

**PROPOSED REGULATION OF THE
COMMISSIONER OF MORTGAGE LENDING**

LCB File No. R125-16

NOTICE OF INTENT TO ACT UPON A REGULATION

**NOTICE OF HEARING FOR ADOPTION AND AMENDMENT OF
REGULATIONS OF THE
DIVISION OF MORTGAGE LENDING
LCB FILE No. R125-16**

November 7, 2016

The State of Nevada, Division of Mortgage Lending (the "Division") will hold a public hearing on December 12, 2016, at 9:30 a.m. The purpose of the hearing is to receive comments from all interested persons regarding the adoption and amendment of permanent regulations that pertain to chapter 645B of the Nevada Administrative Code ("NAC"). The public hearing will be held on the following date, time and locations:

December 12, 2016 at 9:30 a.m.

**LAS VEGAS
THE DIVISION OF MORTGAGE LENDING
7220 BERMUDA ROAD
SUITE A
LAS VEGAS, NEVADA 89119**

**VIA VIDEO CONFERENCE TO:
CARSON CITY
DEPARTMENT OF BUSINESS & INDUSTRY
1830 COLLEGE PKWY. #100
CONFERENCE ROOM
CARSON CITY, NEVADA 89706**

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. Purpose and need for the proposed regulation

To comply with the Division's statutory duty to carry out the provisions of NRS 645B and to conform with and implement revisions made to the law governing the licensing and regulation of mortgage brokers and mortgage agents, as enacted by Assembly Bill 480 of the 2015 Session of the Nevada Legislature ("AB 480"), thereby adding to, revising, and repealing various provisions of the NAC governing the licensing and regulation of mortgage brokers and mortgage agents.

2. Description of proposed regulation and the manner in which approved or revised text of the proposed regulation prepared by the Legislative Counsel Bureau ("LCB") may be obtained
Authority: NRS 645B.060(2).

Regulations proposed for adoption and amendment are stated in the attached Proposed Regulation of the Commissioner of Mortgage Lending, LCB File No. R125-16. The proposed regulations are those which include measures to:

- Impose specified requirements upon a mortgage broker who acts as a mortgage servicer under certain circumstances;
- Incorporate the term “control person” into existing regulations;
- Expand the Commissioner’s interpretation of the term “complete and suitable records” as provided in existing regulations;
- Expand the Commissioner’s authority for purposes of conducting an examination, investigation or periodic or special audit of a mortgage broker;
- Define the “verifiable experience” required for licensure as a mortgage broker and for designation as a qualified employee of a mortgage broker;
- Increase the fee required of a mortgage agent who wishes to change the mortgage broker with whom the mortgage agent is associated;
- Require certain mortgage brokers, based upon a specified annual volume of loans reported to the Commissioner, to pay an annual supervision fee to the Commissioner;
- Revise provisions relating to the maintenance of mortgage broker records and allow such records to be maintained in electronic format under specified conditions; and
- Revise the standard of proof for hearings conducted pursuant to Chapter 645B of the Nevada Revised Statutes.

Access to the approved or revised text of the proposed regulations prepared by the LCB pursuant to NRS 233B.063, may be obtained by visiting the website of the Nevada Legislature at <http://www.leg.state.nv.us>, hovering over the term “Law Library,” hovering over the term “Nevada Register,” clicking upon the term “Browse,” and then clicking upon the term “Numerical Index” appearing under the category “2016 Regulations.” Access may then be obtained by scrolling down the list of LCB File Numbers to seek “R125-16,” or by performing a “search” function specifying LCB File Number R125-16 and clicking upon the item(s).

3. Statement of estimated economic effect of the proposed regulation on the business of escrow agencies and escrow agents and upon the public

The Division does not foresee any adverse effects of the proposed regulation (whether immediate or long term) to either the business of a mortgage broker (or its agents) or to the public.

The Commissioner has determined that while the proposed regulation may have a minor adverse economic impact on small business due to an increase to the mortgage-agent change of association fee (section 17 of AB 480 expressly amending NRS 645B.430(4) to mandate a fee increase) and implementation of an annual supervision fee upon certain mortgage brokers, the fees are necessary to ensure the effective and efficient operation of the Division in carrying out its mission to protect consumers without discouraging economic growth. Since 2008, the statutory revenue structure has been insufficient to appropriately fund the Division’s ongoing staffing needs and support costs required to carry out its responsibilities.

The fees imposed will enable the Division to develop a revenue structure that provides a long-term funding solution.

To reduce the adverse impact of the proposed regulation on small business, the Division conducted an analysis of the fees under its existing licensing programs and those assessed by other licensing jurisdictions, as well as solicited comment from stakeholders in order to establish a fair fee structure.

The Division anticipates that both the immediate and long-term beneficial effects of the proposed regulation will protect the health and welfare of Nevadans without unnecessarily burdening business activity.

4. Statement identifying the methodology used by the Division in determining the impact of the proposed regulation upon a small business

Through e-mail notification to its current licensees under NRS 645B, NRS 645BE (with respect to mortgage bankers) and other interested parties, the Division sent a copy of the proposed regulation and solicited comments on whether the proposed revisions to NAC 645B would have any direct and significant impact on a small business, or would otherwise restrict the formation, operation, or expansion of a small business. The e-mail, as directed to 341 such recipients, was additionally posted on the Division's website, the State's official website, and at the Division's offices. In addition, the Division reached out to a variety of stakeholders, including the Nevada Mortgage Lenders Association and the Advisory Council on Mortgage Investments and Mortgage Lending, from which the Division received comments, suggestions, and feedback. Based upon the discussions and consideration of the issues raised, and following the workshop process, the Commissioner determined that the proposed regulation does not impose a significant and direct burden upon a small business or restrict the formation, operation, or expansion of a small business.

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

The Division estimates that the proposed regulation will result in minimal costs to the agency for enforcement as they can be incorporated into the agency's existing billing and collection process, as well as initiated through the Nationwide Mortgage Licensing System and Registry.

6. Overlap or duplication with other state, local governmental or federal agencies

Not applicable.

7. Existence of federal-law requirement for proposed regulation or whether proposed regulation includes more stringent provisions than required by federal regulation governing same activity

None known at the time of this posting.

8. Establishment of new fee or increase to existing fee

The mortgage agent change of association fee has been increased from \$10.00 to \$50.00.

A new fee, in the form of an annual charge for supervision, shall be collected from certain mortgage brokers based upon the specified annual volume of loans reported by the mortgage broker to the Commissioner.

COMMENTS AND WRITTEN SUBMISSIONS

Persons wishing to comment upon the proposed action of the Division of Mortgage Lending may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Division of Mortgage Lending at 7220 Bermuda Road, Suite A, Las Vegas, Nevada, 89119. Written submissions must be received by the Division of Mortgage Lending on or before, December 6, 2016. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Division of Mortgage Lending may proceed immediately to act upon any written submissions.

COPIES OF PROPOSED REGULATION

A copy of this notice and the proposed regulation will be on file at the State State Library, 100 N. Stewart Street, Carson City, Nevada, 89701, for inspection by members of the public during business hours. A copy of the proposed regulation to be considered may be obtained at the hearing or may be downloaded from the Nevada Public Notice website at: <https://notice.nv.gov>

The proposed regulation is also available on the Division's website at <http://www.mld.nv.gov> and at the Division's office at:

Division of Mortgage Lending
7220 Bermuda Rd., Suite A
Las Vegas, NV 89119

This Hearing Notice has been sent to all interested persons on the Division's mailing list for administrative regulations and posted at the following locations:

Division of Mortgage Lending 7220 Bermuda Rd., Suite A Las Vegas, NV 89119	Tonopah Public Library 167 S. Central Street Tonopah, NV 89049	White Pine County Library 950 Compton Street Ely, NV 89301	Story County Library 175 E. Carson Street P.O. Box 999 Virginia City, NV 89440
Department of Business and Industry 1830 College Pkwy., #100 Carson City, NV 89706	Washoe County Library (Downtown Reno Library) 301 South Center Street Reno, NV 89501	Mineral County Public Library 110 1 st Street Hawthorne, NV 89415	Elko County Library 720 Court Street Elko, NV 89801-3397
Nevada State Library & Archives 100 N. Stewart Street Carson City, NV 89701	Battle Mountain Library 625 S. Broad Street P.O. Box 141 Battle Mountain, NV 89820	Pershing County Library 1125 Central Avenue Lovelock, NV 89419	Humboldt County Library 85 East 5 th Street Winnemucca, NV 89445-3095
Elko Conference Center 700 Moren Way (Silver Room) Elko, NV 89801	Douglas County Public Library 1625 Library Lane Minden, NV 89423-0337	Lincoln County Library 63 Main Street P.O. Box 330 Pioche, NV 89043	
Churchill County Library 553 South Maine Street Fallon, NV 89406-3306	Goldfield Public Library Esmeralda County Corner of Crook & Fourth St. P.O. Box 430 Goldfield, NV 89013	Lyon County Library- Yerington Branch Library 20 Nevin Way Yerington, NV 89447-2399	
		Eureka Branch Library 80 S. Monroe Street P.O. Box 293 Eureka, NV 89316	

This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>.

Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copying.

Members of the public who are disabled and require special accommodations or assistance at the hearing must provide written notification, at least 5 business days prior to the hearing, to the Division at the above office address.

After the hearing, interested persons can contact Susan Slack, Administrative Assistant, at (702) 486-7251, to request a copy of the Summary of Comments concerning the December 12, 2016 hearing.

Note that NRS 233B.064(2) provides as follows:

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall 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.