRS 645E.420 (3)

11. Lender commitments.

12. Recorded or conformed Deed of trust

13. Title policy

14. Note

15. Subsequent assignments to institutional investors; and

16. Fire policy

(b) For commercial loans brokered by the licensee, the file shall include at a minimum a complete underwriting file including, as applicable, items 1 through 11 in Section (4) (a) of this regulation.

(c) Additional books and records to be maintained or readily accessible at each branch location, as applicable and specific to the operations of the branch:

1. *Such books and records as may be required to evidence compliance with applicable state and federal laws and regulations.*
2. *Copies of each item of all advertising material in the format (recorded sound, video, print, etc.) in which they were published or distributed.*
3. *Copies of all written complaints along with any and all correspondence, notes, responses, and documentation relating to the disposition;*
4. *All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, and cancelled checks (or copies) or records kept otherwise that relates to the licensee business at the location;*
5. *Copies of all federal tax withholding forms, reports of income for federal taxation, and evidence of payments to all employees, independent contractors and others compensated by the licensee;*
6. *Copies of all contractual relationships with third party mortgage related service providers including, but not limited to, contracts, invoices/billings and remittances to the providers by the licensee or on behalf of the licensee.*
7. *Copies of all material correspondence related to the licensee's business, including electronic messages;*
8. *Copies of all reports of audits, examinations, inspections, reviews, investigations, or other similar matters performed by any third party, including any regulatory or supervisory authorities.*

Sec. 19. NAC 645E.400 is hereby amended to read as follows:

NAC 645E.400 Preparation of appraisal. (NRS 645E.300) An appraisal submitted to a lender by a mortgage ~~[company]~~ **banker** must not be prepared by the mortgage ~~[company]~~ **banker** and must:

1. If the appraised property is located in this state, be prepared by an appraiser who holds the appropriate license, certificate or permit issued by the real estate division of the department of business and industry; or
2. If the appraised property is located outside this state, be prepared by an appraiser who is authorized to perform the appraisal by the appropriate agency of the state in which the property is located.

Sec. 20. NAC 645E.450 is hereby amended to read as follows:

1. A licensed mortgage ~~[company]~~ **banker** shall not represent an activity which is not licensed pursuant to chapter 645E of NRS as being licensed pursuant to that chapter.
2. An advertisement for an activity which is licensed pursuant to chapter 645E of NRS must be separate and distinct from an advertisement for an activity which is not licensed pursuant to that chapter.
3. A licensed mortgage ~~[company]~~ **banker** must include in its advertisements, including any advertising material available on the Internet:
 - (a) ~~[Its name, address and telephone number; and]~~ ***The complete name under which the licensee Does Business As, and the address and telephone number filed with the Division. Direct or cell numbers may be included in addition to the licensed location telephone number.***
 - (b) A description of any licensed activity mentioned in the advertisement, written in nontechnical terms.

4. A mortgage [company] banker shall not use advertising material that simulates the appearance of a check, a communication from a government entity, or an envelope containing a check or a communication from a government entity, unless:

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

Sec. 21. NAC 645E.500 is hereby amended to read as follows:

1. The commissioner will refer to the appropriate federal or state agency for investigation and appropriate action each suspected violation of:

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

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

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

2. For the purposes of NRS 645E.670, a mortgage [company] banker commits a violation if the mortgage [company] banker :

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

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

(c) Commits a violation of:

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

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

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

(4) Any other applicable federal code or regulation relating to mortgage transactions.