

Chapter 645B of NAC

LCB File No. T002-09

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

**Filed with the Secretary of State on April 15, 2009**

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

AUTHORITY: §§1-3 and 7-23, NRS 645B.0137, 645B.0138, 645B.051 and 645B.430; §§4 and 5, NRS 645B.0137; §§6 and 24, NRS 645B.0138, 645B.051 and 645B.430.

A REGULATION relating to licensing; providing course requirements for licensure of mortgage brokers and mortgage agents; establishing qualifications of providers of such courses; establishing qualifications of instructors of such courses; providing course standards; 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 22, inclusive, of this regulation.

**Sec. 2.** *As used in NAC 645B.360 and sections 2 to 22, inclusive, of this regulation:*

*1. “Approved course” means a course of education that has been certified by an organization listed in NAC 645B.360 and has been approved by the Division as a course for initial licensing or continuing education.*

*2. “Hour of instruction” means 50 minutes of instruction or more. Fifteen hours of instruction is equal to one semester credit.*

*3. “Provider” includes:*

*(a) 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.*

*(b) Any professional school or college licensed by the Commission on Postsecondary Education.*

*(c) 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 any other state.*

*(d) Any organization listed in NAC 645B.360.*

*(e) Any professional school that meets the requirements relating to course content and relevance to the industry as set forth by any of the organizations listed in NAC 645B.360.*

*(f) Any person or entity approved by the Division.*

**Sec. 3.** *The following subjects are approved as course material for initial licensing and continuing education:*

1. *Federal laws and regulations relating to mortgage lending, including subprime lending and other non-traditional mortgage products.*
2. *The provisions of:*
  - (a) *Chapter 598D of NRS governing unfair lending practices;*
  - (b) *Chapter 645A of NRS governing escrow agencies and agents;*
  - (c) *This Chapter and Chapter 645B of NRS governing mortgage brokers and mortgage 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. 4.** *1. Except as otherwise provided in section 5 of this regulation, 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 3 of this regulation. Except as otherwise provided in subsections 5 and 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 shall include instruction on fraud, consumer protection, and fair lending issues;*
  - (b) *Twelve hours of federal law and regulations relating to mortgage lending including two hours of training related 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 agent or mortgage broker must provide to the Division a certificate 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.*

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

**Sec. 5.** *1. An applicant for an initial license as a mortgage broker or mortgage agent may take an examination in lieu of completing the 30 hours of instruction required by section 4 of this regulation.*

*2. The applicant must pass the examination which is 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 pursuant to section 3 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, will 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. 6.** *1. A licensee must complete at least 10 hours of certified courses of continuing education during the 12 months immediately preceding the date on which the license expires. A course of continuing education must focus on the practical application of mortgage lending transactions and except as provided in subsection 4 may not repeat the course content taken for the immediately preceding license renewal period.*

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

- (a) Two hours of professional ethics at least biennially, which shall include instruction on fraud, consumer protection and fair lending issues;*
- (b) Two hours of training related to subprime lending and other non-traditional 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. 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 prior year.*

**Sec. 7.** *Except as otherwise provided in NAC 645B.360, a provider that wishes to offer courses to meet the educational requirements for licensure or continuing education under Chapter 645B of NRS must apply to the Commissioner prior to offering any approved courses and annually thereafter on or before December 31 for approval on a form prescribed by the Division and pay any applicable fee. The application must include, without limitation:*

- 1. The name and address of the provider;*
- 2. The type of provider and a description of its facilities;*
- 3. Any information requested by the Division concerning the ownership of the provider, including the business organization and the names and addresses of all directors, principals, officers and others having interests as owners;*
- 4. A list of the instructors;*
- 5. A list of the courses to be offered and a topical syllabus for each;*
- 6. The allotment of time for each subject;*
- 7. A tentative schedule of courses for 1 year;*
- 8. The titles, authors and publishers of all required textbooks;*
- 9. A copy of each examination to be used and the correct answer for each question;*
- 10. A statement of:*

- (a) The purpose of the provider;*
- (b) The fees to be charged;*
- (c) The days, times and locations of classes;*
- (d) The number of quizzes and examinations;*
- (e) The grading systems, including the methods of testing and standards of grading;*
- (f) The requirements for attendance; and*
- (g) The location of the students' records.*

*11. A statement as to whether the provider or any instructor employed by the provider has been disciplined by any governmental agency in this or any other state; and*

*12. A statement that education courses will not be provided free of charge as an inducement for students or their employers to utilize the services of the provider for any mortgage-related activities.*

**Sec. 8.** *1. A provider approved by the Commissioner to offer courses to meet requirements for licensure or continuing education under Chapter 645B of NRS shall maintain a record of each student's attendance and certification in any of those courses for 4 years after his enrollment and shall have such records open to inspection by the Division, upon its request, during the provider's business hours.*

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

**Sec. 9.** *1. Within 15 days after the occurrence of any material change in the information provided by the provider in its application pursuant to section 7 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 before December 31, 2009, and annually thereafter:*

*(a) A written certification, in a form prescribed by the Division, declaring that the provider has met all applicable requirements of this Chapter;*

*(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; and*

*(c) Payment of any applicable fee for each course for which renewal is being sought.*

*3. The Commissioner may deny renewal of approval to any provider that does not meet the standards required by this Chapter.*

*4. Within 60 days after a decision is made to deny renewal of approval, the Commissioner will give written notice of the decision and the basis for that decision by certified mail to the last known address of the provider.*

**Sec. 10.** *A provider approved by the Commissioner shall not make any misrepresentation in its advertising about any course of instruction which it offers to fulfill requirements for licensing or continuing education under this Chapter.*

**Sec. 11.** *A provider that conducts courses approved by the Commissioner:*

*1. May employ as instructors of those courses only persons who meet the qualifications set forth in section 12 of this regulation.*

*2. Shall limit guest lecturers who are experts in the related fields, excluding Division personnel, to 25 percent of the total instructional hours 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 course as a condition of receiving certification for the course.*

*5. Shall certify the completion of only the number of hours for which the course has been approved by the Commissioner. A portion of a course does not satisfy the requirements for certification.*

*6. Shall update its course materials no less frequently than annually to reflect changes in the law and the marketplace.*

*7. Shall not allow a student to pass a 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 conducted by the provider to meet the requirements for licensing or continuing education under this Chapter.*

*8. Shall admit authorized personnel of the Division or its designee to audit and evaluate the presentation of the course without prior notice by the Division or cost to the Division.*

*9. Shall not present a course for the main purpose of selling products or services and shall limit the announcement of products or services during the 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 5 multiple-choice questions per instructional hour.*

*11. Shall not allow a student to pass an examination without the student having achieved a passing score of 75 percent or better.*

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

**Sec. 12.** *1. An instructor must have written approval from the Division before teaching an approved course.*

*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 or any other state.*

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

*(a) He 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 he will be providing instruction;*

*(2) Teaching experience of at least 75 hours in the field in which he will be providing instruction within the 3 years immediately preceding the date of his 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 in which he 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 he will be providing instruction;*

*(b) He has a good reputation for honesty, integrity and trustworthiness; and*

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

*5. 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 his application for approval as an instructor.*

*6. If the applicant files a timely appeal, the Commissioner will, as soon as practicable, hold a hearing concerning the denial of the application for approval as an instructor and will:*

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

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

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

*7. The Division shall periodically review and evaluate each approved instructor.*

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

**Sec. 13.** *1. The Division may withdraw the approval of an instructor who:*

*(a) Does an inadequate job of teaching the subject matter of a 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 or any other state;*

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

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

*2. Before withdrawing approval of the instructor of a course, the Division must notify the provider of its intent to withdraw approval of the instructor. The notice must include the specific reasons upon which the Division is basing its decision to withdraw the approval of the instructor. 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 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 will undertake. After the 30-day period has elapsed, the Division shall review the notice and any response submitted by the provider and shall:*

*(a) Withdraw 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 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 course taught by the instructor by certified mail, return receipt requested, to the provider's last known business address.*

*3. If the Division withdraws approval of an instructor, the Division shall 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 instructor.*

*4. The provider may appeal the decision of the Division to withdraw approval of an 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.*

*5. If the provider files a timely appeal, the Commissioner will, as soon as practicable, hold a hearing concerning the withdrawal of approval of the instructor and will:*

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

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

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

**Sec. 14. 1. An instructor 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 course is taught according to the course plan and instructor guide that was approved by the Commissioner, including the furnishing to students of appropriate student materials.*

*2. An instructor shall conduct himself in a professional and courteous manner when performing his 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 utilize illustrative examples as appropriate and to respond appropriately to questions from students;*

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

*(c) The ability to utilize 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. 15. 1. A course must:**

*(a) Be approved annually by the Division;*

*(b) Be certified annually by an organization listed 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 licensing or continuing education:*

*(a) Courses designed to develop or improve clerical, office or business skills that are not related to the activities described in Chapter 645B of NRS, such as typing, shorthand, operation of business machines, the use of computers or computer software, improvement of memory, or writing of letters and reports;*

*(b) Business courses in advertising or psychology;*

*(c) Courses designed to motivate an individual or to develop the self-image of an individual;*

*(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 will not approve more than seven full hours of credit per day of instruction. Of the seven hours, the Division will approve a maximum of one full hour of credit for a student to complete an examination required pursuant to section 11.*

**Sec. 16.** *1. An application for the approval of a course must:*

*(a) Be submitted to the Division on a form provided by the Division; and*

*(b) Include a copy of:*

*(1) The certification of the course by an organization listed in NAC 645B.360; and*

*(2) The approval of the instructor by an organization listed in NAC 645B.360.*

*2. The Division will not grant retroactive approval of a course.*

*3. If a course offered by a provider that is a professional organization has been approved for continuing education, the sponsor shall not restrict attendance at the course to only members of that organization.*

*4. Any advertising, promotional brochure or form for registration for a course must contain, in writing, the policy of the provider concerning cancellations and refunds.*

**Sec. 17.** *1. A person who requests approval of a distance education course must demonstrate to the satisfaction of the Commissioner that the proposed distance education course satisfies the following requirements:*

*(a) The course must be designed to ensure that students actively participate in the instructional process by utilizing 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 utilize testing and remedial processes appropriate 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 utilize 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 questions asked by students concerning the subject matter of the course and to direct students 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 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 utilize procedures which reasonably ensure that a student who receives credit for completing the 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 business via the telephone or electronic mail and a signed statement by the student certifying that he 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 must maintain.*

*2. A provider seeking approval of a computer-based distance education course must submit a complete copy of the course to the Division in the medium to be used and, if requested, 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 at a date and time satisfactory to the Division.*

*3. In determining whether to approve a distance education course pursuant to this section, the Commissioner may consider:*

*(a) The duration of the course;*

*(b) Whether students are required to complete a written examination proctored by a person acceptable to the Division or by using a secure electronic method acceptable to the Division; and*

*(c) 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 listed in NAC 645B.360. For the purposes of this paragraph, an organization must use the following considerations when making its determination on whether to accredit a distance education course:*

*(1) The mission statement of the provider;*

- (2) *The minimum design of the course and the procedures for updating the course;*
- (3) *The interactivity of the instruction with the students;*
- (4) *Whether the instruction provided in the course teaches mastery of the course material;*
- (5) *The support services that are available to students;*
- (6) *The medium through which the course is delivered to students;*
- (7) *A time study of the range of instructional hours for which a course should be approved or accredited;*
- (8) *For each course of instruction, whether there is:*
  - (I) *At least one learning objective for the course;*
  - (II) *A structured learning method to enable the student to achieve each such learning objective;*
  - (III) *A method of assessment of the student's performance during the course;*
- and*
- (IV) *A method of remediation pursuant to which a student who, based on the assessment of his performance, has been determined to be deficient in his mastery of the course material may repeat the course until the student understands the course material; and*
- (9) *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.*

**Sec. 18.** *1. To receive a certificate of completion for an approved course, a student must:*

- (a) *Direct his 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 and telephones; 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 applicant to receive a certificate of completion, the Division shall set the matter for an informal hearing to be conducted as soon as practicable.*

**Sec. 19.** *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 last day of class for the course.*

*3. In addition, the provider shall provide the student a certificate of completion, in a form satisfactory to the Division, indicating that the student has successfully completed the hours of instruction required pursuant to sections 4 and 6.*

**Sec. 20.** *1. A provider must apply annually for renewal of approval of a course on a form provided by the Division and pay any applicable renewal fee. An application for renewal must be filed at least 5 weeks before the previous approval expires. If the provider does not timely file the application for renewal and pay any applicable renewal fee, the provider must apply for an original approval as provided in Section 7.*

*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 requested which is 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 and conditions is a ground for the Commissioner to withdraw or refuse to renew the approval of a course:*

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

*(b) The violation of any provision of this Chapter 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 the 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 incorrect 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) The provider has remitted to the Commissioner in payment for required fees a check which was dishonored by a bank.*

*(i) An instructor employed by the provider of an approved course fails to conduct approved courses in a manner that demonstrates possession of the teaching skills described in this Chapter.*

*(j) 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 courses, 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 related to licensing or certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities.*

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

*(l) 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 due.*

*5. A licensee who is the provider of an approved course is subject to disciplinary action pursuant to this Chapter 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.** *1. If the Division determines, whether pursuant to an audit or otherwise, that an approved course does not meet the standards for such a course set forth in this Chapter, the Division shall notify the provider of its intent to withdraw approval of the course. The notice must include the specific reasons upon which the Division is basing its 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 shall 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 shall 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 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.*

*4. If the provider files a timely appeal, the Commissioner will, as soon as practicable, hold a hearing concerning the withdrawal of approval of the course and will:*

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

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

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

**Sec. 22.** 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 *or any approved Nevada Chapter of this organization;*

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

- ~~5.~~ (e) The Real Estate Division of the Department of Business and Industry; ~~and~~  
~~6.~~ (f) *The Nevada System of Higher Education* ~~;~~;  
(g) *The Federal National Mortgage Association, its successors and/or assigns;*  
(h) *The Federal Home Loan Mortgage Corp., its successors and/or assigns;*  
(i) *The Department of Housing and Urban Development* ~~;~~;  
(j) *The Lied Institute for Real Estate Studies;*  
(k) *The National Association of Mortgage Brokers; and*  
(l) *Any other organization approved by the Commissioner.*

*2. An organization listed in subsection 1 is not required to apply for approval as a provider pursuant to section 7 of this regulation so long as:*

- (a) The course offered by the organization is taught by an officer of the organization or his designee; and*  
*(b) The only fee received in relation to the course is from or on behalf of the student enrolled in the course.*

**Sec. 23.** 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.

*Sec. 24. For purposes of section 2(1), an approved course will not require approval of the Division until 6 months after the effective date of this regulation. Approved courses will be subject to annual renewal requirements. Upon the effective date of this regulation, an approved course will require certification by an organization listed in NAC 645B.360.*

*Sec. 25. For purposes of sections 4 and 6, an applicant or licensee shall be given credit for courses completed no later than one month after the effective date of this regulation if the courses meet the then existing criteria under applicable provisions of Chapter 645B of NAC.*

*Sec. 26. For purposes of section 7, a provider must obtain approval of the Division within 6 months of the effective date of this regulation.*

*Sec. 27. For purposes of section 12, an instructor must have approval from the Division within 6 months of the effective date of this regulation to teach an approved course after such date.*

*Sec. 28. All other sections of this regulation are effective upon filing with the Secretary of State.*

**NOTICE OF ADOPTION OF TEMPORARY REGULATION  
LCB File No. T002-09**

The Department of Business and Industry, Division of Mortgage Lending adopted regulations assigned LCB File No T002-09, which pertain to Chapter 645B of the Nevada Administrative Code on March 10, 2008. A copy of the temporary regulation as adopted is attached hereto.

**INFORMATIONAL STATEMENT**

**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 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 regulations, 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 [www.mld.nv.gov](http://www.mld.nv.gov), mailed to the State Library and all county libraries in Nevada, and posted at the Division's offices.

Workshops were held in Las Vegas on July 16, 2008, and in Carson City on July 22, 2008. Minutes of those workshops are attached hereto. Public comment was offered at the workshop. Thereafter, on or about January 16, 2009, the Commissioner of the Division of Mortgage Lending (Commissioner) posted a Notice of Intent to Act Upon a Temporary Regulation, which incorporated in the proposed amendments suggestions of the parties attending the July workshops as well as the written comments received by the Division.

A public hearing on the proposed regulation was held on March 5, 2009. The hearing was video-conferenced between Las Vegas and Carson City. Minutes of the hearing and workshop are attached hereto and include summaries of the public comment.

A copy of the summary of the public response to the proposed 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](mailto:jwaltuch@mld.nv.gov).

**2. The number of persons who:**

	<u>CC</u>	<u>LV</u>
Attended workshop: 7-17-08	21	
7-23-08	5	
Testified at workshop	1	10
Submitted written comments:	1	1
Attended hearing 3-5-09:	5	6
Testified at Hearing	5	6



Submitted written comments: 6 4

**3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation 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 to the e-mail notice described in question 1, which was sent to all company licensees, the Division sent an additional e-mail two days prior to the hearing as a reminder. The Summary may be obtained in the same manner as instructed in the response to question #1.

The industry comments included:

1. Concerns that there might not be a sufficient number of live courses in order to meet the requirement that at least 50% of the 10 hours of continuing education be live education.
2. Request that licensees be given the option of taking live or online/distance education
3. Request that the Division approve education courses already certified by other state regulator divisions.
4. Request that credits in excess of 10 hours of continuing education be allowed to roll-over to the next renewal period.
5. Request that the Division be allowed to approve education courses already approved by other state divisions.
6. Request that portions of a course may satisfy the requirements for certification.
7. Request that, if the Division disallows an instructor, Commissioner set a deadline (specific number of days) within which a hearing will be held.
8. Request that courses may be approved retroactively.
9. Request that the Commissioner or the Division be allowed to approve courses without the necessity of initial course certification by a NAC 645B.360 certifying organization/entity.
10. suggestion that courses on subprime lending and non-traditional mortgage products be optional rather than mandatory.
11. Request that live education be required for mortgage agents, only.
12. Request that any licensee who has held a license for 25 years be exempt from education requirements.
13. Comments that mortgage brokers should not be required to certify on their broker renewal application that all of his mortgage agents have met the education-test requirements.
14. Comments that the \$100.00 fee to be charged to the education provider for original accreditation of a continuing education course and \$50.00 fee for renewal of course accreditation are excessive and would impose a direct and significant economic burden on education providers as well as comments that the fees would not impose a direct and significant economic burden on education providers.

**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 temporary regulation, as posted for hearing, was adopted on March 10, 2009 as proposed with the exception of following changes, which were incorporated in consideration of comments submitted during the hearing:

- a. Sec. 4, subsections 5 & 6 were added to allow applicants for licensure who reside in rural areas the option to complete pre-licensing education through distance education, rather than the required 15 hours of live instruction required for applicants who reside in non-rural areas.
- b. Sec. 6, sub-sections 3, 4 & 5 were stricken to allow licensees the option to complete all 10 hours of required continuing education hours through distance education, rather than the proposed requirement to have 5 hours of live instruction. Additionally in Sec. 6, the words, “or successive” were added to the new numbered sub-section 3 to allow clarification and consistency with the new numbered sub-section 4.
- c. Sec. 11, in sub-section 10, the proposed examination questions requirement per hours of instruction was reduced from 15 questions per hour of instruction to 5 questions.
- d. Sec. 12, a typo in sub-section 8 was changed from the word “licensee’s” to “instructor’s”.

Additional changes were incorporated into the posted proposed language from comments offered at the workshop and through written comment.

**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 & the public:**

**(1) Both adverse and beneficial effects:**

**(a) Beneficial effects:** NRS 645B.0137 & .0138 require the Division’s commissioner to adopt regulations that provide education course or testing requirements for the licensure of mortgage brokers and mortgage agents, as well as establish course standards and qualifications of providers and instructors of such courses.

The regulations establish these guidelines to help ensure individuals conducting mortgage activity receive prescribed pre-licensing education or testing as well as continuing education to better serve their clients.

**(b) Adverse effects:** Applicable fees will place an insignificant economic burden on an education provider (\$100.00 for the original accreditation of a continuing education course and \$50.00 for renewal of course accreditation). Affected licensees will incur tuition and/or test registrations costs related to compliance with NRS 645B.0137.

**(2) Both immediate and long-term effects.**

The immediate and long term effects are anticipated to be the same and are consistent with #5 (1) (a).

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

There is an estimated \$80,000 annual cost to the Division to administer the education section.

**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 regulation does overlap the Federal Housing and Economic Recovery Act of 2008, signed into law on July 30, 2008 (Public Law 110-289), which includes The Secure and Fair Enforcement for Mortgage Licensing Act of 2008, (S.A.F.E. Act). The S.A.F.E. Act requires licensing of all residential mortgage loan originators through the Nationwide Mortgage Licensing System and Registry (NMLS), or comparable system and includes education requirements. The US Department of Housing and Urban Development enforces the above Acts.

An applicant will be required to furnish to NMLS certain information. To that extent, there will be some duplication of information with the federal licensing system (a repository of information). However, licensing requirements, approvals/disapprovals of license applications, enforcement and disciplinary actions continue to remain within the sole province of the Division. Additionally, states are not restricted from instituting guidelines which exceed those prescribed within the S.A.F.E. Act related to licensing standards or education requirements.

**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 regulation is more stringent than the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (“Act”). The act requires loan originators to complete 20 hours of pre-licensing education, rather than the prescribed 30 hours in the regulation. The Act further requires state licensed loan originators to complete at least 8 hours of education, rather than the prescribed 10 hours in the regulation.

The Act also requires that courses of education, for purposes of compliance with the Act, be reviewed and approved by the Nationwide Mortgage Licensing System and Registry.

**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.**

The regulation includes provisions to collect a fee for initial approval of a course of instruction, as well as a fee for annual renewal. The Division intends to collect \$100.00 for original accreditation of a continuing education course and \$50.00 for renewal of course accreditation. The fees are consistent with the fees charged by the State of Nevada Real Estate Division for course approval.

The Division estimates they will receive 150 to 200 initial course submissions upon filing of the regulation, which will then be subject to annual renewal. It is anticipated fewer than 100 initial submissions for course approval will be received after the first effective year of the regulation. The funds generated through the fees will be applied to costs associated with administering the education section of the Division.

**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 Commissioner has determined through a review of the language of the Regulation, and opportunity for comment at the workshop and written submissions, that the regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business.

The Division contacted education providers via e-mail and phone, e-mailed the proposed regulation to the education providers and requested that they review and respond to the same. The responses to the Proposed Regulation were discussed prior to and during the workshop and suggested changes were considered in an attempt to reduce the impact on small businesses affected by the Proposed Regulation