

**PROPOSED REGULATION OF THE
COMMISSIONER OF FINANCIAL INSTITUTIONS**

LCB File No. R154-98

September 21, 1998

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

AUTHORITY: §§1-2, NRS 645B.060; §3, NRS 645B.060 and 645B.189; §§4-5, NRS 645B.060.

Section 1. NAC 645B.080 is hereby amended to read as follows:

645B.080 1. Before a lender who is a natural person makes a loan for which a licensed mortgage company is acting as a broker, the mortgage company shall provide [, **unless specifically waived in writing,**] to the lender:

(a) A written application for the loan which is signed by the prospective borrower and which contains the borrower's address, a history of his employment and income, details of monthly payments he is obliged to pay and any other information requested by the lender.

(b) Evidence of the prospective borrower's history of employment and income, such as a tax return or an employer's statement of the borrower's past yearly income.

(c) A report on the prospective borrower's history of credit, including , *without limitation*, an explanation by the borrower of any material derogatory item in the report and evidence that the report has been compared for accuracy to the borrower's application for the loan.

(d) An analysis by the mortgage company of the ability of the prospective borrower to pay his monthly debts.

(e) A preliminary report on the status of the title of the property which is proposed as security for the loan.

(f) A statement of the status of prior liens against the property which is proposed as security, including , *without limitation*, the current balance of the liens and the status of payments.

(g) An appraisal of the property which is proposed as security.

2. A mortgage company shall retain a copy of the materials it has provided to a lender pursuant to subsection 1.

3. If the loan is made, the mortgage company shall retain in its files and provide to the lender:

(a) A copy of the promissory note;

(b) A recorded copy of the deed of trust securing the loan;

(c) A copy of the policy of title insurance on the property securing the loan;

(d) A copy of a policy of fire insurance which is adequate to cover all liens on the property securing the loan, including , *without limitation*, an endorsement naming the lender as the insured, when applicable;

(e) A copy of a statement signed by each lender acknowledging that the decision to make the loan was made after the lender was provided with the material required in subsection 1;

(f) If the lender is a corporation or partnership, a copy of its statement authorizing the loan;
and

(g) If the borrower is a corporation or partnership, a copy of its statement authorizing the loan.

4. If the loan is made, the mortgage company shall provide the borrower with at least the items listed in paragraphs (a), (b) and (c) of subsection 3.

5. The mortgage company shall store its original notes, if retained, in a fireproof container.

Sec. 2. NAC 645B.100 is hereby amended to read as follows:

645B.100 All decisions regarding the funding of investments in mortgages must be made by the lender . [unless the authority to make those decisions is otherwise delegated to the mortgage company by contract.]

Sec. 3. NAC 645B.110 is hereby amended to read as follows:

645B.110 1. A licensed mortgage company shall not represent an activity which is not licensed under chapter 645B of NRS as being licensed under that chapter.

2. An advertisement for an activity which is licensed pursuant to chapter 645B 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 must include in its advertisements:

(a) Its name; and

(b) A description of any licensed activity mentioned in an advertisement, written in nontechnical terms.

4. The commissioner will not approve for use any advertising material, including, without limitation, an envelope containing advertising material, that simulates the appearance of an enclosed check or a communication from a governmental entity unless the words "THIS IS NOT A CHECK," "NOT NEGOTIABLE" or "THIS IS NOT A GOVERNMENTAL ENTITY," as

applicable, appear prominently on the envelope and on any other material that simulates the appearance of a check or communication from a governmental entity.

5. If the advertising material simulates the appearance of a check, the material must not contain a number assigned by the American Bankers Association (ABA), encoding with magnetic ink character recognition (MICR) or any other mark simulating the appearance of a negotiable check.

Sec. 4. NAC 645B.120 is hereby amended to read as follows:

645B.120 [1.] An appraisal submitted to a lender pursuant to NAC 645B.080 must [:

(a) Be written in an objective manner so that a third person can follow the reasoning, logic and analysis of the appraiser in his determination of the final estimate of the market value of the property.

(b) Be dated by the appraiser before the date on which a loan which is secured by the appraised property is made.

(c) Contain an objective, concise description of the neighborhood, the site of the property and any improvements made to the property.

(d) Contain an estimate of the value of the property, formulated according to each of the approaches customarily used by appraisers (cost, market data and income), as applicable.

(e) Contain a statement from the appraiser in which he explains any difference in his estimate of the value of the property and the values formulated according to the customarily accepted approaches.

2. An appraisal must be prepared by an appraiser who:

(a) Is professionally designated by a major, nationally recognized society of appraisers;

(b) Is approved by the Federal National Mortgage Association; or

(c) Has verifiable experience or training in the amount necessary to prepare an appraisal in accordance with the guidelines set forth by the association or those societies.] *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.*

Sec. 5. NAC 645B.140 is hereby amended to read as follows:

645B.140 1. Before a person purchases an existing note secured by a deed of trust for which a licensed mortgage company is acting as a broker, the mortgage company shall provide to the purchaser : [, unless specifically waived in writing:]

- (a) A copy of the promissory note;
- (b) A record of the history of payments on the note or a document signed by the seller and borrower stating the existing balance of the note;
- (c) The policy of title insurance for the original beneficiaries of the note; and
- (d) The original appraisal of the property securing the note, if available.

2. A mortgage company shall retain a copy of the materials it provides to the purchaser pursuant to subsection 1.

3. If the purchase is made, the mortgage company shall retain in its files the original or a copy and provide to the purchaser, respectively, the copy or original of the following documents:

- (a) The promissory note and the assignment of the note.
- (b) The recorded deed of trust and recorded assignment of the beneficial interest.

(c) The endorsement to the policy of title insurance or a new policy of title insurance for the assignment.

(d) A policy of fire insurance indicating coverage in an amount sufficient to cover all liens on the property including, if applicable, an endorsement naming the purchaser as a payee in case of loss.

(e) A statement signed by the purchaser acknowledging that the decision to purchase the note secured by a deed of trust was made after the purchaser was provided with and reviewed the material required in subsection 1.