

**ADOPTED REGULATION OF THE
COMMISSIONER OF MORTGAGE LENDING**

LCB File No. R093-09

Effective October 27, 2009

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

AUTHORITY: §§1-27, NRS 645B.0137 and 645B.0138 (as amended in sections 23 and 24 of Assembly Bill No. 523, chapter 474, Statutes of Nevada 2009, at page 2678), NRS 645B.060 and sections 75.3 and 76 of Assembly Bill No. 523, chapter 474, Statutes of Nevada 2009, at pages 2688-89.

A REGULATION relating to mortgage lending; establishing licensing and continuing education requirements for mortgage brokers and mortgage agents; establishing requirements for providers and instructors of courses of continuing education; prohibiting providers and instructors of courses of continuing education from engaging in certain activities; providing for the withdrawal of approval of courses of continuing education; providing for the withdrawal of approval of providers and instructors of courses of continuing education; establishing provisions for the content of courses of continuing education; establishing provisions for computer-based distance education courses; and providing other matters properly relating thereto.

Section 1. Chapter 645B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 24, inclusive, of this regulation.

Sec. 2. 1. *“Approved course” means a course of education that has been:*

(a) Certified by an organization set forth in NAC 645B.360 and has been approved by the Division as a course for initial licensing or continuing education; or

(b) Approved by the Registry.

2. For the purposes of this section, “Registry” has the meaning ascribed to it in section 2 of Assembly Bill No. 523, chapter 474, Statutes of Nevada 2009, at page 2676.

Sec. 3. *“Hour of instruction” means 50 minutes of instruction or more.*

Sec. 4. “Provider” means:

- 1. Any university or community college which is a part of the Nevada System of Higher Education or any other university or college bearing the same or an equivalent accreditation.*
- 2. Any professional school or college licensed by the Commission on Postsecondary Education.*
- 3. Any out-of-state mortgage lending regulator or professional school or college licensed or accredited by a department of education or an equivalent agency of the state in which such an entity is located.*
- 4. Any organization set forth in NAC 645B.360.*
- 5. Any professional school that meets the requirements relating to course content and relevance to the industry as required by any organization set forth in NAC 645B.360.*
- 6. Any person or entity approved by the Division.*

Sec. 5. The following subjects are approved as course material for initial licensing and continuing education:

- 1. Federal and Nevada state laws and regulations relating to mortgage lending, including subprime lending and other nontraditional mortgage lending products.*
- 2. The provisions of:*
 - (a) This chapter or chapter 645B of NRS governing mortgage brokers and mortgage agents;*
 - (b) Chapter 598D of NRS governing unfair lending practices;*
 - (c) Chapter 645A of NRS governing escrow agencies and agents;*
 - (d) Chapter 645F of NRS governing mortgage lending and related professions; and*
 - (e) Chapter 107 of NRS governing deeds of trust.*

3. *Mortgage industry practices and information, including ethics.*
4. *Any other subject approved by the Division.*

Sec. 6. 1. *A natural person who is an applicant for an initial license as a mortgage broker or mortgage agent must complete at least 30 hours of instruction from the subjects set forth in section 5 of this regulation. Except as otherwise provided in subsections 5 or 6, an applicant must complete a minimum of 15 of the 30 hours of required instruction from live classroom instruction.*

2. *The 30 hours of instruction required pursuant to subsection 1 must include:*

(a) *Four hours of ethics, which must include instruction on fraud, consumer protection and fair lending issues;*

(b) *Twelve hours of federal law and regulations relating to mortgage lending, including 2 hours of training relating to subprime lending and other non-traditional mortgage products;*

(c) *Four hours of Nevada law and regulations relating to mortgage lending; and*

(d) *Ten hours of electives.*

3. *In addition to the requirements set forth in subsections 1 and 2, an applicant for an initial license as a mortgage broker or mortgage agent who is designated as a qualified employee pursuant to NAC 645B.055 must complete, as an elective, at least 4 hours of instruction relating to office policy and procedure, risk management, errors and omissions, affiliated business arrangements, labor relations, general management principles, loan prequalification and loan processing.*

4. *An applicant for an initial license as a mortgage broker or mortgage agent must provide to the Division one or more certificates of completion, in a form satisfactory to the Division, indicating that the applicant has successfully completed the 30 hours of instruction*

required pursuant to this section. Certificates issued for all such courses must bear the name of the certifying organization.

5. An applicant who lives in a rural area may, with the prior written approval of the Division, take courses required by this section as an interactive, correspondence, distance or televideo course that involves interaction with the instructor and other students.

6. An applicant who is or intends to be associated with a licensed mortgage banker at a licensed office located outside of Nevada may take courses required by this section as an interactive, correspondence, distance or televideo course that involves interaction with the instructor and other students.

7. As used in this section, “rural area” means a city or town whose population is less than 60,000 and which is located more than 60 miles from a city or town whose population is 60,000 or more.

Sec. 7. 1. *An applicant for an initial license as a mortgage broker or mortgage agent must take an examination in addition to completing the 30 hours of instruction required by section 6 of this regulation.*

2. The applicant must pass the examination, which must be prepared and administered by an organization designated by the Division, with a score of at least 75 percent. The examination must:

(a) Include the subjects required as continuing education pursuant to section 5 of this regulation;

(b) Consist of at least 100 multiple-choice questions;

(c) Not exceed 4 hours in length; and

(d) Be approved in advance by the Division.

3. *The Division, through its designated vendor, shall designate a date, time and place for an examination to be held at least once every 2 months. An applicant who takes an examination pursuant to this section may not retain any of the examination materials.*

Sec. 8. 1. *A licensee must complete at least 10 hours of approved courses of continuing education during the 12 months immediately preceding the date on which the license expires. A course of continuing education must emphasize the practical application of mortgage lending transactions and, except as otherwise provided in subsection 4, a licensee must not repeat the course content taken during the same license renewal period or during the immediately preceding license renewal period.*

2. *Of the 10 hours of approved courses of continuing education required pursuant to subsection 1, a licensee must complete:*

(a) *Two hours of professional ethics at least biennially, and which must include instruction on fraud, consumer protection and fair lending issues;*

(b) *Two hours of training relating to subprime lending and other nontraditional mortgage products, commercial lending or private investor loans;*

(c) *Three hours of federal law and regulations; and*

(d) *Two hours of Nevada law and regulations relating to mortgage lending.*

3. *Except as otherwise provided in subsection 4, a licensee may not take the same approved course in the same or successive year to meet the annual requirements for continuing education.*

4. *A licensee may take the same approved course in a successive year if the course material has been updated from the previous year.*

Sec. 9. 1. *Except as otherwise provided in subsection 2 and NAC 645B.360, a provider that wishes to offer a course to meet the educational requirements for licensure or continuing education under chapter 645B of NRS must apply to the Commissioner for approval before offering any course on or before December 31 of each year. The application must be made on a form prescribed by the Division and include, without limitation:*

- (a) The name and address of the provider;*
- (b) The type of provider and a description of its facilities;*
- (c) Any information requested by the Division concerning the ownership of the provider, including, if applicable, the business organization and the names and addresses of all directors, principals, officers and any other person with an ownership interest;*
- (d) A list of the instructors;*
- (e) A list of the courses to be offered and a hard copy of the course materials for each course;*
- (f) The allotment of time for each subject;*
- (g) A tentative schedule of courses;*
- (h) The titles, authors and publishers of all required textbooks;*
- (i) A copy of each examination to be used and the correct answer for each question;*
- (j) A statement disclosing whether the provider or any instructor employed by the provider has ever been disciplined by any governmental agency of this State or any other jurisdiction;*
- (k) A statement indicating that educational courses will not be provided free of charge to any person as an inducement for students or their employers to use the services of the provider for any mortgage-related activities; and*
- (l) A statement of:*

- (1) The purpose of the provider;*
- (2) The fees to be charged;*
- (3) The days, times and locations of each class;*
- (4) The number of quizzes and examinations;*
- (5) The grading systems, including the methods of testing and standards of grading;*
- (6) The attendance requirements; and*
- (7) The location of the students' records.*

2. The Commissioner may waive the requirements of this section for courses offered by or through a federal or state governmental agency.

Sec. 10. *1. A provider must submit an application to the Commissioner for the approval of each course the provider intends to offer on a form prescribed by the Division. The application must contain the information required by section 9 of this regulation.*

2. The Commissioner will not grant retroactive approval of a course.

3. A provider which is a professional organization and whose course has been approved for continuing education requirements may not restrict attendance of the course to students who are members of that organization.

4. Any advertisement, promotional literature or registration form for an approved course must contain, in writing, the policy of the provider concerning cancellations and refunds.

5. If the application of a provider for approval of a course is denied, the provider may exercise his or her right to a hearing by appealing the decision of the Commissioner. An appeal must be filed with the Division not later than 20 days after the date on which the denial of the approval of the provider's course becomes effective.

6. The Division has the right to be awarded and recover costs and attorneys' fees from the provider related to a hearing in which the hearing officer affirms the denial of approval of a course.

Sec. 11. *1. A provider approved by the Commissioner to offer courses to meet the requirements for licensure or continuing education under this chapter or chapter 645B of NRS shall:*

(a) Maintain a record of each student's attendance and certification in any of those courses for 4 years after the student's enrollment;

(b) Have such records open to inspection by the Division, upon request, during the provider's business hours; and

(c) At least quarterly, provide to the Division a tentative schedule of the courses to be offered.

2. A provider that is licensed to operate by the Commission on Postsecondary Education shall provide evidence of such licensure to the Division.

Sec. 12. *1. Within 15 days after the occurrence of any material change in the information provided by a provider in its application pursuant to section 9 of this regulation which would affect its approval by the Commissioner, the provider shall give the Division written notice of that change.*

2. To qualify for annual renewal of approval by the Commissioner, a provider must submit to the Commissioner on or before December 31 of each year:

(a) A written certification, in a form prescribed by the Division, declaring that the provider has met all applicable requirements of this chapter and chapter 645B of NRS; and

(b) A sworn statement, in a form prescribed by the Division, declaring that the information contained in the original application is current or, if it is not current, a list of all material changes.

Sec. 13. 1. If the Division determines, through an audit or otherwise, that an approved course does not meet the standards for such a course set forth in this chapter or chapter 645B of NRS, the Division will notify the provider of the approved course of the its intent to withdraw approval of the course. The notice must include the specific reasons upon which the Division is basing the decision to withdraw approval of the course. Not later than 30 days after the date on which the provider receives the notice, the provider may provide a written response to the Division that clearly sets forth the reasons why approval of the course should not be withdrawn and outlining any corrective measures that the provider will undertake. After the 30-day period has elapsed, the Division will review the notice and any response submitted by the provider and:

(a) Withdraw approval of the course;

(b) Allow the course to remain approved if certain specific enumerated conditions are met;

or

(c) Allow the continued approval of the course.

↳ If the Division decides to withdraw approval of the course, the withdrawal of approval of the course becomes effective upon the mailing of the Division's decision to withdraw approval to the provider by certified mail, return receipt requested, to the provider's last known business address.

2. If the Division withdraws approval of a course, the Division will give credit to a student for completing the course if the student began the course before the provider received written notice of the withdrawal of approval of the course.

3. The provider may appeal the decision of the Division to withdraw approval of a course or an instructor of an approved course by filing an appeal with the Commissioner not later than 30 days after the date on which the withdrawal of the approval of the course becomes effective, and the provider will have the right to a hearing.

4. If the provider files an appeal within the time required by subsection 3, the Commissioner will, as soon as practicable, hold a hearing concerning the withdrawal of approval of the course and:

(a) Affirm the decision of the Division to withdraw approval of the course;

(b) Suspend approval of the course for a limited period of time and under such conditions as the Commissioner deems appropriate; or

(c) Reverse the decision of the Division to withdraw approval of the course.

Sec. 14. *A provider approved by the Commissioner shall not make any misrepresentation in its advertising about any approved course which it offers to fulfill requirements for licensing or continuing education under this chapter or chapter 645B of NRS.*

Sec. 15. *A provider that conducts approved courses:*

1. May employ as instructors of the approved courses only persons who meet the qualifications set forth in section 16 of this regulation.

2. Shall limit guest lecturers who are experts in related fields, excluding personnel of the Division, to 25 percent of the total hours of instruction per approved course.

3. *Shall include a statement that the provider is approved by the Commissioner on all advertisements of the provider.*
4. *Shall require each student to attend the entire approved course as a condition of receiving certification for the approved course.*
5. *Shall certify the completion of only the number of hours for which the approved course has been approved by the Commissioner. A portion of an approved course does not satisfy the requirements for certification.*
6. *Shall update its course materials at least annually to reflect changes in the law and the marketplace.*
7. *Shall not allow a student to pass an approved course by taking an examination without having the required attendance. In addition, an owner, instructor, affiliate or other person associated with the provider may not take an examination administered by the provider to meet the requirements for initial licensure or continuing education under this chapter and chapter 645B of NRS.*
8. *Shall admit authorized personnel of the Division or its designees to audit and evaluate the presentation of the approved course without prior notice by the Division or cost to the Division.*
9. *Shall not present an approved course for the main purpose of selling products or services and shall limit the announcement of products or services during the approved course to not more than 1 minute for each credit hour.*
10. *Shall, if a course is 5 hours or more in duration, require each student to pass an examination consisting of at least five multiple-choice questions for each hour of instruction.*

11. Shall not allow a student to pass an examination without a score of 75 percent or better.

12. Shall not provide, distribute, disseminate or otherwise make available to any student the answers to examination questions.

13. Shall not, except as otherwise provided in subsection 9, advertise or promote products or services of affiliated or unaffiliated persons.

Sec. 16. *1. An instructor must have written approval from the Division before teaching an approved course. No retroactive approval for instructors will be granted.*

2. An applicant for approval as an instructor must apply on a form prescribed by the Division.

3. The Division shall not approve a person as an instructor if the person:

(a) Has been disciplined by the Division:

(1) Within the immediately preceding 5 years; or

(2) More than one time; or

(b) Has been determined in an administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to mortgage lending or real estate in this State or any other state.

4. A person may be approved as an instructor to teach an approved course relating to his or her principal occupation if the person:

(a) Has:

(1) A bachelor's degree or a more advanced degree, plus at least 2 years of full-time experience in the field in which the person will be providing instruction;

(2) Teaching experience of at least 75 hours in the field in which the person will be providing instruction within the 3 years immediately preceding the date of the application for approval plus at least 3 years of full-time experience in that field;

(3) At least 6 years of full-time experience in the field, or a closely related field, in which the person will be providing instruction; or

(4) Any combination of at least 6 years of college-level course work and full-time experience in the field in which the person will be providing instruction;

(b) Has a good reputation for honesty, integrity and trustworthiness; and

(c) Submits to the Division satisfactory documentation of his or her qualifications and a resume outlining his or her experience, education and teaching experience in the field in which he or she will be providing instruction.

5. The Division will periodically review and evaluate each approved instructor.

6. An approved instructor who is also a licensee may receive credit for the instructor's own annual continuing education requirement at the rate of 2 hours of credit for every 1 hour taught.

7. If the Division denies an application for approval as an instructor, the applicant may appeal the decision of the Division by filing an appeal with the Commissioner not later than 30 days after the date on which the applicant received notification of the denial of approval as an instructor.

8. If the applicant files an appeal within the time required by subsection 7, the Commissioner will, as soon as practicable, hold a hearing concerning the denial of the application for approval as an instructor and:

(a) Affirm the decision of the Division to deny approval as an instructor;

(b) Approve the instructor for a limited period of time and under such conditions as the Commissioner deems appropriate; or

(c) Reverse the decision of the Division to deny approval as an instructor.

Sec. 17. 1. The Division may withdraw the approval of an instructor who:

(a) Does an inadequate job of teaching the subject matter of an approved course, as evidenced by student evaluations or an audit conducted by the Division;

(b) Has been determined in any administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to mortgage lending or real estate in this State or in any other jurisdiction;

(c) Has been convicted of, or entered a plea of guilty or nolo contendere to, any crime involving fraud, deceit, misrepresentation or moral turpitude;

(d) Engages in inappropriate behavior in the classroom as evidenced by an audit conducted by the Division; or

(e) Except as otherwise provided in subsection 9 of section 15 of this regulation, advertises or promotes the products or services of affiliated or unaffiliated persons.

2. Before withdrawing the approval of the instructor of an approved course, the Division shall notify the provider and instructor of the approved course of its intent to withdraw approval of the instructor. The notice must include the specific reasons upon which the Division is basing the decision to withdraw the approval of the instructor. Not later than 30 days after the date on which the provider or instructor receives the notice, the provider or instructor may provide a written response to the Division which clearly sets forth the reasons why the approval of the instructor should not be withdrawn and which outlines any corrective measures that the provider or instructor will undertake. After the 30-day period has elapsed,

the Division shall review the notice and any response submitted by the provider or instructor and shall:

(a) Withdraw the approval of the instructor;

(b) Allow the instructor to remain approved if certain specific enumerated conditions are met; or

(c) Allow the continued approval of the instructor.

↳ If the Division decides to withdraw the approval of the instructor, the withdrawal of approval of the instructor becomes effective upon the mailing of the Division's decision to the provider of the approved course taught by the instructor by certified mail, return receipt requested, to the provider's and instructor's last known business address.

3. If the Division withdraws the approval of an instructor, the Division shall give credit to a student for completing the approved course if the student began the approved course before the provider received written notice of the withdrawal of approval of the instructor.

4. The provider or instructor may appeal the decision of the Division to deny or withdraw the approval of the instructor by filing an appeal with the Commissioner not later than 20 days after the date on which the withdrawal of the approval of the instructor becomes effective, and the provider or instructor will have the right to a hearing.

5. The Division has the right to be awarded and recover costs and attorney's fees from the provider related to a hearing in which the hearing officer affirms the withdrawal of approval of an instructor.

6. If the provider or instructor files an appeal within the period of time required by subsection 4, the Commissioner will, as soon as practicable:

(a) Affirm the decision of the Division to withdraw approval of the instructor;

(b) Suspend approval of the instructor for a limited period of time and under such conditions as the Commissioner deems appropriate; or

(c) Reverse the decision of the Division to withdraw approval of the instructor.

Sec. 18. 1. An instructor of an approved course shall ensure that:

(a) Class sessions are commenced in a timely manner and are conducted for the full amount of time that is approved; and

(b) Each approved course is taught according to the course plan and any instructor guide that was approved by the Commissioner, including the furnishing to students of appropriate student materials.

2. An instructor shall conduct himself or herself in a professional and courteous manner when performing instructional duties and shall conduct classes in a manner that demonstrates the following basic teaching skills:

(a) The ability to present instruction in a thorough, accurate, logical, orderly and understandable manner, to use illustrative examples as appropriate and to respond appropriately to questions from students;

(b) The ability to effectively use varied instructional techniques in addition to lectures, including, without limitation, class discussion, role-playing and other techniques;

(c) The ability to use varied instructional aids effectively to enhance learning;

(d) The ability to maintain an appropriate learning environment and effective control of a class; and

(e) The ability to interact with adult students in a positive manner that:

(1) Encourages students to learn;

(2) Demonstrates an understanding of varied student backgrounds;

(3) Avoids offending the sensibilities of students; and

(4) Avoids personal criticism of any other person, agency or organization.

Sec. 19. 1. A course must:

(a) Be approved annually by the Division;

(b) Be certified annually by an organization set forth in NAC 645B.360; and

(c) Relate to mortgage lending or mortgage lending transactions.

2. None of the following kinds of courses or activities will be accepted from a student as fulfillment of the education required for initial licensure or continuing education:

(a) A course designed to develop or improve clerical, office or business skills that are not related to the activities described in chapter 645B of NRS, including, without limitation, typing, shorthand, operation of business machines, the use of computers or computer software, improvement of memory, or writing of letters and reports;

(b) A business course in advertising or psychology;

(c) A course designed to motivate a person or to develop the self-image of a person;

(d) A course for the development of instructors; or

(e) A meeting for the promotion of sales, a program of office training or other activity which is held as part of the general business of a mortgage broker or mortgage agent.

3. The Division shall not approve credit for more than 7 hours of instruction per day. Of the 7 hours, the Division shall approve a maximum of 1 full hour of credit for a student to complete an examination required pursuant to section 15 of this regulation.

Sec. 20. 1. A provider must apply annually for the renewal of approval of a course on a form prescribed by the Division. An application for renewal must be submitted to the Division at least 5 weeks before the previous approval expires. If the provider does not timely submit the

application for renewal, the provider must apply for an original approval as provided in section 9 of this regulation.

2. Each approved course and instructor is subject to review and audit by the Division. If the Division conducts such a review or audit, the provider shall make available to the Division all records and materials requested which are necessary to the review.

3. The Division shall renew the approval of a course if the information concerning the course has been updated and there is no material change in the content of the course.

4. Each of the following acts or occurrences constitutes a ground for the Commissioner to withdraw the approval or refuse the renewal of a course:

(a) The curriculum or instruction, as indicated by evaluations or audits, is of poor quality.

(b) The provider has violated a provision of this chapter or chapter 645B of NRS relating to initial licensing or continuing education.

(c) The course is not taught within the last period for which the course is approved.

(d) The provider has made a false statement or has presented false information in connection with an application for the approval of a course, the renewal of such approval or the approval of the provider.

(e) The provider or any official or instructor employed by the provider has refused or failed to comply with any provision of this chapter or chapter 645B of NRS or has engaged in any conduct constituting a deceitful, fraudulent or dishonest business practice.

(f) The provider or any official or instructor employed by the provider has provided false or inaccurate information in connection with any report the provider is required to submit to the Commissioner.

(g) The provider has engaged in a pattern of consistently cancelling scheduled courses.

(h) An instructor employed by the provider of an approved course fails to conduct approved courses in a manner that demonstrates the teaching skills required by this chapter.

(i) A court of competent jurisdiction has found the provider of the approved course or any official or instructor employed by the provider to have violated, in connection with the offering of a course, any applicable federal or state law or regulation:

(1) Prohibiting discrimination on the basis of disability;

(2) Requiring places of public accommodation to be in compliance with prescribed standards relating to accessibility; or

(3) Requiring that courses relating to licensing or certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities.

(j) The provider or any official or instructor employed by the instructor has been disciplined by the Commissioner or any other occupational licensing agency in this State or any other jurisdiction.

(k) The provider or any official or instructor employed by the provider has collected money for a course but has refused or failed to provide the promised instruction or has failed to provide a refund when payable and due.

(l) Except as otherwise provided in subsection 9 of section 15 of this regulation, the provider or any official or instructor employed by the provider has advertised or promoted the products or services of an affiliated or unaffiliated person.

5. A licensee who is the provider of an approved course is subject to disciplinary action pursuant to the provisions of this chapter or chapter 645B of NRS for any dishonest, fraudulent or improper conduct by the licensee or an instructor of the approved course employed by the licensee, in connection with activities related to the approved course.

Sec. 21. *A provider seeking approval of a computer-based distance education course must:*

1. Submit a complete copy of the course to the Division in the medium to be used and, if requested, the provider must make available, at a date and time satisfactory to the Division and at the provider's expense, all equipment and software necessary to enable the Division to review the course. In the case of an Internet-based course, the provider shall provide the Division with access to the course via the Internet at no charge and at a date and time satisfactory to the Division.

2. Demonstrate to the satisfaction of the Commissioner that the proposed computer-based distance education course satisfies the following requirements:

(a) The course must be designed to ensure that students actively participate in the instructional process by using techniques which require substantial interaction with the instructor, other students or a computer program. If the subject matter of the course is such that the learning objectives for the course cannot be reasonably accomplished without direct interaction between the instructor and the students, the course design must provide for such interaction, which may include items such as frequent quizzes or other forms of computer interaction.

(b) If the course does not provide students with the opportunity for continuous audio and visual communication with the instructor during the presentation of the course, the course must use appropriate testing and remedial processes to ensure mastery of the subject matter of the course by the students.

(c) If the course involves self-paced study, the course must be designed so that the time required for a student of average ability to complete the course is within the number of hours

for which the course is approved and the provider shall use a system which ensures that students have actually performed all tasks designed to ensure participation and mastery of the subject matter of the course by the students.

(d) The proposed methods of instruction used in the course must be appropriate to the proposed learning objectives of the course, and the scope and depth of the instructional materials must be consistent with the proposed learning objectives.

(e) The provider shall provide appropriate technical support to enable students to complete the course satisfactorily.

(f) An approved instructor must be reasonably available to respond within 2 business days to any question asked by a student concerning the subject matter of the course and to direct a student to additional sources of information.

(g) The provider shall provide students with an orientation or information package which contains all information that the Division requires to be provided to students and all necessary information about the course, including, without limitation, information concerning fees and refund policies, subject matter and learning objectives, procedures and requirements for satisfactory completion, any special requirements with regard to computer hardware and software or any other equipment and instructor and technical support. The provider shall make available to students technical support relating to the use of any computer hardware or software, or other equipment or technology needed to complete the course.

(h) The provider shall use procedures which reasonably ensure that a student who receives credit for completing a course actually performed all the work required to complete the course. Upon request by the Division, the provider shall submit evidence of the means used to identify each student and the means to ensure that each student actually performed the work required

to complete the course. If the course involves independent or self-paced study by students, such procedures must include, without limitation, the opportunity for direct contact by the provider with the student at the student's home or place of business via telephone or electronic mail, with a signed statement by the student certifying that the student personally completed all course work. The provider shall retain such signed statements and records of student contact together with all other course records the provider is required to maintain.

Sec. 22. In determining whether to approve a computer-based distance education course pursuant to section 21 of this regulation, the Commissioner may consider:

- 1. The duration of the course.*
- 2. Whether students are required to complete a written examination which is proctored by a person acceptable to the Division or by using a secure electronic method acceptable to the Division.*
- 3. Whether the course is presented by an accredited university or college that offers distance education in other disciplines or whether the course is certified by an organization set forth in NAC 645B.360. For the purposes of this subsection, an organization shall make the following considerations when determining whether to accredit a distance education course:*
 - (a) The mission statement of the provider;*
 - (b) The minimum design of the course and the procedures for updating the course;*
 - (c) The interactivity of the instruction with the students;*
 - (d) Whether the instruction provided in the course teaches a mastery of the course material;*
 - (e) The support services that are available to students;*
 - (f) The medium through which the course is delivered to students;*

(g) A time study of the range of instructional hours for which a course should be approved or accredited;

(h) Whether a complete syllabus or student manual, or both, for all courses or programs is provided in written form and includes accurate and clearly stated information about admissions, progression, completion, criteria, dismissal and any applicable licensing requirements; and

(i) For each course of instruction, whether there is:

(1) At least one learning objective;

(2) A structured learning method to enable the student to achieve each such learning objective;

(3) A method of assessment of the student's performance during the course; and

(4) A method of remediation by which a student who, based on the assessment of the student's performance, has been determined to be deficient in his or her mastery of the course material may repeat the course until the student understands the course material.

Sec. 23. 1. *To receive a certificate of completion for an approved course, a student must:*

(a) Direct his or her attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction;

(b) Refrain from engaging in activities which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class, including, without limitation, the use of text messages, voice pagers, beepers, smartphones and cellular phones; and

(c) Not be absent from the classroom for more than 18 minutes per every 3 hours of instruction, not including break periods.

2. If an instructor denies the award of a certificate of completion to a student who fails to satisfy the conditions set forth in subsection 1, the student may, within 30 days after that denial, file a written request with the Division to review the matter. If the written request contains allegations which, if true, would qualify the student to receive a certificate of completion, the Division shall set the matter for an informal hearing to be conducted as soon as practicable.

Sec. 24. *1. Each approved course and each instructor of an approved course must be evaluated by students on a form prescribed by the Division and provided by the provider during every course offering.*

2. The provider shall:

(a) Arrange for the collection of the completed evaluations by a person other than the instructor of the approved course; and

(b) Mail or deliver copies of the completed evaluations to the Division within 10 working days after the date of the last day of class for the course.

3. The instructor shall provide to each student who successfully completes an approved course a certificate of completion, in a form satisfactory to the Division, indicating that the student has successfully completed the applicable number of hours of instruction which may be used to satisfy the requirements of section 6 or 8 of this regulation.

Sec. 25. NAC 645B.001 is hereby amended to read as follows:

645B.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645B.0105 to 645B.0135, inclusive, and NAC 645B.002 to 645B.008,

inclusive, *and sections 2, 3 and 4 of this regulation* have the meanings ascribed to them in those sections.

Sec. 26. NAC 645B.360 is hereby amended to read as follows:

645B.360 **1.** The Commissioner hereby designates the following organizations to certify courses ~~[of continuing education]~~ for the purposes of NRS *645B.0137*, 645B.051 and 645B.430:

~~[1.]~~ *(a) The Mortgage Bankers Association;*

~~[2.]~~ *(b) The Mortgage Bankers Association of Nevada;*

~~[3.]~~ *(c) The National Association of Professional Mortgage Women [1] or any approved Nevada chapter of the National Association of Professional Mortgage Women;*

~~[4.]~~ *(d) The Nevada Association of Mortgage Brokers;*

~~[5.]~~ *(e) The Real Estate Division of the Department of Business and Industry; ~~and~~*

~~—6.]~~ *(f) The Nevada System of Higher Education [1];*

(g) The Federal National Mortgage Association or its successors or assigns;

(h) The Federal Home Loan Mortgage Corporation or its successors or assigns;

(i) The United States Department of Housing and Urban Development;

(j) The Lied Institute for Real Estate Studies;

(k) The National Association of Mortgage Professionals; and

(l) Any other organization approved by the Commissioner.

2. An organization set forth in subsection 1 is not required to apply for approval as a provider under the provisions of this chapter if:

(a) The course offered by the organization is taught by an officer of the organization or his or her designee; and

(b) The only fee received in relation to the course is from or on behalf of a student enrolled in the course.

Sec. 27. NAC 645B.365 is hereby repealed.

TEXT OF REPEALED SECTION

645B.365 Prerequisites to receipt of credit for course. (NRS 645B.051, 645B.060, 645B.430)

1. To obtain credit for a course of continuing education, the course must be completed not more than 2 years before the date on which the license of the mortgage broker or mortgage agent would otherwise expire pursuant to NRS 645B.051 or 645B.430.

2. A mortgage broker or mortgage agent must complete at least 90 percent of a course to receive credit for continuing education for that course.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R092-09**

The Commissioner of Mortgage Lending adopted regulations which pertain to chapter 645B of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 645B.

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

Copies of the Proposed Permanent Regulation, notice of workshop and notice of intent to act upon the regulation were e-mailed to persons who were known to have an interest in the Proposed Permanent Regulation, as well as any persons who had specifically requested such notice. These documents were also made available at the Division of Mortgage Lending's Web site at www.mld.nv.gov, mailed to the State Library and all county libraries in Nevada, and posted at the Division's offices.

R093-09 is the Proposed Permanent Regulation that will replace temporary regulation T002-09. The Division of Mortgage Lending (Division) adopted T002-09 on March 10, 2009 and filed it with the Nevada Secretary of State on April 15, 2009. Workshops for T002-09 were held in Carson City on July 23, 2008 and in Las Vegas on July 17, 2008. A simultaneous hearing for the intent to adopt T002-09 was held on March 5, 2009.

On August 3, 2009, a workshop on R093-09 was held in Las Vegas, which was simultaneously video-conferenced to Carson City. Minutes of those workshops are attached hereto. The Division submitted R093-09 to the Legislative Counsel Bureau for review on August 4, 2009. Thereafter, on or about September 22, 2009, following receipt of R093-09 from the Legislative Counsel Bureau, the Commissioner of the Division of Mortgage Lending (Commissioner) posted a notice of intent to act upon a regulation for a hearing on October 23, 2009. The Proposed Permanent Regulation incorporated suggestions of interested persons who attended the workshops and hearing for T002-09 and the August 3, 2009 workshop on R093-09, as well as written comments received by the Division. In response to clarification from the Legislative Counsel Bureau related to the authority in statute for the Division to assess fees for class approval, the Division removed all reference to fees for Division approval of courses in R093-09 that were incorporated in T002-09.

A public hearing related to the notice of intent to act upon a regulation is scheduled for October 23, 2009. The hearing will be video-conferenced between Las Vegas and

Carson City. The Division has placed the Proposed Permanent Regulation on the Legislative Commission's October 26, 2009 agenda and submitted the language the Division of Mortgage Lending intends to adopt. Temporary regulation T002-09 will expire on November 1, 2009, pursuant to NRS 233B.063 and inclusion of R093-09 will allow for Commission approval and filing of the Proposed Permanent Regulation prior to the expiration of the temporary regulation. However, the Division will consider any verbal or written comments provided at the hearing, and if changes are necessary, will request removal of the Proposed Permanent Regulation from the Commission's agenda.

A copy of the summary of the public response to the Proposed Permanent Regulation may be obtained from the Division of Mortgage Lending, 7220 Bermuda Road, Suite A, Las Vegas, NV 89119, or by e-mailing a request to jwaltuch@mld.nv.gov.

2. The number of persons who:

	<u>CC</u>	<u>LV</u>
Attended workshop: 8-3-09	8	10
Testified at workshop	2	4
Submitted written comments:	0	

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. In addition, the Division contacted persons offering to provide, or providing education courses related to mortgage lending via e-mail and phone for input on the economic impact of the Proposed Permanent Regulation. The Summary may be obtained in the same manner as instructed in the response to question #1.

The industry comments included:

1. A request to clarify if non-profit organizations offering approved courses were also prohibited from promoting the organization during the course as were unaffiliated parties such as attorneys and loan modification companies.
2. A request to clarify how the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 will affect Nevada education and testing requirements.
3. A comment that the Division should be able to collect fees due to the work entailed in approving a course.
4. Request for clarification as to when courses needed to be approved by the Division.
5. Request for clarification on how instructors received credit for teaching a class and whether they needed to have certificates.
6. Request for clarification on the instructor approval criteria.
7. Discussions on the availability of required courses.

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.

The Proposed Permanent Regulation, as reviewed and revised by the Legislative Counsel Bureau, was submitted to the Legislative Commission on October 5, 2009 for review at the Commission's October 26, 2009 meeting pursuant to NRS 233B.0681 with the exception of the following three changes:

1. Section 2 was revised to now read:

1. "Approved course" means a course of education that has been:

a. Certified by an organization set forth in NAC 645B.360 and has been approved by the Division as a course for initial licensing or continuing education; or

b. Approved by the Registry,

2. For the purpose of this section, Registry" has the meaning ascribed to it in Section 2 of Assembly Bill No. 523 of the 75th Session of the Nevada Legislature.

2. A typo in section 6, subsection 6 was made to change "officer" to "office."

3. The reference to the Registry in section 26(1)(l) was stricken since it is added into section 2.

If at the October 23, 2009 hearing to adopt the Commissioner determines changes are required to the Proposed Permanent Regulation, those changes will be incorporated and re-submitted to the Legislative Commission for consideration at their next meeting.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

Business which it is to regulate:

Both adverse and beneficial effects:

(a) Beneficial effects: The Proposed Permanent Regulation will have a beneficial effect on the mortgage industry by establishing standards for course content and instructor approvals to help ensure relevant, informative classes are offered and taught by experienced, qualified instructors, which will help promote integrity and professionalism in the industry.

(b) Adverse effects: The Proposed Permanent Regulation will have an insignificant adverse economic effect on individual mortgage agents related to costs associated with completion of the required education and the test. The cost related to completion of the required 30 hours of pre-licensing education is approximately \$300; the 10 hours of continuing education is approximately \$100. Additionally, there is a \$50 fee to take the required test offered through the Division approved vendor. However, NRS 645B.0137 and NRS 645B.0138 mandate applicants and licensees complete pre-licensing and

continuing education and successfully pass a test. Continuing education has been required since 2001 and pre-licensing education and testing has been required since 2008.

Economic Effect on the Public:

Both adverse and beneficial effects:

(a) Beneficial effects: NRS 645B.0138 requires the Commissioner to adopt regulations relating to the requirements for courses of continuing education, including, without limitation, regulations relating to the providers and instructors of such courses, records kept for such courses, approval and revocation of approval of such courses, monitoring of such courses and disciplinary action taken regarding such courses. NRS 645B.0137 allows the Commissioner to also adopt regulations related to the written examination/testing requirements. The requirement for applicants to complete pre-licensing and continuing education and demonstrate adequate knowledge by successfully passing a test on state and federal law, ethics and general industry knowledge will help ensure the public is dealing with knowledgeable loan officers for their home loan needs.

(b) Adverse effects: The Proposed Permanent Regulation is not anticipated to have any adverse economic effect on the public.

Both immediate and long-term effects.

The immediate and long term effects are anticipated to be the same and are consistent with #5 for both the industry and the public.

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

The Division provided a fiscal note related to AB 375 indicating there would be no impact related to the Bill. However, since passage of the Bill in 2007, the Division hired an Education Coordinator to administer the education programs for all licensees licensed pursuant to statutes regulated by the Division, including NRS 645B, NRS 645E, NRS 645E and NRS 645F. There is an estimated cost to the Division of approximately \$80,000 to administer the education section within the Division.

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. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act) recognizes the Nationwide Mortgage Licensing System and Registry (Registry) and requires residential mortgage loan originators to obtain a unique identifier number issued by the Registry. Upon any future participation by Nevada with the Registry, applicants for licensure, as well as existing licensees will be required to furnish the Registry with certain information including information related to education. Additionally, the Registry establishes that courses taken for pre-licensing and continuing education must

be approved by the Registry. The Proposed Permanent Regulation includes the Registry as one of the organizations that can certify courses. To that extent, there will be some duplication of information with the federal licensing system (a repository of information) if Nevada joins the Registry. However, licensing requirements, approvals/disapprovals of license applications, enforcement and disciplinary actions continue to remain within the sole province of the Division. The Proposed Permanent Regulation does not otherwise overlap or duplicate any other federal, state or local regulation known to the Division at this time.

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 S.A.F.E. Act established minimum education and testing standards a residential mortgage loan originator must meet to originate residential loans. The S.A.F.E. Act requires 20 hours of pre-licensing education and a test and 8 hours of continuing education. The Proposed Permanent Regulation requires 30 hours of pre-licensing education and a test and 10 hours of continuing education; however, the Proposed Permanent Regulation meets all required course subject matter required by the S.A.F.E. Act. Accordingly, the Proposed Permanent Regulation is more stringent than the federal law's criteria for the same activity.

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.

There are no new fees related to the Proposed Permanent Regulation.

10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What did the agency use in determining the impact of the regulation on a small business?

The Proposed Permanent Regulation is not anticipated to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

To evaluate the economic burden of the Proposed Permanent Regulation on a small business, the Division contacted small businesses which may be impacted by the Proposed Permanent Regulation and reviewed the proposed language in the regulation. Temporary regulation T002-09 included a fee for course approval. However, all Division imposed fees were removed from the Proposed Permanent Regulation eliminating any economic effect on small businesses that are now offering or wish to offer courses of pre-licensing or continuing education. Additional discussions related to potential impact to small business were solicited at the August 3, 2009 workshop.