

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

LCB File No. R180-18

September 10, 2018

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

AUTHORITY: §§1-4 and 8, NRS 622.530, 645F.255 and 645F.390; §§5-7 and 9, NRS 622.530, 645F.255 and 645F.520.

A REGULATION relating to licensure by endorsement; prescribing the requirements for licensure by endorsement as covered service provider, foreclosure consultant, loan modification consultant or mortgage servicer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires certain regulatory bodies to adopt regulations providing for the issuance of a license by endorsement to engage in an occupation or profession in this State to any natural person who: (1) holds a corresponding valid and unrestricted license to engage in that occupation or profession in the District of Columbia or any state or territory of the United States; (2) possesses qualifications that are substantially similar to the qualifications required for issuance of a license to engage in that occupation or profession in this State; and (3) meets certain other requirements. (NRS 622.530) Under existing law, the Commissioner of Mortgage Lending has the authority to regulate covered service providers, foreclosure consultants, loan modification consultants and mortgage servicers. (NRS 645F.390, 645F.520)

Sections 2 and 5 of this regulation establish standards for the licensure by endorsement of a natural person as a covered service provider, foreclosure consultant, loan modification consultant or mortgage servicer. **Sections 3 and 6** of this regulation establish a timeline for the Commissioner to request additional information related to an application, approve an application and issue a license by endorsement. **Sections 3 and 6** also establish grounds for the Commissioner to deny an application for licensure by endorsement. **Sections 4 and 7** of this regulation establish that a person who has been issued a license by endorsement is subject to the same duties, restrictions, penalties, liabilities, conditions and limitations that apply to a person who has been issued a license which is not a license by endorsement, including those provisions of law relating to the expiration and renewal of a license. **Sections 8 and 9** 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 7, inclusive, of this regulation.

Sec. 2. *The Commissioner may issue a license by endorsement as a covered service provider, foreclosure consultant or loan modification consultant to a natural person who holds a corresponding and unrestricted license as a covered service provider, foreclosure consultant or loan modification consultant, as applicable, in the District of Columbia or any state or territory of the United States if the natural person:*

1. Submits to the Commissioner all of the following:

(a) An application on a form prescribed by the Commissioner. The applicant shall include in the application his or her social security number.

(b) Proof satisfactory to the Commissioner that he or she:

(1) Holds a corresponding valid and unrestricted license as a covered service provider, foreclosure consultant or loan modification consultant, as applicable, in the District of Columbia or any state or territory of the United States and has held such a license for a period of at least 5 continuous years immediately preceding the date on which the application is submitted;

(2) Possesses qualifications that are equal to or substantially similar to the qualifications required for issuance of a license as a covered service provider, foreclosure consultant or loan modification consultant, as applicable, including, without limitation, proof satisfactory to the Commissioner that the applicant has successfully completed the education and training required for the issuance of the applicant's license as a covered service provider, foreclosure consultant or loan modification consultant, as applicable, in the District of Columbia or any state or territory of the United States and that such education and training

consisted of instruction equivalent to the education required by NAC 645F.500 to 645F.590, inclusive, for initial licensure as a covered service provider, foreclosure consultant or loan modification consultant, as applicable;

(3) Has at least 2 years of verifiable experience in the real estate, mortgage, foreclosure or loan modification industries or applicable financial or legal fields within the 5 years immediately preceding the date on which the application is submitted;

(4) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(5) Has not been disciplined by the corresponding regulatory authority of the District of Columbia or any state or territory in which the applicant currently holds or has held a license as a covered service provider, foreclosure consultant or loan modification consultant, as applicable;

(6) Has not been held civilly or criminally liable in the District of Columbia or any state or territory of the United States for misconduct relating to his or her work as a covered service provider, foreclosure consultant or loan modification consultant, as applicable;

(7) Has not had a license as a covered service provider, foreclosure consultant or loan modification consultant, as applicable, suspended or revoked in the District of Columbia or any state or territory of the United States;

(8) Has not been refused a license as a covered service provider, foreclosure consultant or loan modification consultant, as applicable, in the District of Columbia or any state or territory of the United States for any reason; and

(9) Does not have pending any disciplinary action concerning his or her license as a covered service provider, foreclosure consultant or loan modification consultant, as applicable, in the District of Columbia or any state or territory of the United States.

(c) A complete set of his or her fingerprints and written permission authorizing the Commissioner to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or proof that the applicant has previously passed a comparable criminal background check within the 6 months immediately preceding the date on which the application is submitted.

(d) The statement required by NAC 645F.215.

(e) If the applicant is applying to be an independent licensee, proof satisfactory to the Commissioner that the applicant and each associated licensee who will be employed by or otherwise associated with the applicant are named as principals on a surety bond deposited with the Commissioner by the applicant pursuant to NAC 645F.605 or that the applicant has deposited a substitute form of security pursuant to NRS 645F.610.

(f) An audited financial statement of the applicant and such other proof satisfactory to the Commissioner that the applicant is in such financial condition that the applicant can continue in business with safety to his or her customers.

(g) An affidavit stating that the information contained in the application and any accompanying material is true and complete.

(h) Any other information required by the Commissioner.

2. Pays the applicable fees to apply for and be issued a license as a covered service provider, foreclosure consultant or loan modification consultant, as provided by NAC 645F.315.

Sec. 3. 1. Not later than 21 business days after receiving an application for a license by endorsement as a covered service provider, foreclosure consultant or loan modification consultant pursuant to section 2 of this regulation, the Commissioner shall provide written notice to the applicant of any additional information required by the Commissioner to consider the application. Unless the Commissioner denies the application pursuant to subsection 2, the Commissioner shall approve the application and issue a license by endorsement as a covered service provider, foreclosure consultant or loan modification consultant, as applicable, to the applicant not later than:

(a) Sixty days after receiving the application;

(b) Fifteen days after the Commissioner receives the report from the Federal Bureau of Investigation or proof that the applicant has previously passed a comparable criminal background check within the 6 months immediately preceding the date on which the application is submitted, as required by paragraph (c) of subsection 1 of section 2 of this regulation; or

(c) Fifteen days after the filing of the bond required by NAC 645F.605 or a substitute form of security pursuant to NAC 645F.610,

↳ whichever occurs later.

2. The Commissioner may deny an application for licensure by endorsement submitted pursuant to section 2 of this regulation if:

(a) An applicant willfully fails to comply with the requirements of paragraph (c) of subsection 1 of section 2 of this regulation;

(b) The report from the Federal Bureau of Investigation indicates that the applicant has been convicted of a crime that would be grounds for taking disciplinary action against the

applicant as a licensee and the Commissioner has not previously taken disciplinary action against the licensee based on that conviction; or

(c) The Commissioner finds that he or she has grounds to refuse to issue the license pursuant to NAC 645F.220, 645F.225 or 645F.230.

Sec. 4. 1. Except as otherwise provided in section 2 of this regulation, a person who has been issued a license by endorsement as a covered service provider, foreclosure consultant or loan modification consultant pursuant to section 3 of this regulation is subject to the same duties, restrictions, penalties, liabilities, conditions and limitations that would apply under the laws of this State to a person issued a license as a covered service provider, foreclosure consultant or loan modification consultant, as applicable, who did not obtain his or her license by endorsement.

2. A license by endorsement expires and is subject to renewal as provided by NAC 645F.270 on the same terms as a license as a covered service provider, foreclosure consultant or loan modification consultant, as applicable, which was not issued by endorsement.

Sec. 5. The Commissioner may issue a license by endorsement as a mortgage servicer to a natural person who holds a corresponding and unrestricted license as a mortgage servicer in the District of Columbia or any state or territory of the United States if the natural person:

1. Submits to the Commissioner all of the following:

(a) An application on a form prescribed by the Commissioner. The applicant shall include in the application his or her social security number.

(b) Proof satisfactory to the Commissioner that he or she:

(1) Holds a corresponding valid and unrestricted license as a mortgage servicer in the District of Columbia or any state or territory of the United States and has held such a license

for a period of at least 5 continuous years immediately preceding the date on which the application is submitted;

(2) Possesses qualifications that are equal to or substantially similar to the qualifications required for issuance of a license as a mortgage servicer in this State;

(3) Has at least 2 years of verifiable experience in the business of servicing mortgage loans, as defined by NAC 645F.957, within the 5 years immediately preceding the date on which the application is submitted;

(4) Is a citizen of the United States or otherwise has the legal right to work in the United States;

(5) Has not been disciplined by the corresponding regulatory authority of the District of Columbia or any state or territory in which the applicant currently holds or has held a license as a mortgage servicer;

(6) Has not been held civilly or criminally liable in the District of Columbia or any state or territory of the United States for misconduct relating to his or her work as a mortgage servicer;

(7) Has not had a license as a mortgage servicer suspended or revoked in the District of Columbia or any state or territory of the United States;

(8) Has not been refused a license as a mortgage servicer in the District of Columbia or any state or territory of the United States for any reason; and

(9) Does not have pending any disciplinary action concerning his or her license as a mortgage servicer in the District of Columbia or any state or territory of the United States.

(c) A complete set of his or her fingerprints, submitted directly or through the Registry, and written permission authorizing the Commissioner to forward the fingerprints to the Central

Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report or proof that the applicant has previously passed a comparable criminal background check within the 6 months immediately preceding the date on which the application is submitted.

(d) The statement required by NAC 645F.954.

(e) Proof satisfactory to the Commissioner that the applicant and each person who will be an employee or agent of the applicant are named as principals on the corporate surety bond deposited with the Commissioner pursuant to NAC 645F.970.

(f) An audited financial statement of the applicant which complies with the requirements of NAC 645F.973 and which demonstrates that the applicant will be able to maintain continuously the minimum net worth required pursuant to NAC 645F.974 .

(g) An affidavit stating that the information contained in the application and any accompanying material is true and complete.

(h) Any other information required by the Commissioner.

2. Pays the applicable fees to apply for and be issued a license as a mortgage servicer, as provided by NAC 645F.961.

Sec. 6. 1. Not later than 21 business days after receiving an application for a license by endorsement as a mortgage servicer pursuant to section 5 of this regulation, the Commissioner shall provide written notice to the applicant of any additional information required by the Commissioner to consider the application. Unless the Commissioner denies the application pursuant to subsection 2, the Commissioner shall approve the application and issue a license by endorsement as a mortgage servicer to the applicant not later than:

(a) Sixty days after receiving the application;

(b) Fifteen days after the Commissioner receives the report from the Federal Bureau of Investigation or proof that the applicant has previously passed a comparable criminal background check within the 6 months immediately preceding the date on which the application is submitted, as required by paragraph (c) of subsection 1 of section 5 of this regulation; or

(c) Fifteen days after the filing of the bond required by NAC 645F.970,

↳ whichever occurs later.

2. The Commissioner may deny an application for licensure by endorsement submitted pursuant to section 5 of this regulation if:

(a) An applicant willfully fails to comply with the requirements of paragraph (c) of subsection 1 of section 5 of this regulation;

(b) The report from the Federal Bureau of Investigation indicates that the applicant has been convicted of a crime that would be grounds for taking disciplinary action against the applicant as a licensee and the Commissioner has not previously taken disciplinary action against the licensee based on that conviction; or

(c) The Commissioner finds that he or she would have grounds to deny the application if the application was not an application for licensure by endorsement.

Sec. 7. 1. Except as otherwise provided in section 5 of this regulation, a person who has been issued a license by endorsement as a mortgage servicer pursuant to section 6 of this regulation is subject to the same duties, restrictions, penalties, liabilities, conditions and limitations that would apply under the laws of this State to a person issued a license as a mortgage servicer who did not obtain his or her license by endorsement pursuant to section 6 of this regulation.

2. A license by endorsement expires and is subject to renewal as provided by NAC 645F.960 on the same terms as any other license as a mortgage servicer.

Sec. 8. NAC 645F.004 is hereby amended to read as follows:

645F.004 NAC 645F.004 to 645F.920, inclusive, *and sections 2, 3 and 4 of this regulation* may be referred to as the Nevada Covered Service Provider Regulations.

Sec. 9. NAC 645F.930 is hereby amended to read as follows:

645F.930 NAC 645F.930 to 645F.994, inclusive, *and sections 5, 6 and 7 of this regulation* may be referred to as the Nevada Mortgage Servicer Regulations.