

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

LCB File No. R035-10

Effective July 22, 2010

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

AUTHORITY: §§1, 3, 13, 14, 17, 20, 21, 23 and 44, NRS 645B.060; §§2, 4, 5-12, 15, 16, 19, 22, 24-26, 33, 36 and 45-47, NRS 645B.060, 645F.292 and 645F.293; §18, NRS 645B.060, 645F.275, 645F.292 and 645F.293; §27, NRS 645B.021, 645B.060, 645F.292 and 645F.293; §28, NRS 645B.060, 645B.095, 645F.292 and 645F.293; §29, NRS 645B.050, 645B.060 and 645F.280; §30, NRS 645B.060 and 645B.115; §31, NRS 645B.060, 645B.189, 645F.292 and 645F.293; §32, NRS 645B.060, 645B.410, 645B.450, 645F.292 and 645F.293; §§34 and 38-43, NRS 645B.0137, 645B.0138, 645B.060, 645F.292 and 645F.293; §35, NRS 645B.016, 645B.060, 645F.292 and 645F.293; §37, NRS 645F.255, 645F.292, 645F.293 and 645F.390.

A REGULATION relating to mortgages; providing certain requirements related to independent contractors, including, without limitation, loan processors and underwriters; providing various requirements related to the unique identifier of a residential mortgage loan originator; establishing a method for a person with a license to change an electronic mail address; providing certain requirements related to residential mortgage loan originators and real estate brokerage activities; providing for certain interaction with the Nationwide Mortgage Licensing System and Registry, including, without limitation, the sharing of information with the Registry; providing various requirements related to the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; providing certain requirements related to procedures, terms and deadlines related to the issuance, maintenance, renewal and reinstatement of a license as a mortgage broker or mortgage agent; providing various requirements related to exemptions and certificates of exemption; requiring a surety bond for certain persons; providing an application for a corporate office; revising requirements for maintaining certain records; revising the timing of the payment of various fees; revising certain requirements related to advertising; revising various requirements related to initial education courses, continuing education, and written tests; 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. 1. *“Loan processor or underwriter” means a natural person who performs clerical or support duties at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under chapter 645B or 645E of NRS.*

2. *As used in this section, “clerical or support duties” has the meaning ascribed to it in section 1503(4)(B) of the S.A.F.E. Mortgage Licensing Act.*

Sec. 3. *“Nontraditional mortgage product” means any mortgage product other than a 30-year fixed rate mortgage.*

Sec. 4. *“S.A.F.E. Mortgage Licensing Act” means the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Public Law 110-289, 122 Stat. 2654, Title V, July 30, 2008.*

Sec. 5. *“Unique identifier” means a number or other identifier assigned by protocols established by the Registry.*

Sec. 6. *For the purposes of NRS 645B.0132, the term “mobile home,” as used in the definition of “dwelling” in 15 U.S.C. § 1602(v), is interpreted to include a manufactured home or a trailer if that trailer is used or expected to be used as a residence.*

Sec. 7. 1. *Except if the natural person is an independent contractor who complies with the requirements of section 15 of this regulation, a natural person who is a loan processor or underwriter and who does not represent to the public, through advertising or other means of communicating or providing information, that the natural person can or will perform any of the activities of a loan originator is not required to be licensed as a mortgage agent.*

2. *For the purposes of this section, “represent to the public” means to communicate through:*

(a) *Advertising, including, without limitation, a promotional item or business card; or*

(b) Other means of providing information, including, without limitation, the use of stationery, brochures, signs or rate lists.

Sec. 8. *The unique identifier of any person originating a residential mortgage loan must be clearly shown on all residential mortgage loan application forms, solicitations or advertisements, including, without limitation, a website or a business card, and any other documents as established by law, regulation or order of the Commissioner.*

Sec. 9. *If a person licensed pursuant to chapter 645B of NRS who provided an electronic mail address to the Division wishes to change that address, the person shall make the change and notify the Division through the Registry.*

Sec. 10. 1. *As used in NRS 645B.01325, the term “residential mortgage loan originator” is interpreted not to include a person or entity which only performs real estate brokerage activity and which is licensed or registered in accordance with Nevada law, unless the person or entity is compensated by a lender, mortgage broker, mortgage banker or other residential mortgage loan originator or by any agent of such lender, mortgage broker, mortgage banker or other residential mortgage loan originator.*

2. *As used in this section, “real estate brokerage activity” has the meaning ascribed to it in section 1503(3)(D) of the S.A.F.E. Mortgage Licensing Act.*

Sec. 11. *When an applicant or person licensed pursuant to chapter 645B of NRS is required to submit information or pay fees to the Division, the Commissioner may:*

1. *Require the applicant or person to submit the information or pay the fees directly to the Division or to the Division through the Registry; and*

2. Require the applicant or person to submit extra copies of the information, including, without limitation, a set of the applicant's or person's fingerprints and written consent to an investigation of his or her credit history.

Sec. 12. *Each applicant for a license issued pursuant to chapter 645B of NRS:*

1. Shall comply with any applicable federal or state law or regulation, including, without limitation:

(a) The provisions of the S.A.F.E. Mortgage Licensing Act and any regulation adopted pursuant thereto; and

(b) Any applicable requirement pursuant to chapter 645B, 645E or 645F of NRS or any regulation adopted pursuant thereto, including, without limitation, any applicable requirement relating to:

(1) A bond; or

(2) A license for a loan processor or underwriter who is an independent contractor; and

2. Must be licensed with the Division through the Registry.

Sec. 13. *1. Pursuant to subsection 3 of NRS 645B.020, the Commissioner will not issue a license as a mortgage broker unless the requirements of that subsection have been fulfilled.*

2. For the purposes of subparagraph (1) of paragraph (b) of subsection 3 of NRS 645B.020, factors considered in determining whether a person has demonstrated financial responsibility include, without limitation:

(a) Whether the person's personal credit history indicates any adverse material items, including, without limitation, liens, judgments, disciplinary action, bankruptcies, foreclosures or failures to comply with court-approved payment plans;

(b) The circumstances surrounding any adverse material items in the person's personal credit history; and

(c) Any instance of fraud, misrepresentation, dishonest business practices, the mishandling of trust funds or other types of comparable behavior.

3. For the purposes of subparagraph (2) of paragraph (b) of subsection 3 of NRS 645B.020, the Commissioner will not consider a person to have been convicted or entered a plea of guilty or nolo contendere if the conviction or plea has been pardoned or vacated.

4. For the purposes of subparagraph (4) of paragraph (b) of subsection 3 of NRS 645B.020, a license shall not be considered to be revoked or suspended if the revocation or suspension was subsequently vacated.

Sec. 14. *1. Pursuant to subsection 3 of NRS 645B.410, the Commissioner is not required to and will not issue a license as a mortgage agent unless the requirements of that subsection have been fulfilled.*

2. For the purposes of subparagraph (1) of paragraph (b) of subsection 3 of NRS 645B.410, a person shall not be considered to have been convicted or entered a plea of guilty or nolo contendere if the conviction or plea has been pardoned or vacated.

3. For the purposes of subparagraph (2) of paragraph (b) of subsection 3 of NRS 645B.410, a license shall not be considered to be revoked or suspended if the revocation or suspension was subsequently vacated.

4. For the purposes of subparagraph (5) of paragraph (b) of subsection 3 of NRS 645B.410, a person has not demonstrated financial responsibility if the person's personal credit history indicates any lien, judgment or disciplinary action which results from fraud, misrepresentation, dishonest business practices or the mishandling of trust funds.

Sec. 15. *Unless otherwise specifically prohibited by federal law and pursuant to section 1504(b)(2) of the S.A.F.E. Mortgage Licensing Act, an independent contractor may not engage in the activities of a residential mortgage loan originator as a loan processor or underwriter unless such independent contractor is licensed as a mortgage agent.*

Sec. 16. *Unless otherwise specifically prohibited by federal law and pursuant to the S.A.F.E. Mortgage Licensing Act, any person exempt from licensing pursuant to the provisions of chapter 645B of NRS may file a written application for a certificate of exemption with the Office of the Commissioner for the purposes of fulfilling the requirements of the S.A.F.E. Mortgage Licensing Act, including, without limitation, for the purposes of:*

- 1. Registering with the Registry, but such registration does not affect the exempt status of the person;*
- 2. Sponsoring a mortgage agent;*
- 3. Fulfilling any bonding requirements related to an associated mortgage agent; or*
- 4. Fulfilling reports of condition requirements.*

Sec. 17. *The Commissioner may only reinstate a mortgage agent's license pursuant to subsection 2 of NRS 645B.430 if, within 2 months after the date on which the license expired, the mortgage agent:*

- (a) Submits the items described in subsection 2 of NRS 645B.430; and*
- (b) Completes any unfulfilled requirements related to the license.*

Sec. 18. *1. Except as otherwise provided in this section, a mortgage agent or mortgage broker shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada which is in the amount set forth in this section and is executed by a corporate surety satisfactory to the Commissioner.*

2. If a mortgage agent is an employee of, or is associated with, a mortgage broker subject to the provisions of chapter 645B of NRS or a mortgage banker subject to the provisions of chapter 645E of NRS, the surety bond of the mortgage broker or mortgage banker may be used to fulfill the mortgage agent's individual surety bond requirement so long as the surety bond of the mortgage broker or mortgage banker:

(a) Expressly covers the mortgage agent as a principal; and

(b) Names the mortgage broker or mortgage banker as a principal and names all mortgage agents employed by or associated with the mortgage broker or mortgage banker as principals, either by individual name or as a group, such as "All Employed or Associated Mortgage Agents."

3. A bond deposited pursuant to this section must be in substantially the following form:

Know All Persons by These Presents, that, as principal, and, as surety, are held and firmly bound unto the State of Nevada for the use and benefit of any person who suffers damages because of a violation of any provision of chapter 645B, 645E or 645F of NRS or any regulation adopted pursuant thereto, in the sum of, lawful money of the United States, to be paid to the State of Nevada for such use and benefit, for which payment well and truly to be made, and that we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of that obligation is such that:

Whereas, the principal has been issued a license as a mortgage agent, mortgage broker or mortgage banker by the Commissioner of Mortgage Lending and is required to furnish a bond, which is conditioned as set forth in this bond:

Now, therefore, if the principal, and the principal's agents and employees, strictly, honestly and faithfully comply with the provisions of chapters 645B, 645E and 645F of NRS and any regulation adopted pursuant thereto, and pay all damages suffered by any person because of a violation of any provision of chapter 645B, 645E or 645F of NRS or any regulation adopted pursuant thereto or by reason of any fraud, dishonesty, misrepresentation or concealment of material facts growing out of any transaction governed by the provisions of chapter 645B, 645E or 645F of NRS or any regulation adopted pursuant thereto, then this obligation is void; otherwise it remains in full force.

This bond becomes effective on the (day) of (month) of (year), and remains in force until the surety is released from liability by the Commissioner of Mortgage Lending or until this bond is cancelled by the surety. The surety may cancel this bond and be relieved of further liability hereunder by giving 60 days' written notice to the principal and to the Commissioner of Mortgage Lending.

In Witness Whereof, the seal and signature of the principal hereto is affixed, and the corporate seal and the name of the surety hereto is affixed and attested by its

*authorized officers at, Nevada, this (day) of (month) of
..... (year).*

..... (Seal)

Principal

..... (Seal)

Surety

By

Attorney-in-fact

.....

Licensed registered agent

4. The required amount of the surety bond that complies with the provisions of this section is calculated by the Commissioner by determining the annual loan production amount for the person or persons covered under the bond, and:

(a) In the case of an initial surety bond, the expected annual loan production is determined by an estimate of the Commissioner; and

(b) After the deposit of an initial surety bond, the expected annual loan production is based upon the annual loan production in the previous year.

5. The surety bond amounts will be set and adjusted as necessary annually by the Division in accordance with the following scale:

Annual Loan Production

Bond Amount Required

\$20,000,000 or less.....\$50,000

Greater than \$20,000,000.....\$75,000

6. The procedure regarding cancellation of a bond is as follows:

(a) A surety may cancel a bond upon giving 60 days' notice to the Commissioner by certified mail;

(b) Upon receipt by the Commissioner of notice, the Commissioner will immediately notify the mortgage agent or mortgage broker who deposited the bond:

(1) Of the effective date of the cancellation; and

(2) That the license of the mortgage agent or mortgage broker will be revoked unless the mortgage agent or mortgage broker furnishes an equivalent bond before the effective date of the cancellation;

(c) The notification by the Commissioner must be sent to the mortgage agent or mortgage broker by certified mail to the last address of record filed in the office of the Division; and

(d) If the mortgage agent or mortgage broker does not comply with any requirements set out in the notification from the Commissioner, the license of the mortgage agent or mortgage broker must be revoked on the date the bond is cancelled.

7. Any person:

(a) May claim against a bond by bringing an action in a court of competent jurisdiction on the bond for damages to the extent covered by the bond, but an action may not be commenced after the expiration of 3 years following the commission of the act on which the action is based; and

(b) Who claims against a bond shall notify the Commissioner in writing by certified mail upon filing the action.

8. Upon receiving a request from a person for whose benefit a bond is required, the Commissioner will notify the person:

(a) That a bond is in effect and the amount of the bond; and

(b) If there is an action against the bond, of the title of, the court and case number of, and the amount sought in that action.

9. If a surety wishes to make payment without awaiting action by a court:

(a) The amount of the bond must be reduced to the extent of any payment made by the surety in good faith under the bond; and

(b) Any payment must be based on written claims received by the surety before any action is taken by a court.

10. A surety may bring an action for interpleader against all claimants upon the bond, and if the surety brings an action, the surety:

(a) Shall publish notice of the action at least once each week for 2 weeks in every issue of a newspaper of general circulation in the county of the principal place of business of the mortgage agent or mortgage broker; and

(b) May deduct its costs of the action, including attorney's fees and publication, from its liability under the bond.

11. Claims against a bond:

(a) Have equal priority;

(b) If the bond is insufficient to pay all claims in full, must be paid on a pro rata basis, but partial payment of claims is not full payment; and

(c) Do not preclude a claimant from bringing an action against a mortgage agent or mortgage broker for an unpaid balance.

12. A bond used to fulfill the requirements of NRS 645B.042 may be used to fulfill, wholly or partially, the bond requirement of this section, provided that:

(a) If used to fulfill wholly the bond requirement of this section, the amount of the bond used pursuant to NRS 645B.042 is equal to or greater than the amount of the bond required pursuant to this section; and

(b) If used to fulfill partially the bond requirement of this section, the remaining difference is made up by another bond that meets the requirements of this section and is in an amount equal to or greater than the difference between the two bonds.

13. A substitute for a surety bond required by NRS 645B.042, as provided for in NRS 645B.044, may not be used to fulfill, wholly or partially, the bond requirement of this section.

Sec. 19. 1. The Division shall regularly report violations of this chapter and chapter 645B of NRS, enforcement actions and other relevant information, including, without limitation, violations of any applicable federal law or regulation, to the Registry pursuant to the protocols of the Registry.

2. A person may challenge information provided by the Division to the Registry.

3. A challenge must be sent in writing by regular mail to the Division and addressed to the Office of the Commissioner.

4. Once received, the Division shall consider the merits of a challenge and provide the person with a written reply which must be sent by regular mail to the person within 30 days after receipt of the challenge.

5. *The person may send a written rebuttal within 30 days after receipt of the Division's reply by regular mail to the Division and addressed to the Office of the Commissioner.*

6. *Upon receipt of the written rebuttal, the Commissioner will make a written final decision concerning the written rebuttal and underlying challenge and send the final decision by regular mail to the person within 30 days.*

7. *If, pursuant to subsection 6, the Commissioner upholds a challenge, the Commissioner will promptly take action to correct the information submitted to the Registry.*

8. *The Commissioner will not submit a challenge, reply, rebuttal or final decision described in this section to the Registry unless otherwise required by law.*

Sec. 20. *For the purposes of paragraph (b) of subsection 4 of NRS 645B.060, an adverse change in financial condition:*

1. *Is not proven solely by a decrease in income from any previous period if the mortgage broker remains profitable; and*

2. *May be shown by material receivables or payables to related parties, material off-balance sheet commitments, contingent liabilities or other identified concerns related to the deterioration of net worth or liquidity.*

Sec. 21. *For the purposes of paragraph (a) of subsection 2 of NRS 645B.670, "insolvent" is interpreted to mean that the liabilities of a mortgage broker exceed his or her assets, as calculated by the Commissioner in accordance with generally accepted accounting principles, and the calculation:*

1. *Must exclude any intangible and any amount receivable by the mortgage broker that is related to the intangible; and*

2. *May exclude any shareholder debt that is subordinated.*

Sec. 22. 1. *Unless otherwise specifically prohibited by federal law and pursuant to the S.A.F.E. Mortgage Licensing Act, a corporate office which is not licensed under chapter 645B of NRS, but has an office which is licensed under 645B of NRS, may file an application with the Office of the Commissioner solely for the purpose of fulfilling the requirements of the S.A.F.E. Mortgage Licensing Act, including, without limitation, for the purposes of registering with the Registry.*

2. *An application submitted pursuant to subsection 1:*

(a) Does not affect the unlicensed status of the corporate office; and

(b) Does not allow the corporate office to conduct business within this State.

Sec. 23. 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]~~ **645B.0104** to 645B.0135, inclusive, and NAC 645B.002 to 645B.008, inclusive, *and sections 2 to 5, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 24. NAC 645B.017 is hereby amended to read as follows:

645B.017 A person does not hold himself out as being able to perform the services described in NRS 645B.0127 if ~~[he-only]~~ **the person:**

1. *Is in compliance with the S.A.F.E. Mortgage Licensing Act and any regulations adopted pursuant thereto; and*

2. Only offers to provide money to invest in loans secured by an interest in real property to:

~~[1.]~~ **(a)** A mortgage broker licensed pursuant to chapter 645B of NRS; or

~~[2.]~~ **(b)** A person exempt from the provisions of chapter 645B of NRS.

Sec. 25. NAC 645B.020 is hereby amended to read as follows:

645B.020 1. An applicant must submit with his application for a license pursuant to chapter 645B of NRS:

(a) A copy of his business license, when applicable, or his application for such a license if he has not obtained one.

(b) A copy of the certificate filed by the mortgage broker pursuant to chapter 602 of NRS indicating the fictitious name of the mortgage broker, if any.

(c) If the applicant is a corporation, a copy of:

(1) Its articles of incorporation and its bylaws;

(2) Its balance sheet and a statement of the profit and loss of the corporation for the 2 years immediately preceding the year of the application; and

(3) The most recent list of its officers and registered agents that is filed with the Secretary of State.

(d) If the applicant is a partnership or joint venture, a copy of the agreement of partnership or joint venture and the financial statements of the general partners for the 2 years immediately preceding the year of the application.

(e) If the applicant is a corporation being organized, a copy of its proposed articles of incorporation and its bylaws.

(f) If the applicant is a limited-liability company, a copy of:

(1) Its articles of organization and operating agreement;

(2) A statement of the profit and loss of the limited-liability company for the 2 years immediately preceding the year of the application; and

(3) The most recent list of its members or managers, and registered agents, that is filed with the Secretary of State.

(g) ~~[A copy of the lease of the applicant or other document which includes the address of the place of business of the applicant.]~~ *Evidence that the applicant has met the requirements imposed by the S.A.F.E. Mortgage Licensing Act.*

(h) *A current electronic mail address.*

2. If an applicant has received a letter of conditional approval of his application from the Division which imposes additional requirements that the applicant must satisfy to obtain a license, the applicant must comply with those requirements within 30 days after the date on which the letter was issued by the Division. If the applicant does not satisfy all additional requirements set forth in the letter within the period prescribed in this subsection, the conditional approval of the application will be deemed to have expired and the applicant must reapply to obtain a license. The Commissioner may, for good cause, extend the 30-day period prescribed in this subsection.

Sec. 26. NAC 645B.030 is hereby amended to read as follows:

645B.030 1. An applicant must submit with his application for a branch license:

(a) The name, residence address and telephone number of the qualified employee designated to manage the branch office; ~~[and]~~

(b) The name of each mortgage agent who intends to work at the branch office ~~[]~~; *and*

(c) *Evidence that the applicant has met the requirements imposed by the S.A.F.E. Mortgage Licensing Act.*

2. The Commissioner will approve an application for a branch office if:

(a) The principal office of the mortgage broker has been examined by the Commissioner and has received at least a satisfactory rating during the preceding 12 months; and

(b) The Commissioner approves a qualified employee to manage the branch office. The Commissioner will not approve a qualified employee to manage a branch office if the qualified employee manages or has been designated and approved to manage another office.

3. The Commissioner may waive the requirements of subsection 2 upon good cause shown.

4. A license for a branch office may be issued only in the name in which the mortgage broker is licensed to conduct business at his principal office.

5. Each branch office must conspicuously display its license at the branch office.

6. A mortgage broker is responsible for and shall supervise:

(a) Each branch office of the mortgage broker; and

(b) Each qualified employee and mortgage agent authorized to conduct mortgage lending activity at a branch office of the mortgage broker.

Sec. 27. NAC 645B.055 is hereby amended to read as follows:

645B.055 1. Every person, other than a natural person, doing business as a mortgage broker in this State shall designate a natural person as a qualified employee who may, upon approval of the Commissioner, act on behalf of the mortgage broker.

2. The Commissioner will approve the qualified employee designated pursuant to subsection 1 if the qualified employee is a natural person who:

(a) Is licensed in good standing as a ~~mortgage broker or~~ mortgage agent;

(b) Is designated by a mortgage broker to act on behalf of the mortgage broker and to supervise the conduct of the business of the mortgage broker and the mortgage agents associated with or employed by the mortgage broker;

(c) Will be present at the licensed office location for which he is the qualified employee the majority of the time that the office is open to the public; ~~and~~

(d) Is a resident of this State or is a border state employee ~~H~~; *and*

(e) *Has met the requirements of the S.A.F.E. Mortgage Licensing Act.*

3. If the qualified employee designated pursuant to subsection 1 is not approved by the Commissioner pursuant to subsection 2 or ceases to be a qualified employee as defined in NAC 645B.008, the mortgage broker shall designate another qualified employee pursuant to subsection 1 not later than:

(a) Thirty calendar days after the date that:

(1) The Commissioner notifies the mortgage broker that the initial qualified employee designated pursuant to subsection 1 is not approved; or

(2) The qualified employee ceases to be a qualified employee as defined in NAC 645B.008; or

(b) A date after the date described in paragraph (a) if agreed to by the Commissioner.

4. As used in this section, “border state employee” has the meaning ascribed to it in NRS 482.012.

Sec. 28. NAC 645B.057 is hereby amended to read as follows:

645B.057 1. Any material change in the ownership, management or principal employees of a mortgage broker at his principal office or a branch office must be reported to the Commissioner within 30 calendar days after the change.

2. If a person acquires stock or ownership in a mortgage broker as a result of a transfer that constitutes a change of control pursuant to NRS 645B.095:

(a) A financial statement or a personal interrogatory, or both, of the prospective owner, partner, corporate shareholder, manager or employee must be submitted to the Commissioner for his consideration;

(b) The person may not participate in the management of the mortgage broker until the Commissioner has approved the transfer; and

(c) The mortgage broker may not change the location of his principal office or branch office until the Commissioner has approved the transfer.

3. A mortgage broker may not close his principal office or a branch office until:

(a) The mortgage broker has returned his license; and

(b) The Commissioner has approved the closure.

4. The request for approval of the closure of the principal office of the mortgage broker or a branch office must contain the following information:

(a) The status of any incomplete applications for mortgage loans and the manner in which the loans will be finalized;

(b) An accounting of any trust account maintained by the mortgage broker and the plan for distribution of money in the account;

(c) If any mortgage agent associated with or employed by the mortgage broker has been terminated pursuant to subsection 3 of NRS 645B.450, evidence of the termination; and

(d) ~~["The location in this State where"]~~ *In regard to the* records of the mortgage broker ~~["will be"]~~ maintained pursuant to subsection 1 of NRS 645B.080 and subsection 5 of NAC 645B.080

~~[""]~~:

(1) The address where the records will be maintained; and

(2) The name, telephone number and mailing address of the person who will be responsible for the maintenance of the records.

5. The Commissioner may require the person acquiring stock or ownership in a mortgage broker pursuant to subsection 2 to meet the requirements of the S.A.F.E. Mortgage Licensing Act, including, without limitation, submitting information to the Registry.

Sec. 29. NAC 645B.060 is hereby amended to read as follows:

645B.060 1. Except as otherwise provided in this subsection, the Commissioner will charge and collect a fee of \$60 per hour from each mortgage broker for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 645B of NRS. The Commissioner may charge a fee equivalent to the estimated or actual fee charged to the Division for the time of an attorney required in any examination, investigation or hearing conducted pursuant to chapter 645B of NRS.

2. The Commissioner will bill each mortgage broker upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 calendar days after the date ~~[the bill is received.]~~ *of the invoice.* Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each complete month, or portion of the last month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a mortgage broker to pay the fee required in subsection 1 as provided in this section constitutes grounds for the imposition of any discipline authorized pursuant to NRS 645B.670, including, without limitation, the revocation of his license.

4. Upon written request by a mortgage broker, the Division will provide an accounting of the time billed to the mortgage broker pursuant to this section.

Sec. 30. NAC 645B.095 is hereby amended to read as follows:

645B.095 For the purpose of determining the net worth of a mortgage broker pursuant to NRS 645B.115, the Commissioner will interpret the term “net worth” to mean the amount by which the assets of a mortgage broker exceed his liabilities, *as* calculated *by the Commissioner* in accordance with generally accepted accounting principles. ~~[where the mortgage broker:]~~ *The calculation:*

1. Must exclude any intangible and any amount receivable by the mortgage broker that is related to the intangible; and
2. May exclude any shareholder debt that is subordinated.

Sec. 31. NAC 645B.240 is hereby amended to read as follows:

645B.240 1. A licensed mortgage broker or mortgage agent shall not represent an activity which is not licensed pursuant to chapter 645B of NRS as being licensed pursuant to that chapter.

2. Except as otherwise provided in subsection 3, an advertisement for an activity which is licensed pursuant to chapter 645B of NRS must be separate and distinct from an advertisement for an activity which is not licensed pursuant to that chapter.

3. A mortgage broker or mortgage agent may advertise jointly with a company licensed pursuant to chapter 624 or 645 of NRS if each business is disclosed separately in the advertisement and each business incurs a pro rata share of the cost associated with the advertisement.

4. A licensed mortgage broker or mortgage agent must include in his advertisements, including any advertising material available on the Internet:

(a) The complete name of the mortgage broker or mortgage agent and the complete name under which the mortgage broker or mortgage agent does business. Any advertisement for a

mortgage agent must also include the name of the mortgage broker *or mortgage banker*, with whom the mortgage agent is associated.

(b) The ~~[license number,]~~ address , ~~[and]~~ telephone number *and either the license number or unique identifier* that the mortgage broker or mortgage agent has on file with the Division.

Additional telephone or cellular phone numbers of the mortgage broker or mortgage agent may also be included.

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

5. A mortgage broker or mortgage agent shall not use advertising material that simulates the appearance of a check or a communication from a governmental entity, or an envelope containing a check or a communication from a governmental entity, unless:

(a) The words “THIS IS NOT A CHECK,” “NOT NEGOTIABLE” or “THIS IS NOT A GOVERNMENTAL ENTITY,” as appropriate, appear prominently on the envelope and any material that simulates the appearance of a check or a communication from a governmental entity; and

(b) If the material simulates the appearance of a check, the material does not contain an American Bankers Association number, microencoding or any other marks intended to create the appearance that the material is a negotiable check.

6. A mortgage broker or mortgage agent shall not refer to an existing lender or financial institution, other than the mortgage broker or mortgage agent himself, on any advertising material without the written consent of the lender or financial institution.

7. Provided the representation of interest rates in advertisements complies with Regulation Z, 12 C.F.R. Part 226, and the content will continue to comply with this chapter and chapter

645B of NRS regarding advertising, a mortgage broker or mortgage agent may make nonsubstantive changes to his advertisements without additional approval from the Commissioner. For the purposes of this subsection, “nonsubstantive changes” means:

- (a) Interest rates that are quoted in the advertisement and any corresponding annual percentage rates;
- (b) Promoting another mortgage agent in the same format of advertisement;
- (c) Promoting other branch locations in the same format of advertisement;
- (d) Placing links on websites that direct the user to noncommercial or consumer education websites;
- (e) Telephone or cellular phone numbers other than the phone number that the mortgage broker or mortgage agent has on file with the Division; and
- (f) Changes to words used in the advertisement that do not alter the content of the advertisement.

8. Approvals for advertising must be maintained at the location of the mortgage broker or mortgage agent and must be available for inspection for at least 1 year after the last day that the advertisement is used.

9. For the purposes of NRS 645B.189, disclosures in advertisements and distributions to investors must include the following language:

Prior to investing in a loan, investors must be provided applicable disclosure documents.

10. The mortgage broker or mortgage agent is not required to obtain approval from the Division for white-page listings, employment recruiting announcements, office signs, banners,

magnetic car signs ~~[, business cards]~~ and letterhead which contain only the name, address , *unique identifier* and telephone number of the mortgage broker or mortgage agent, whether together or separate, and which are used for the purpose of identification only.

11. An Internet link on a website of the mortgage broker or mortgage agent that links the user to the website of another commercial enterprise must provide notification to the user that the user is leaving the website of the mortgage broker or mortgage agent.

12. For the purposes of this section, “advertising” includes commercial messages that promote the availability of mortgage products or investments offered by the mortgage broker or mortgage agent. Commercial messages include, but are not limited to:

- (a) Print media;
- (b) Sales literature;
- (c) Sales brochures or flyers;
- (d) Billboards;
- (e) Yellow-page listings if more than a line listing;
- (f) Radio and television advertisements;
- (g) Mass mailings distributed by the United States Postal Service or another such delivery service or by electronic mail;
- (h) Telephone or seminar scripts; ~~[and]~~
- (i) Websites or other Internet sites that promote or accept loan applications ~~[]~~ ; *and*
- (j) *Business cards.*

Sec. 32. NAC 645B.300 is hereby amended to read as follows:

645B.300 1. In addition to the requirements set forth in NRS 645B.410, an applicant for a license as a mortgage agent must include with the application for a license:

(a) Evidence that the applicant is 18 years of age or older;

(b) Evidence that the applicant has satisfied the educational ~~[or]~~ *and* examination requirements set forth in ~~[NRS 645B.0137 and the regulations]~~ *applicable federal or state law or regulation, including, without limitation, the S.A.F.E. Mortgage Licensing Act and any regulation* adopted pursuant thereto; and

(c) A record of personal history ~~[on]~~ *and experience in* a form prescribed by the Division.

2. A mortgage broker *or mortgage banker*, and any mortgage agent, must sign the application for licensing required pursuant to NRS 645B.410.

3. ~~[A]~~ *As regards the conduct of business within this State, a* mortgage agent ~~[may]~~ :

(a) *May* associate with or be employed by a mortgage broker *or mortgage banker* at only one licensed office location of the mortgage broker *or mortgage banker*; and ~~[, while]~~

(b) *While* the mortgage agent associates with or is employed by a mortgage broker ~~[, the mortgage agent]~~ *or mortgage banker*, may not associate with or be employed by another mortgage broker ~~[,]~~ *or mortgage banker*, an escrow agency licensed pursuant to chapter 645A of NRS, ~~[a mortgage banker]~~ or any other entity that is exempt from the provisions of chapter 645B of NRS or whose office is located outside this State.

4. Upon request of a mortgage broker ~~[,]~~ *or mortgage banker*, the Commissioner may waive the requirement of an investigation of the credit history, criminal history and background of a mortgage agent if such an investigation has been conducted within ~~[1 year]~~ *the 6 months* immediately preceding the date the application is submitted.

5. An applicant for a license as a mortgage agent shall not be deemed to be licensed as a mortgage agent until the Commissioner has verified the information submitted by the applicant pursuant to ~~[this section and NRS 645B.410.]~~ *applicable federal or state law or regulation and*

has notified the applicant that the information has been verified and that the records of the Division reflect activation of the license.

6. The report of an investigation of the credit history, criminal history and background of a mortgage agent is confidential, and the Commissioner will release the report only pursuant to a valid subpoena or court order.

7. The written statement of the circumstances surrounding the termination of a mortgage agent required by subparagraph (2) of paragraph (b) of subsection 3 of NRS 645B.450 will be considered a public record.

8. If a mortgage broker *or mortgage banker* terminates the association or employment of a mortgage agent for any reason, the mortgage broker *or mortgage banker* shall provide written notification of the termination to the mortgage agent not later than the third business day following the date of termination.

~~[9.—A mortgage agent must reside within 75 miles of the licensed office location with which the mortgage agent is associated or at which the mortgage agent is employed, except that a mortgage agent who resides in a city or town with a population of 60,000 or less must reside within 150 miles of the licensed office location with which the mortgage agent is associated or at which the mortgage agent is employed.]~~

Sec. 33. NAC 645B.330 is hereby amended to read as follows:

645B.330 1. The Commissioner may refer to *and share information with* the appropriate federal or state agency for investigation and appropriate action each suspected violation of:

(a) The Truth in Lending Act, 15 U.S.C. §§ 1601 to 1667f, inclusive, including, without limitation, the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1639, or Regulation Z, 12 C.F.R. Part 226.

(b) The Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 to 1691f, inclusive, or Regulation B, 12 C.F.R. Part 202.

(c) The Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 to 2617, inclusive, or Regulation X, 24 C.F.R. Part 3500.

(d) The S.A.F.E. Mortgage Licensing Act.

2. For the purposes of NRS 645B.670, a mortgage broker commits a violation if the mortgage broker or a mortgage agent associated with the mortgage broker:

(a) Engages in a deceptive trade practice as defined in chapter 598 of NRS;

(b) Fails to refund any fees collected in excess of the actual cost the mortgage broker incurs or pays for any appraisal, credit report or any other product or service provided by a third party in connection with the making of a loan; or

(c) Violates a provision of:

(1) The Truth in Lending Act, 15 U.S.C. §§ 1601 to 1667f, inclusive, including, without limitation, the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1639, or Regulation Z, 12 C.F.R. Part 226.

(2) The Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 to 1691f, inclusive, or Regulation B, 12 C.F.R. Part 202.

(3) The Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 to 2617, inclusive, or Regulation X, 24 C.F.R. Part 3500.

(4) ***The S.A.F.E. Mortgage Licensing Act, including, without limitation, section 1505(e) of the Act regarding the submission of reports of condition to the Registry.***

(5) Any other applicable federal or state law or regulation related to mortgage transactions.

3. *For the purposes of NRS 645B.670, a mortgage agent commits a violation if the mortgage agent:*

(a) Engages in a deceptive trade practice as defined in chapter 598 of NRS;

(b) Fails to refund any fees collected in excess of the actual cost the mortgage agent incurs or pays for any appraisal, credit report or any other product or service provided by a third party in connection with the making of a loan; or

(c) Violates a provision of:

(1) The Truth in Lending Act, 15 U.S.C. §§ 1601 to 1667f, inclusive, including, without limitation, the Home Ownership and Equity Protection Act of 1994, 15 U.S.C. § 1639, or Regulation Z, 12 C.F.R. Part 226.

(2) The Equal Credit Opportunity Act, 15 U.S.C. §§ 1691 to 1691f, inclusive, or Regulation B, 12 C.F.R. Part 202.

(3) The Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601 to 2617, inclusive, or Regulation X, 24 C.F.R. Part 3500.

(4) The S.A.F.E. Mortgage Licensing Act, including, without limitation, section 1505(e) of the Act regarding the submission of reports of condition to the Registry.

(5) Any other applicable federal or state law or regulation related to mortgage transaction.

(d) Does any of the following:

(1) Is convicted of, or enters a plea of guilty or nolo contendere to, a felony in a domestic, foreign or military court;

(2) Has a license or registration as a mortgage agent, mortgage banker, mortgage broker or residential mortgage loan originator revoked in this State or any other jurisdiction, or has a financial services license suspended or revoked;

(3) Makes a false statement of material fact to the Division;

(4) Violates any provision of this chapter or chapter 645E of NRS, a regulation adopted pursuant thereto or an order of the Commissioner; or

(5) Demonstrates a lack of financial responsibility, character and general fitness so as to lose the confidence of the community and warrant a determination that the mortgage agent will not operate honestly, fairly and efficiently for the purposes of chapter 645B of NRS.

Sec. 34. NAC 645B.360 is hereby amended as follows:

645B.360 ~~{1}~~ The Commissioner hereby designates the ~~{following organizations}~~ **Registry** to certify *approved* courses for the purposes of ~~{NRS 645B.0137, 645B.051 and 645B.430}~~:

- ~~(a) The Mortgage Bankers Association;~~
- ~~—(b) The Mortgage Bankers Association of Nevada;~~
- ~~—(c) The National Association of Professional Mortgage Women or any approved Nevada chapter of the National Association of Professional Mortgage Women;~~
- ~~—(d) The Nevada Association of Mortgage Brokers;~~
- ~~—(e) The Real Estate Division of the Department of Business and Industry;~~
- ~~—(f) The Nevada System of Higher Education;~~
- ~~—(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.]~~ *an initial license or renewal of a license as a mortgage broker or mortgage agent.*

Sec. 35. Section 2 of LCB File No. R058-08, which was adopted by the Commissioner of Mortgage Lending and filed with the Secretary of State on April 23, 2009, is hereby amended to read as follows:

Sec. 2. In addition to the requirements of subsection 1 of NRS 645B.016, a person who claims an exemption from the provisions of chapter 645B of NRS pursuant to subsection 1 of NRS 645B.015 must ensure that the entity or agency which regulates the conduct of his business provides to the Commissioner written notification that:

1. The license of the person provides the right to make or broker mortgage loans; ~~[and]~~
2. The entity or agency will investigate complaints arising from or relating to consumers in this State ~~[;]~~; *and*
3. *If the person conducts activity as a residential mortgage loan originator, the person is in compliance with the requirements of the S.A.F.E. Mortgage Licensing Act and any regulation adopted pursuant thereto.*

Sec. 36. Section 3 of LCB File No. R058-08, which was adopted by the Commissioner of Mortgage Lending and filed with the Secretary of State on April 23, 2009, is hereby amended to read as follows:

Sec. 3. The Commissioner will not renew the license of a mortgage broker or mortgage agent if the mortgage broker or mortgage agent ~~has~~ :

1. *Has not paid all fees, fines and assessments owed to the Division ~~and~~ or the Registry;*
2. *Is not properly registered with the Registry;*
3. *Fails to provide any required annual financial statements or reports of condition to the Division or Registry; or*
4. *Fails to provide any other item required by federal or state law or regulation, including, without limitation, the S.A.F.E. Mortgage Licensing Act.*

Sec. 37. Section 3 of LCB File No. R052-09, which was adopted by the Commissioner of Mortgage Lending and filed with the Secretary of State on August 25, 2009, is hereby amended to read as follows:

Sec. 3. “Approved course” means a course of education that has been ~~certified by an organization set forth in NAC 645B.360 and~~ approved by the Commissioner as a course for initial licensure or continuing education ~~and~~ *and has been certified by:*

1. *The Mortgage Bankers Association;*
2. *The Mortgage Bankers Association of Nevada;*
3. *The National Association of Professional Mortgage Women or any approved Nevada chapter of the National Association of Professional Mortgage Women;*
4. *The Nevada Association of Mortgage Professionals;*
5. *The Real Estate Division of the Department of Business and Industry;*

6. *The Nevada System of Higher Education;*
7. *The Federal National Mortgage Association or its successors or assigns;*
8. *The Federal Home Loan Mortgage Corporation or its successors or assigns;*
9. *The United States Department of Housing and Urban Development;*
10. *The Lied Institute for Real Estate Studies;*
11. *The National Association of Mortgage Brokers;*
12. *The Registry; or*
13. *Any other organization approved by the Commissioner.*

Sec. 38. Section 2 of LCB File No. R093-09, which was adopted by the Commissioner Division of Mortgage Lending and filed with the Secretary of State on October 27, 2009, is hereby amended to read as follows:

- 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~~ *reviewed and 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.⌋~~ *“reviewed*
and approved by the Registry” includes, without limitation, the review and approval by
the Registry of the provider of the course.

Sec. 39. Section 4 of LCB File No. R093-09, which was adopted by the Commissioner of Mortgage Lending and filed with the Secretary of State on October 27, 2009, is hereby amended to read as follows:

- 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.]~~ *any person or entity approved by the Registry to provide an approved course.*

Sec. 40. Section 5 of LCB File No. R093-09, which was adopted by the Commissioner of Mortgage Lending and filed with the Secretary of State on October 27, 2009, is hereby amended to read as follows:

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 ~~;~~ *Nevada laws and regulations, including, without limitation:*
 - (a) ~~[This chapter or chapter]~~ *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 ~~[,]~~; *and*
 - (f) Chapter 645E of NRS governing mortgage bankers;*
3. Mortgage industry practices and information ; ~~[, including ethics.]~~
 4. *Ethics, including, without limitation, instruction on fraud, consumer protection and fair lending issues;*
 5. *Lending standards for the nontraditional mortgage product marketplace; and*
 6. Any other subject approved by the ~~[Division.]~~ *Registry.*

Sec. 41. Section 6 of LCB File No. R093-09, which was adopted by the Commissioner of Mortgage Lending and filed with the Secretary of State on October 27, 2009, is hereby amended to read as follows:

- 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 *in approved courses* 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]~~ *Three* hours of ethics, which must include instruction on fraud, consumer protection and fair lending issues;
 - (b) ~~[Twelve]~~ *Three* hours of federal law and regulations relating to mortgage lending ~~[, including 2]~~;

(c) *Two* hours of training relating to ~~[subprime lending and other]~~ *lending standards for the* non-traditional mortgage ~~[products;~~

~~(e)]~~ *product marketplace;*

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

~~[(d) Ten]~~ (e) *Eighteen* 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.]~~ *Nothing in this section precludes any approved course that is provided by the employer of the applicant, an entity which is affiliated with the applicant by an agency contract or any subsidiary or affiliate of such employer or entity.*

4. The Commissioner may accept any hours of training completed in fulfillment of the requirements for a license for another state as hours of training for an initial license in this State if the Commissioner determines that those hours of training meet the requirements of this State.

Sec. 42. Section 7 of LCB File No. R093-09, which was adopted by the Commissioner of Mortgage Lending and filed with the Secretary of State on October 27, 2009, is hereby amended to read as follows:

~~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.]~~ *To satisfy the requirement prescribed in NRS 645B.0137, a natural person must pass, in accordance with the standards established under this section, a qualified written test pursuant to and in the manner provided for in section 1505(b)(5) of the S.A.F.E. Mortgage Licensing Act, including, without limitation, with regard to the taking of a test four times.*

2. Nothing in this section prohibits a provider approved by the Registry from providing a test at the location of the employer of the applicant, the location of any subsidiary or affiliate of the employer of the applicant, or the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage agent.

3. Pursuant to section 1505(d)(3)(D) of the S.A.F.E. Mortgage Licensing Act, a licensed mortgage agent who fails to maintain a valid license for a period of 5 consecutive years or more must retake the test specified in subsection 1, not taking into account any time during which such person may be a registered loan originator, as defined in section 1503(7) of the S.A.F.E. Mortgage Licensing Act.

Sec. 43. Section 8 of LCB File No. R093-09, which was adopted by the Commissioner of Mortgage Lending of the Department of Business and Industry and filed with the Secretary of State on October 27, 2009, is hereby amended to read as follows:

Sec. 8. 1. ~~[A licensee]~~ *To satisfy the requirements for continuing education provided for in NRS 645B.051 or 645B.430, a mortgage agent or mortgage broker 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.] *The 10 hours of approved courses must be comprised of:*~~

(a) Three hours of federal laws and regulations relating to mortgage lending;

(b) Two hours of ethics, which must include, without limitation, instruction on fraud, consumer protection and fair lending issues;

(c) Two hours of training relating to lending standards for nontraditional mortgage products; and

(d) Three hours of Nevada laws and regulations, as set forth in section 5 of this regulation.

2. The Commissioner may accept any hours of training completed in fulfillment of the requirements for a license for another state as hours of training for continuing education in this State if the Commissioner determines that those hours of training meet the requirements of this State.

3. Nothing in this section precludes any approved course that is provided by the employer of the mortgage agent or mortgage broker, an entity which is affiliated with the mortgage agent or mortgage broker by an agency contract, or any subsidiary or affiliate of such employer or entity.

4. A licensed mortgage agent or mortgage broker may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

5. A licensed mortgage agent or mortgage broker who is an approved instructor of an approved course may receive credit for the licensed mortgage agent's or mortgage broker's own annual continuing education requirement at the rate of 2 hours of credit for every 1 hour taught.

Sec. 44. 1. Section 4 of LCB File No. R058-08, which was adopted by the Commissioner of Mortgage Lending and filed with the Secretary of State on April 23, 2009 is hereby repealed.

2. Sections 3 and 9 to 24, inclusive, of LCB File No. R093-09, which were adopted by the Commissioner of Mortgage Lending and filed with the Secretary of State on October 27, 2009, are hereby repealed.

Sec. 45. 1. Pursuant to subsection 1 of section 85 of Assembly Bill No. 523, chapter 474, Statutes of Nevada 2009, at page 2693, a person who holds a license as a mortgage broker under chapter 645B of NRS or as a mortgage banker under chapter 645E of NRS on or before July 31, 2009, and who, because of his or her lawful activities, is required to be licensed as a mortgage agent, must obtain a mortgage agent's license on or before July 31, 2010.

2. Notwithstanding any other provision of this regulation, a person who holds a license as a mortgage agent under chapter 645B of NRS as of July 22, 2010, must meet the additional requirements for licensure as a mortgage agent added by this regulation on or before December 31, 2010.

Sec. 46. Notwithstanding any other provision of this regulation, any natural person who completed the requirements of section 6 of LCB File No. R093-09, which was adopted by the Commissioner of Mortgage Lending and filed with the Secretary of State on October 27, 2009, before July 22, 2010, through courses approved by the Division of Mortgage Lending of the Department of Business and Industry or the Nationwide Mortgage Licensing System and Registry does not have to complete those requirements again. The Division shall certify to the Registry that the natural person previously met those requirements.

Sec. 47. Notwithstanding any other provision of this regulation, any natural person who completed, before July 22, 2010,, an examination approved by the Division of Mortgage Lending of the Department of Business and Industry regarding Nevada laws and regulation does not have to retake the equivalent Nevada laws and regulations portion of the examination provided for in

section 7 of LCB File No. R093-09, which was adopted by the Commissioner of Mortgage Lending and filed with the Secretary of State on October 27, 2009. The Division shall certify to the Nationwide Mortgage Licensing System and Registry that the natural person previously passed the examination on Nevada laws and regulations, but the natural person must, after July 22, 2010, pass the other subject matter portions of the examination provided for in section 7 of LCB File No. R093-09.

TEXT OF REPEALED SECTIONS

Section 4 of LCB File No. R058-08:

Sec. 4. 1. A natural person who is seeking to become licensed as a mortgage agent on behalf of a corporation or a limited-liability company pursuant to NRS 645B.455 must:

- (a) Form the corporation or limited-liability company in his name; and
- (b) Include with the application for a license as a mortgage agent evidence of the formation of the corporation or limited-liability company and a list of the officers of the corporation or the members of the limited-liability company.

2. A mortgage agent licensed on behalf of a corporation or limited-liability company pursuant to NRS 645B.455 must file the affidavit required by subsection 4 of NRS 645B.455 on a form prescribed by the Division.

3. If a mortgage agent licensed on behalf of a corporation or a limited-liability company pursuant to NRS 645B.455 dies, the mortgage broker shall notify the Division of the death not later than 3 days after the death.

4. A mortgage agent licensed on behalf of a corporation or a limited-liability company pursuant to NRS 645B.455 may not hold a license as a mortgage agent on his own behalf.

Section 3 of LCB File No. R093-09:

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

Section 9 of LCB File No. R093-09:

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.

Section 10 of LCB File No. R093-09:

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.

Section 11 of LCB File No. R093-09:

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.

Section 12 of LCB File No. R093-09:

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.

Section 13 of LCB File No. R093-09:

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.

Section 14 of LCB File No. R093-09:

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.

Section 15 of LCB File No. R093-09:

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.

Section 16 of LCB File No. R093-09:

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.

Section 17 of LCB File No. R093-09:

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.

Section 18 of LCB File No. R093-09:

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.

Section 19 of LCB File No. R093-09:

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.

Section 20 of LCB File No. R093-09:

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.

Section 21 of LCB File No. R093-09:

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.

Section 22 of LCB File No. R093-09:

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.

Section 23 of LCB File No. R093-09:

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.

Section 24 of LCB File No. R093-09:

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.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE NO. R035-10**

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 workshops 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. Additionally, Open Meeting Notices were also posted and provided to all parties. These documents were also made available at the Division of Mortgage Lending’s Website at www.mld.nv.gov, mailed to the State Library and all county libraries in Nevada, and posted at the Division’s offices.

The Division submitted R035-10 to the Legislative Counsel Bureau for review on March 15, 2010. On March 30, 2010, an initial workshop on R035-10 was held in Las Vegas, which was simultaneously video-conferenced to Carson City. Thereafter, on or about May 28, 2010, following receipt of R035-10 from the Legislative Counsel Bureau, the Commissioner of the Division (Commissioner) posted a notice of hearing of intent to act upon a regulation, which was held on June 30, 2010. The Proposed Permanent Regulation incorporated suggestions of interested persons who attended the workshops and hearing, as well as written comments received by the Division. Minutes of the workshops and hearing are attached hereto.

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: 3-30-10	9	30
Testified at workshop	1	10
Submitted written comments:	0	0
	<u>CC</u>	<u>LV</u>
Attended hearing: 6-30-10	10	17
Testified at hearing	0	4
Submitted written comments:	0	2

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 proposed education sections 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 provided for in the response to question #1. The Commissioner incorporated changes to the Proposed Permanent Regulation based on comments made at the workshop and hearing.

The industry comments at the hearing included:

1. One attendee expressed concerns that the hearing was held on the last day of the month;
2. Requests to clarify when a loan processor would need to be licensed as a mortgage agent, and if they need to be W-2 employees;
3. Concerns that including business cards as a form of advertisement and the requirement to have both the Nevada State license number, as well as the NMLS Unique ID number on advertisements, would be hard to include all information on a small card;
4. Requests to clarify applicability of the section pertaining to “adverse change in financial condition”;
5. Request to clarify the “net worth” requirement in statute and how it was effected by the definition of solvency;
6. Request to clarify if private investors, investing through a licensed mortgage broker, would need to be licensed as mortgage agents under current law;
7. Concerns that one section of the definition of a mortgage agent did not include qualified employees or owners if they were only conducting commercial loans even though subsection 1 of the definition did require licensing if they are conducting activity that would otherwise require licensing as either a mortgage broker or banker, both of which licenses allow either residential or commercial loans;
8. Request to clarify if 645F licensees must take NMLS approved courses;
9. Concerns that parts of section 40 were redundant;
10. Request to clarify how continuing education classes or classes taken for another state can be applied to NMLS education requirements; and
11. Concerns about the costs associated with registering on NMLS and taking mandatory education and testing.

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 adopted with the exception of the following changes, which were incorporated following commentary at the hearing:

1. Sec. 2. The phrase “as an employee” was stricken.
2. Sec. 7(1) The section was revised to now read, “Except if the natural person is an independent contractor who complies with the requirements of section 15 of this

- regulation, a natural person who is a loan processor or underwriter and who does not represent to the public, through advertising or other means of communicating or providing information, that the natural person can or will perform any of the activities of a loan originator is not required to be licensed as a mortgage agent”.
3. Sec. 12(2). The word “Register” was changed to “Licensed”.
 4. Sec. 13(4). The words “revocation” and “suspension” were reversed.
 5. Sec. 14(3). The words “revocation” and “suspension” were reversed.
 6. Sec. 25(1)(g). Subsection “g” was stricken.
 7. Sec. 20(4)(d)(2). The word “name” was added.
 8. Sec. 31(4)(b). The first sentence was change to now read, “The address and telephone number, and either the license number or unique identifier that the mortgage broker or mortgage agent has on file with the Division.
 9. Sec. 33(5)(d)(3). The words “has not made” were stricken and replaced with the word “Makes”.
 10. Sec. 37#4. The word ‘Brokers” was replaced with the word “Professionals”.
 11. Sec. 40(2)(a). The words “This chapter or” were deleted.
 12. Sec. 40(2)(d)&(f). The words “and any regulation adopted pursuant thereto” were deleted from both subsections.

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. Adverse effects

The Proposed Permanent Regulation will have an adverse economic effect on licensees related to costs associated with participation on the Registry and compliance with other SAFE Act requirements, such as bonding. However, such impact was determined to not be significant and would not restrict the formation, operation or expansion of a small business.

The proposed regulation requires a licensee who arranges \$20,000,000 or less per year in loans to obtain a surety bond in the amount of \$50,000; annual loan production exceeding \$20,000,000 requires the licensee to obtain a \$75,000 bond. However, NRS 6454B.042 already requires mortgage brokers to maintain a bond. The SAFE Act requires bond amounts to be calculated based upon loan volume while NRS 645B.042 is tiered by number of office locations. In an attempt to mitigate impact to businesses, the proposed regulation allows bonds placed for purposes of the statutory requirement to be applied towards the new requirement such that compliance with the federal requirements will have minimal impact on most licensees.

Additionally, the proposed regulation requires licensees to register on the Nationwide Mortgage Licensing System and Registry (Registry). The SAFE Act requires licensees to register on the Registry. The Registry assesses fees for registration; however, these

fees are not viewed as significant. Companies must pay \$100 annually to the Registry for registration for principal offices, \$20 for each branch, while mortgage agents pay \$30 annually as well as \$30 for changes of associations. The additional Registry fees include a \$39 fingerprint retrieval fee, a \$94 mandatory federal test fee and a \$69 Nevada State test fee.

The proposed regulations further require education providers to be approved by the Registry. The Registry assesses a flat fee of \$400 and \$20 per credit hour for initial course approval and a flat fee of \$300 and \$20 per credit hour for annual renewal. The providers are also assessed a \$1.50 per credit hour, per student fee to deliver mandatory completion records to the Registry. Under former regulations the Division could approve courses at no cost and there were no costs associated with the submission of certificates of completion. However, the SAFE Act requires courses to be approved by the Registry.

The fees assessed by the Registry do not inure to the benefit of the Division.

(b) Beneficial effects:

The beneficial effect of the Proposed Permanent Regulation on the industry will be increased professionalism, knowledge and standards within the industry. Additionally, NMLS allows businesses and mortgage agents who are licensed in multiple states to manage their Nevada license, as well as their licenses with other state regulatory agencies, with a single record conveniently maintained in an electronic form and accessed through a secure website.

Economic Effect on the Public:

Both adverse and beneficial effects:

(a) Beneficial effects: The Proposed Permanent Regulation will benefit the public by allowing the public a single contact point to view individuals and companies they are transacting business with to determine if the person is properly licensed in any jurisdiction they are conducting business in, as well as determine if the person has been subject to any administrative actions by any jurisdiction.

(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.

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

There are no anticipated estimated costs to the Division for enforcement of the adopted regulation.

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 proposed permanent regulation does not overlap regulations of other state or governmental agencies known to the Division at this time. However, the proposed regulation institutes the mandatory provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act).

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 Proposed Permanent Regulation does include provisions which are more stringent than federal regulation. Proposed Permanent Regulation requires 30 hours of pre-licensing education including 4 hours of Nevada law, while the SAFE Act requires 20 hours with no hours in state law. Proposed Permanent Regulation further requires 10 hours of continuing education, including 3 hours of Nevada law, while the SAFE Act requires 8 hours with no State law.

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; however, the Registry imposes fees as covered above.

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. The Division contacted small businesses which may be impacted by the proposed regulation. The Division contacted known education providers and most were already in the process of complying with the new SAFE Act requirements by seeking Registry approval. The providers expressed that the requirements would not restrict the operation of their business or pose a significant economic burden.



JIM GIBBONS
Governor

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DIANNE CORNWALL
Director

JOSEPH L. WALTUCH
Commissioner

**Public Hearing for the Amendment and Adoption of a Permanent Regulation for Mortgage
Brokers and Mortgage Agents
645B – Legislative Council Bureau File No. R-035-10**

Date: June 30, 2010

Time: 9:00 am

Location: Las Vegas
The Bradley Building
2501 E. Sahara Avenue
2nd Floor Conference Room
Las Vegas, NV 89104

Video-Conferenced to:
Dept. of Business & Industry
788 Fairview Drive
Hearing Room
Carson City, NV 89701

Present: In Las Vegas:
Commissioner Joseph L. Waltuch
Christine Parvin – Deputy Attorney General
Susan Slack – Administrative Assistant II

Shawn Schofield, Mike Whiteaker, Lance Myer, Chad Ahearn, Keith Turgiss,
Janis Grady, David Cabral, Chuck Mohler, David Saltman, Keith Russell, Kyle
Nagy, Stacey Matwijiw, Bob Satterwhite, Ku-Suwne Liu, Linda Williams, Ronald
Weiss, Gus Anaya

In Carson City:
Sheila Walther- Supervisory Examiner
Paula Scotland – Education
Colleen Hemingway – Deputy Attorney General

Frank Lococo, Paul Danner, Chris Coombs, Cindy Stephens, Debra L. Stafford,
Adrian Dyette, Lin Craven Buck, Beverly Babcock, Deane Harlow, Mike Clark

Discussion:

Commissioner Waltuch: This is a public hearing regarding the adoption of proposed regulation R035-10 which pertains to mortgage brokers and mortgage agents licensed under NRS 645B. Everybody who wishes to make comments is free to make comments. This regulation arises out of the passage of the SAFE Act in 2008 and Nevada's implementation of that act last legislative session with the passage of Assembly Bill AB523. We had a workshop on this in March and today we are doing the public hearing. These regulations have been thoroughly vetted in comments from industry before the workshop, at the workshop and shortly after the workshop through the Legislative Council Bureau and through HUD and these regulations have been sent to us to review as well. We are here today to either adopt them or not to adopt them. Failing to adopt regulations to bring us into compliance with the SAFE Act and AB523 will mean that the state will be out of compliance with federal and state law. Sheila has been our point person for getting us on to the NMLS which is part of the SAFE Act. It was developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators of which all mortgage loan originators will have to be on nationwide.

Janis Grady: I want to make a statement for the record. That is today is June 30th which is the worst day for mortgage brokers to attend this hearing because we have the tax credit cut off and it is the end of the month. Therefore there are not a lot of people here.

Commissioner Waltuch: Duly noted. I apologize. We did not think about that. We have compliance deadlines that we have to meet as well. Otherwise, like I said, we become out of compliance.

Sheila Walther: The copy of the regulations that you have should say "Revised Proposed". I wanted to point out the changes. Page 2, Section 2 – "as an employee" is being stricken. That is consistent with SAFE Act. Page 2, Section 7, Sub-section 1 – it is being replaced with "exempt is a natural person an independent contractor who complies with the requirements in Subsection 15 of this regulation, a natural person who is a loan processor underwriter and who does not represent to the public through advertising or other means of communication or providing information that the natural person can or will perform any activities of a loan originator is not required to be licensed as a mortgage agent." That phrase "loan originator" may change "mortgage agent".

Commissioner Waltuch: That is an awful lot of language for people to decipher down here.

Sheila Walther: Basically, I can put it in perspective. The SAFE Act says that a loan processor that is a W-2 employee and reports to someone who is licensed, and all they do is clerical functions, they are not required to be licensed as a

Mortgage Agent here in Nevada. If someone is an independent contractor, they do need to be licensed as a mortgage agent. As subsection 7 read, it was not specific saying that a W-2 employee only did those things was not required to be a mortgage agent. This page is consistent more with the language of SAFE Act. That change is to accommodate clarity.

Shawn Schofield with Lets Get Docs – Sheila, I am just curious is it under the direction of a licensed loan originator that is working for a broker that they have to be licensed if they are W-2? If we are in a situation where we take an exempt status for our processor or we have a licensed loan originator, and everyone else is W-2 aren't they entering into the direction of a licensed loan originator?

Sheila Walther: What I would suggest is your company get an exemption. We have another provision in here that fits your needs that provides that someone that is exempt can get an exemption certificate. There are specific things that are allowed to get exemptions in the statute but we are expanding it by regulation. A processing company can get an exemption certificate for purposes of sponsoring people who may need a license. You can get a mortgage agent license under that exempt status, pay everybody as W-2 employees, have them report to you and then you are good to go.

Shawn Schofield: Is there going to be anything clarifying that – an opinion or anything like that?

Sheila Walther: We can put a FAQ or a good clarity. Unfortunately, if you have someone that works for you and works as an agent reporting to a broker, the law does not allow them to work for an exempt company and a broker at the same time.

Shawn Schofield: I appreciate the clarification on that. That was one of my questions. Would all of the loan processors that were under us have to be licensed even if they were W-2?

Sheila Walther: No. If they are W-2 and they are just doing clerical functions, reporting to someone with a license then they are exempt. Page 4, Section 12 Subsection 2 – Where it says “Registered with the Division through the Registry”, we are changing that word “Registered” to “licensed”. Page 5 – there are a couple of clerical type of things in Section 13 and 14, we switched “suspension” and “revocation”. Page 16 G – I talked to the licensing supervisor this morning. Since we will be doing everything through NMLS, things that are not collected by NMLS, we are trying to minimize the additional items that have to come through the Division outside of NMLS to be mailed to us. She has asked that the copy of the lease be stricken. That would be one less thing that we would have to collect outside of NMLS. This is for a new license or a new branch. Page 30 - Item 3 – We took the word “not” out. Page 40 – This will affect the education providers. All of the classes – they have 20 hours and they have 8

hours. Their core content of prescribed hours they call the 3-3-2. Three federal, three ethics, two non-traditional. We are changing that to 3 federal, 3 ethics, 2 non-traditional and 2 hours of Nevada Law.

Commissioner Waltuch: On page 41, Item 5 – have we gotten clarification, definitively that an instructor gets credit?

Sheila Walther: Yes. I clarified that that is correct. That is only for continuing education, not pre-licensing education. If an instructor teaches a course, they give themselves credit 2 for 1. I clarified it with CSBS that that is correct.

Commissioner Waltuch: Those are all of the Legislative Council Bureau changes that we got yesterday. The last 18 pages of this regulation are repealed education sections in order to conform to the NMLS requirements. Council has advised me that we are going section by section through this. (There were no comments on Sections 1 through 7.

Chuck Mohler with Eagle Mortgage Company – On Section 8 – I realize that most of this is going to be in place and there is not much we can change. Putting the unique identifier on all of the advertisements and so forth – the question is the business cards – is that the company identifier and the individual mortgage agent identifier? You have got it on our website. You have got 20 mortgage agents and now you are listing 20 individual mortgage agent’s identifiers on your website and all of your advertising if it is a common advertising for the company? I will just jump to page 25 also which is the same type of stuff on advertising and identifiers.

Commissioner Waltuch: We moved the business cards out of non-advertising into advertising.

Chuck Mohler: Now it talks about under that Section 31 where the license number and the unique identifier needs to be on stuff. So now we have got the State license number and the federal number, a possibly the federal company number and the federal individual number...

Commissioner Waltuch: You understand that we have stock in IBM and the ink companies...

Chuck Mohler: If we are longer than a year, we don’t have to get it approved, but we have to get everything approved – I am confused as to ... We have got a lot of doubling up.

Commissioner Waltuch: Sheila or Paula in your conversations with HUD or CSBS have they discussed on which types of advertisements these numbers have to appear?

Sheila Walther: They require them on applications and those kinds of things. I think we moved business cards because often times we utilize business cards for purposes of bringing action if someone is promoting they can do these activities. Basically the only thing that has changed is the business card. Unique Identifier Number is really the only change. That is not a huge change. All of these other requirements have already been on there. If your website does not promote specific loan officers, you would not have to list them and all of their numbers. A business card for the company would not have to list all of the agents. If a specific agent would have their own business card, it would have to list the company name and the company's address, company's phone number, company's license number and also the unique identifier number. I understand that this is a change. If you have a stock of business cards that you have ordered and paid for, we are not going to beat you up because you want to utilize that advertisement that you bought boxes of to mail out. You can use up your current stock. As you reorder these things, you should comply.

Commissioner Waltuch: If we were to issue a guidance letter suggesting where or what types of advertising or whose license numbers appears – do you think NMLS or HUD would go along with something like that?

Sheila Walther: I could check. It is in our law that the advertisement has to have these types of information on it. I could clarify if they have requirements that the number appear on advertising.

Lance Miller with Praedo – SAFE Act is actually silent on the use of the NMLS identifier on advertising, so it is up to the individual states. You can actually do whatever you like.

Commissioner Waltuch: We will contact HUD in particular and see if they have any unofficial guidance. They won't say anything official at this point in time.

Sheila Walther: Something may come out in the rules that require that to be noted. We could kind of get an idea of where they are going with that because it is a lot of work to go back and try to add it later.

Commissioner Waltuch: We can post it in another FAQ.

Chuck Mohler: Yes, because what I am reading and what Sheila just said, I get the impression that I have to have a company ID number which there is, and then an agent ID number on an agent's card in addition to the phone, the fax, the email, the 800 number – we are out of room on the cards. If you have got our name and address and number you can find the bad guy. Do we need the Social Security Number there too?

Commissioner Waltuch: You know I have to remind you, you have the back of the card too.

Chuck Mohler: I am already using the back of the card.

Commissioner Waltuch: We will see if we can get some clarifying information on that. (No comments on Sections 9 through 17)

Sheila Walther: I wanted to point out on Section 18 that we received a written comment. The language has been changed through the Legislative Council Bureau review. It is 2b, it should name the individual by name or group such as employed. We had associated mortgage agent and Legislative Council Bureau added such as all employed or associated mortgage agents. They thought that that might be confusing. Actually we included that because the bonding requirement did not spell that out. It just said basically that the bond must name as principal both the company and all of the agents that work there. We have a very difficult time at the Division getting that principle to include all of the agents, so we finally came up with saying “all associated mortgage agents”. If there are hundreds of agents, you can’t name them all so we did it as a group and tried to avoid ... I personally received 75 to 100 calls trying to clarify that point. We tried to include that to give a little more guidance. One of the sureties indicated they thought that that filled out that way might be problematic. I just wanted to point out that we did receive a written comment on that.

Commissioner Waltuch: Let’s go back to a conversation we had yesterday. Under 645E I believe the wording is the same. (No comment on Section 19.)

Chuck Mohler: Section 20 – I am still not sure how even these items help to clarify whether someone should have a license or not on their financial condition. Especially in this market. We go a few years without being profitable without a lot of activity, but still trying to stay in business, maintain a license, hoping that things will eventually change. I would hate to go through all of this work and have a license yanked.

Commissioner Waltuch: Actually, the way this is worded is “an average change in financial condition is *not* proven by a decrease in revenue. We wouldn’t use just a decrease per se.

Sheila Walther: Section 20 was added because the provisions of statute that allows a commissioner to conduct an exam every other year unless there are certain issues with the company, one of them was an adverse change in financial condition. With the declining economy, I am sure every company is not making as much money as they did. This is giving some clarity that you have not had an adverse change in financial condition simply because your income has gone down as long as you are still profitable. This was for purposes of conducting examinations. The commissioner can conduct examinations any time we see the need. This is just to add clarity to what “adverse financial conditions” would include.

Chuck Mohler: I understand the point. My concern is the word “profitable”. If I show a loss in the year, I am not profitable.

Sheila Walther: We have a provision in 670 that says that you have to be solvent. We have solvency defined.

Chuck Mohler: Solvency is your balance sheet. Profitability is your income statement.

Sheila Walther: This is solely for the purposes of conducting a biennial examination.

Commissioner Waltuch: It is not for purposes of revoking or suspending a license. It is just for us to determine an examination schedule.

Ron Weiss with Orange Financial – You still require a \$25,000 net worth don’t you?

Commissioner Waltuch: \$25,000 net worth?

Sheila Walther: The net worth requirement is only to be maintained on certain types of trust accounts, at least in the B chapters. Those are accounts that if a private investor gives you money to put into a trust account or put into escrow to fund a loan or you then subsequently service that loan on behalf of that private investor as a third party services – so only if you maintain those types of trust accounts does the provisions in the statutes regarding net worth kick in.

Ron Weiss: In the compilation that you require from a CPA, 120 days after your year end are you looking for any specific net worth?

Commissioner Waltuch: No. There is no requirement of a dollar net worth is there?

Sheila Walther: Only if they maintain those types of trust accounts. You have to be solvent.

Commissioner Waltuch: Sheila, the question is do we have a \$25,000 net worth requirement. I don’t know of one.

Sheila Walther: There is a tiered net worth requirement dependant on only for the company’s average balance in those types of trust accounts that I just described. We only have maybe 10 companies that maintain those trust accounts, so it is a very small percentage of our licensees that are subject to the net worth.

(No comments on 20 and 21)

Commissioner Waltuch: On 22, privately insured credit unions for example, their residential loan originators fall under the definition in the SAFE Act.

Sheila Walther: Section 22 – let me qualify this one because it is important. In NMLS world, the principal office is the corporate office of the company. Many of our broker’s corporate offices are located outside of the state of Nevada. They are required within the NMLS – they have to be licensed in the state in which they do business. We don’t have any provisions in the statutes for an out of state office of a broker to be licensed. To address the need to conform to the requirements of NMLS, we included Section 22. So the corporate office will apply for a branch license. We are going to note them in our system as a corporate office. Right now we have principal branches. For purposes of complying with the perimeters of the NMLS system, that office can not conduct business, so it is going to be conforming to the requirements – it don’t think we are going to feed it to our website as a viable office to do business, but we have to accommodate and fit into the peg that NMLS has created for us. So this is an inclusion that Legislative Council Bureau let us put through to meet that requirement.

Commissioner Waltuch: There are other provisions that we also have to fit into NMLS, such as the residential loan originators for privately insured credit unions or for installment loan lenders who are doing mobile home loans that are defined as dwellings – we have to bring them in to use under exempt entities as mortgage agents. So we have some exemptions and we have some licensing capability under those exemptions.

Chuck Mohler: On Section 24 – If the way I am reading this one clarifies that the investors are investing through a licensed party do not need to be a mortgage agent themselves. Private investors – do they now have to get licensed? The way I am reading this is they now no longer need to worry about that because they are now investing through me.

Sheila Walther: I want to point out that this provision has been in the regulations for years. A party that only provides a funding source to a loan originated by a licensed broker is not considered doing business triggering a license requirement. The point of origination has always been the trigger in the State of Nevada. This language is to clarify that those entities do not need to be licensed. Because of the SAFE Act requirements, we weren’t really sure whether the HUD rules or it would be determined that some of these activities that small investors are doing that may trigger a license requirement in NMLS world or SAFE Act world or HUD’s determination, so we included that just to protect our statute that we are not going to consider them not doing business if in fact HUD comes out and says those types of activities that are being done, do in fact trigger a license requirement – they do need to be licensed in the state that they are doing those activities in. Currently we are not subjecting those individual companies to

licensing. The hard money people don't take applications, they don't arrange terms. I don't foresee that HUD is going to include them in the requirement to be licensed as a mortgage agent because they are working through a licensed broker.

Commissioner Waltuch: Ok, that's the long version. The short version is HUD can change this. Congress can change this. If at some point in time the FRV and (inaudible) they decide that all of private investors are deemed to be creditors for residential purposes and therefore are subject to TILA and all of the requirements they might simply extend it to licensing as well. We don't know. (No comments on 25 and 26)

Mike Whitaker of Vestin – On number 27 – Our concern is for our qualified employee and our company being strictly a commercial lender where the SAFE Act is not applicable to our type of activity. I still believe that there is a restriction for strict commercial lenders. They can't do a residential commercial loan under the language in the statute. So again, I have a problem with the regulation that says I must comply with a law that is not even applicable to me. Now, the question I have is some other states have already passed or provided language and regulations that exempts commercial lenders from SAFE Act. Since it is not applicable to begin with, would it be a substantive change to this regulation or would the Division consider providing some type of language that would exempt a strict commercial lender who does not deal in residential commercial loans?

Commissioner Waltuch: A simple question. A not so simple answer.

Sheila Walther: The definition of a mortgage agent - Subsection 1 says that anybody who is doing activities that would require licensing as a mortgage broker and mortgage broker if you look at the definition it just says real property. So the changes you are talking about Mike, would take statutory changes because someone needs to hold a mortgage agent license if they are doing anything that would require a broker license and the types – commercial or residential – it is not specific in the definition of a mortgage broker. Real property is residential or commercial, so we really can't change that by regulation. It is going to take a statutory change. We have internally discussed maybe having a chapter for residential and if they want to do commercial, have a separate chapter for just commercial activities. I do know that there are some states that don't even regulate commercial. But in Nevada, it is making loans on real property. It does not specify that that real property is residential or commercial. By virtue of the fact that a broker can do both and by virtue of the fact that a mortgage agent license is required of a natural person doing activities that would require a broker license which again is just real property, you do need to hold an agent license if you are doing activities. This is just adding some qualifications. SAFE Act requires all of our mortgage loan originators to go on NMLS and we can't exclude a person just because they are going to limit their activity to commercial because

the statute allows them to do either. Our hands are tied because the statute says what it does.

Mike Whitaker: I respectfully disagree. That is not what the statute says.

Sheila Walther: If you look at the definition of mortgage agent it says that it is someone who is doing activity that would otherwise be required to be licensed ...

Mike Whitaker: It says "as required by NRS B 405"

Sheila Walther: That's B. That's a different section of it too. There are different sections in the definition of mortgage agent. There's 1 and then there's AB and then there's 2, then there's 3.

Mike Whitaker: The language is clear.

Commissioner Waltuch: I understand your concerns. This issue has been vetted and raised at other levels. What would be needed to clarify the language would be 2 separate chapters - one for anybody who wants to do residential and commercial and one strictly for commercial, non-residential. Those folks would then be entirely exempt. It is going to take a statutory change. It is going to take a major rewrite of B and E to really clarify the language. That is what is needed. That is something that I would certainly encourage you to work with the legislature in the upcoming session. For this purpose, I think it is a done deal.

Mike Whitaker: I just thought I would express my concern. We have complied.

(No comments on Number 27 and 28)

Commissioner Waltuch: I have a comment on number 29. It is on page 20 right above number 5 at the bottom where we require record keeping and address and phone number and address of the person responsible for the maintenance of the records. One of the thoughts we had is that we need to find out who is going to be responsible for the destruction of the records as well. We want to make sure these records get destroyed at the end of the record keeping period. It is something we are going to look at. If the company goes out of business, we don't want to find the records in a dumpster.

Sheila Walther: We don't ask for the person's name. I guess we could conclude that maintenance means both keeping and destroying.

Commissioner Waltuch: Don't be surprised if there is a final little change that adds destruction in there as well. (No comments on Section 30 through 36.)

Linda Williams with Mortgage Trainers of America: On number 37 - I just have a question because with the SAFE Act it was going to get rid of having to have

the sponsors, but I noticed it was struck in the other area but not in this area and I wondered if that is because there has to be a change in the statutes themselves to change that. I notice that all you do is add the registry.

Sheila Walther: This changes 645F. This does not change 645B. R052-09 was a regulation to add to 645F for the loan modification companies. We actually referenced in those the old 360 of the NAC, so we couldn't just dump 360 out because it had another regulation that relied on its existence, so rather than keep it in the – they just moved it into the F chapters.

Linda Williams: So loan modification education won't have to go to the NMLS?

Sheila Walther: Yes.

Linda Williams: The last time we talked, the loan modification people were going to have to join the SAFE Act registry. So now that's changed?

Commissioner Waltuch: Well, currently. Loan modifications unless brought in by HUD – it would take a Nevada statutory change to do that. Section 37 conforms 645B to the NMLS and moves everything else that was there into the F chapter. Loan modifications and Escrows are not involved in this for now.

Janis Grady with Nevada Association of Mortgage Professionals: Number 4 says "Nevada Association of Mortgage Brokers". That has changed to "Professionals".

(No comments on 38 and 39)

Chuck Mohler: On 40 – halfway down on 2d, shouldn't that be the same for B and C and E so that we are being educated not only on NRS but also NAC on any relevant chapter?

Sheila Walther: When it says 2a it says "this chapter means the NACs. That is covered but there are NACs in 645A.

Commissioner Waltuch: I think if you read number 2 as Nevada Laws and Regulations, then the addition in 2d is irrelevant. In 2d, the change should probably come out.

Chuck Mohler: That same wording should come out of F also.

Commissioner Waltuch: And subsection F yes.

Chuck Mohler: There is just an inconsistency there that I picked up.

Commissioner Waltuch: So we are going to strike “and any regulation adopted pursuant thereto” from subsection D and we are going to strike everything after NRS in subsection F. (No comments on 41 through 47) Does anybody want to comment on the repealed sections?

Chuck Mohler: Now that we are through this part, what is our timeline of when this will actually be adopted and how soon – even a better question – of all of these different regulations that have been adopted – on your website we have 7, 8, 9 of them, separate from the NRS, when do we get it all into one common things where we can keep track of what we can do?

Commissioner Waltuch: I’ll make a couple of comments in reverse order starting with your last question. When is all of this going to be property codified?

Unknown. This is all up to the Legislative Council Bureau. Personal opinion – I don’t anticipate it to be codified before the end of the next session. Their deadline is – I think anything that is sent to them from September 1st on, doesn’t get looked at until after next session because they start working for the legislature rather than on regulation. If they don’t have it out by September, I don’t see it coming in the near future. The timeline on this is we will go back and look particularly at the advertising one and there was another one we had to look at. We will make the other technical changes that we are going to do. Then we send it back to the Legislative Council Bureau. The Legislative Council Bureau will hopefully turn it around shortly.

Sheila Walther: Joe, I think that the changes we made won’t be something that we have to send it back for another review because you would have to have another hearing then.

Commissioner Waltuch: The changes we will make will not be material. It goes to the Legislative Council Bureau and then it goes to the Secretary of State’s office for certification.

Sheila Walther: There will be a commission hearing August 13, but they are going to convene a special sub commission of the legislative commission to hear and approve these so that it can become law prior to July 31. I anticipate that we will get these back adopted in the next couple of days.

Commissioner Waltuch: Ultimately it goes to the Secretary of State for certification at which point they become official. We are looking at a 7/31 drop date, but if the legislative commission does not appoint a sub commission to hear this, we may be technically out of compliance until they get to it.

Sheila Walther: Can I ask the education providers if they have an issue with the changes to education have to file with the Secretary of State – would you like to see a different effective date?

Linda Williams: I was thinking that I was going to put in that it will be effective some day. We have to teach the law. Basically, I have taken my Nevada law classes and thrown them out and started over. There have been so many changes.

Sheila Walther: All of your classes have to be approved by the registry. Your classes would no longer be acceptable if they were approved only by the Division. How much lead time do you need? Keep in mind that we go live on October 1, 2010.

Linda Williams: That's a good question. I know when I sent my last batch up, it took 6 months. It was not until I complained – What was happening was that I would submit it and then a law would change. Then they would say “You have to have the new law”. It took them so long to approve it that the laws would change. Finally I got my class approved and it was 6 months. They will tell you 2 weeks if you ask them. It's 4 to 6 weeks or more. Now I have to write a pending law class. That will be very interesting.

Paula Scotland: All of Linda's classes are very very good. I don't anticipate a problem with NMLS.

Lance Miller: Once this goes into effect, will any course that currently has approval be immediately not approved?

Sheila Walther: Maybe that is how we can write the transitory language. Classes that have been approved can maybe be taught until 10/1 when we go live or possibly until 12-31, but this might be an issue with NMLS. I want to clear it with CSBS as to what they will accept. I am thinking October 1st right now. That gives providers ample time to get those courses approved.

Commissioner Waltuch: Keep hammering away at the NMLS folks to approve your classes. Paula, in your dealing with the NMLS, did they ask to see a copy of our proposed regulations or anything?

Paula Scotland: No.

Commissioner Waltuch: Shall we send it to them anyway?

Paula Scotland: We could.

Sheila Walther: When I talked to Pete Morris, he was aware of our regulations. They are posted to our website. They have a whole section that works on compliance.

Commissioner Waltuch: Maybe would should send them a copy of what is going to the commission.

Kyle Nagy with CommCap Advisors: We are a 645E company, a mortgage banker, but I wanted to come here and invite all of those strictly commercial mortgage brokers to join us. We are going to work with the Division for the next session and try to create an exempt chapter or some other chapter that identifies us so we no longer have to follow the SAFE Act because it is burdensome. It is expensive and it is stopping us from doing what we need to do in this environment.

Commissioner Waltuch: That is fine. Let me just throw one other thing out. We have no answer to this question. You do a strictly commercial loan. It's an office building in Houston for all I care. When your mortgage or deed of trust you have cross-collateralized it to the guarantor's home. That might force somebody into the NMLS regime as well. I am calling it to your attention. You have to be real careful. You don't want to be swept in by accident.

Kyle Nagy: We have been a mortgage banker since 1996. We have never done a residential loan. We have never cross-collateralized any other property besides commercial property. So to go through – and we are going through an obtaining the proper licenses – is quite difficult, time consuming and expensive for us. It does not assist us or help us in any way in what we do.

Commissioner Waltuch: No. Especially like the education courses. There are no commercial courses in the NMLS.

Kyle Nagy: RESPA and Title Z – all of this stuff is not necessary for our business. I just want to make that point.

Commissioner Waltuch: Anyone here or up North, feel free to contact Kyle and work with him. Any other comments?

Janis Grady: With the changes happening on the regulations all the time – is PSI being kept up, so that people will have a decent grade on the exams?

Sheila Walther: We have revised PSI questions to reflect the changes out of the 2009 session in January. We are a little behind. I can't speak to whether they changed the federal questions consistent with the changes that went in in January. PSI will be offered until October 1st and then we will roll out the test that we are currently developing with a vendor that the registry uses and it is just Nevada questions and the federal test that is being offered through NMLS does reflect those new changes. To answer your question, they were not really interested in making all of the changes to the federal section because every state has dumped them, PSI, except Nevada. The passage rate for PSI is 78%. It is not causing people to fail. It has not changed the passage rate.

Keith Turgiss with Rainbow Financial Services – I own a 675 installment loan company, so I am not sure if this is the right forum. We are having a heck of a

time trying to integrate the fact that we are now being licensed under a division that does not even regulate us and how that changes other things that were the standard way of doing business and it is really quite difficult to meld the two together.

Commissioner Waltuch: Keith, we will talk after the hearing. We have emailed haven't we?

Keith Turgiss: Yes.

Sheila Walther: Do you do mobile homes or other types of property?

Keith Turgiss: Mobile homes.

Commissioner Waltuch: Any other comments? If there are not objections, I will adjourn.

Hearing Adjourned at 10:10 am

Submitted by Susan Slack



JIM GIBBONS
Governor

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DIANNE CORNWALL
Director

JOSEPH L. WALTUCH
Commissioner

**Workshop to Solicit Comments on Proposed Permanent Regulation for Mortgage Brokers
and Mortgage Agents
645B / AB 523 / R-035-10**

Date: March 30, 2010

Time: 9:00 am

Location: Las Vegas
The Bradley Building
2501 E. Sahara Avenue
2nd Floor Conference Room
Las Vegas, NV 89104

Video-Conferenced to:
Dept. of Business & Industry
788 Fairview Drive
Hearing Room
Carson City, NV 89701

Present: In Las Vegas:
Commissioner Joseph L. Waltuch
Christine Parvin – Deputy Attorney General
Susan Slack – Administrative Assistant II

Connie Gamble, Louis Filippo, Jasey Baker, Coby Baker, Shawn Schofield, April Stewart, Linda Williams, Jeffrey Baron, Ira Epstein, Ronald Lindquist, Charles A. Mohler, Steve Lee, David Seltmen, Janis Grady, Bob Satterwhite, Robert Manfield, Josie Billington, Josh Coomes, Sandy Menard, Timothy P. Klinger, Pamela J. Handgard, Terry Dachnowski, Rita Lee, Nancy Licata, Natalie Blackwood, Corrine Cordon, Jacie Evans, James Boudreau, Diane Bryson-Pikes

In Carson City:
Sheila Walther- Supervisory Examiner
Paula Scotland – Education
Colleen Hemingway – Deputy Attorney General

Teresa McKee, Ginney Yates, Craig Hartman, Wayne Snyder, Cindy Stephens, Mike Kunz, Chris Coombs, Lin Buck, Ray Joakimson

Discussion:

Commissioner Waltuch: Today we are going to be discussing a proposed regulation R035-10. This is a public workshop to talk about a proposed regulation that will help us implement both the federal Secure and Fair Enforcement of Mortgage Licensing Act of 2008 (SAFE Act) and Assembly Bill 523 from the last 2009 legislative session that will hopefully when this regulation is ultimately and will probably need some new statutory changes next session, will bring us into compliance with federal and getting us up and running on the Nationwide Mortgage Licensing System (NMLS). I am going to turn this over to Sheila Walther.

Sheila Walther: I just want to give a little background. As the Commissioner mentioned, the SAFE Act passed and they actually recognized the national licensing system which actually had been in place for a few years prior to the SAFE Act. It mandated that all states join and that it required all loan originators to get unique identifier numbers. A few months ago the Division received a letter of deficiency from HUD and through this workshop and through these regulations; we are trying to bring our laws into compliance and to get on the NMLS system. We signed our letter of intent. We are in a transition program. Many of you who are licensees have been receiving email blasts and some updated on this. We are hoping to go live on October 1st. In order to have the laws allow that to happen, we are trying to get as much through regulation as we can. There are some provisions that we can not put in by regulation. The most serious one is that our renewal dates for our mortgage agents renew one year after issuance. All renewals on NMLS expire annually on December 31st. We have a conflict there as well as our brokers expire annually on June 30th. Both of those have to be changed. We are advised by Legislative Council Bureau that has to be done by statute. We are going to be going on NMLS for new applications, we are going to have all of our existing licensees transition on to the system, but we will continue to renew licenses through 2011 and then hopefully the laws can get changed so that there will be a second renewal in 2011 by December 31st and everything will be on the NMLS system. The regulations have been drafted. These have already been sent over to the Legislative Council Bureau to start their review to see what we can and can not do right away. I have not gotten a lot of feed back from them. I anticipate in the next week or so that we will get some additional feedback or possibly language. As soon as that happens we will disseminated it out to the industry and interested parties. A lot of this language that was put in here was pulled out of a model language that CSBS drafted to help states implement the requirements. A lot was put in based on that HUD deficiency letter that they sent to the division. They reviewed our laws and recognized that we have some deficiencies. In response to that we have drafted these regulations. The division received two written comments prior to this workshop. If there is something that is brought up during this workshop today, the Legislative Council Bureau understands that we will be contacting them and making changes. We have already made a couple of changes from the first draft

of this based on additional information that the Division became aware of through our participation in the transition program that CSBS is doing to help us get on to the NMLS system. The first blast that I sent out to everybody, there was one change made in Section 11 and the one that is here today is right and it reflects that change. Section 11 – 1-D-3 was stricken under advise of Colleen Hemingway, our counsel thought that it was too vague. That was one of the other qualifiers for defining what whose financial responsibility would be. On Section 14, the NMLS system only allows reinstatements for a two month period. We have in this law that you can reinstate a license for 6 months. That will be changed to reflect the 2 month period that NMLS will allow for reinstatement. That is when a loan officer or a company fails to renew by their expiration date. They will only have 2 months to reinstate that license. After that period they would have to reapply. I want to explain that as we transition on to NMLS they are going to allow us to certify individuals that have completed the PSI test and that have completed the Nevada Section of the testing. They will also allow us to certify that individual loan officers have completed education. NMLS has a 20 hour requirement. We have a 30 hour requirement. They are only looking for 20 for that transition. We can look to individuals that have taken a licensing education. We can look to the continuing education that our licensees have taken to transfer them on to that system and not have to meet those requirements again. That is going to be part of the process that the Division will be working on.

Commissioner Waltuch: I am going to do a little bit of housekeeping here. Does everybody know what the NMLS is? It is the Nationwide Mortgage Licensing System that the Conference of State Banks Supervisors and the American Association of Residential Mortgage Regulators of which this Division is a member. Those 2 groups put together this Nationwide Mortgage Licensing System in lieu of Congress coming up with its own plan. They formulated this private one where all the banking regulators and mortgage regulators basically own it. Congress since said that all mortgage loan originators have to have this unique identifier on that private system – not on the federal system. The federal system is for the bank employee loan originators. This is for the non-bank employee loan originators. The other thing that I just want to clarify is HUD sent a deficiency letter not only to Nevada but to probably every state in the country. What HUD did, since HUD is charged by Congress to basically implement the SAFE Act by regulation, they went through all of the various states laws and regulations at that time and sent each state what they considered to be the minimum requirements to get us up to the minimum SAFE Act level.

Sheila Walther: We have to go on the system. HUD said we have to. The federal government is mandating this. The governor directed us to get on as soon as possible. We are actually in the last group of 5 states. All of the other States are ahead of us. We did try to hold out as long as we could. By coming on later, we have the advantage that some of the problems have been corrected and some of the functionality on the NMLS system is in place where it was not before. It's

good in a way to wait. We had two written comments. Janis, do you want to go over this?

Janis Grady: You go ahead.

Sheila Walther: We received a nicely written and very thoughtful commentary from Nevada Association of Mortgage Professionals (NAMP) written by Janis Grady. She brought up several points that I think are going to be pivotal to everybody's concerns. She addresses the fact that we are going on the system and HUD is still working on their final rules. Some of the perimeters about who has to be on will be worked out. We will just address either through statute or regulation if there is something in our law that is not consistent. One of the main items in the proposed rules is that third party loan modification entities must be licensed on NMLS and subject to licensing as loan originators in their state that they are operating in. We have a separate statute that covers these entities. This will have to be done next session to bring that into conformity. We are trying to do this because we are required to do this. It is a good thing. You know, if somebody messes up in Florida and they take action against them and then they try to move to Nevada, we can stop that because we know who they are and we can follow the bad players throughout the United States. This is a good central place to look up licensees online. It is a good way to inform the public and to monitor these. That was her number one item. The second item was the bonding requirement. AB486 passed last session and it required mortgage brokers to get a bond which covered not only the companies but their loan officers that worked for them. It was tiered according to the number of offices that a company had. If they had 1 office, they just needed a \$50,000 bond. If they had more than 1 office, they needed a \$75,000 bond. SAFE Act dictates that bonding has to be based on volume of loans made. What we tried to do in the regulations was to recognize that there is already a bonding scheme in place, set up a bonding scheme based on volume, but say, if you are within the volume maximum required amount that you already have this bond, virtue of your number of offices, no additional bond is required. I don't anticipate that there is going to be too many brokers that are going to have to get additional bond coverage. The commissioner had a discussion with the Legislative Council Bureau and felt that could go forward in that manner. We are hoping that won't impact businesses too much. SAFE Act, the way it was written, required each individual loan officer to get bonded. I am sure you can understand the logistics of trying to get every single loan officer to get their own bond. You could either bond, get a net worth or pay into the recovery fund. Nevada does not have a recovery fund. Net worth would be very difficult to monitor and in this economy, very difficult for most loan officers to meet that net worth requirement. So, the bonding is the only one that is currently in our law that was practical. The Conference of State Banking (CSBS) that kind of set up NMLS and runs this, they are working with HUD and has informed us that HUD is in agreement that the responsibility can fall to the broker, to the company, so long as that bond covers those loan officers that work for them. So you have to say "ABC Mortgage and all associated mortgage

agents”. They way it covers and meets the State requirement. We did put a second scheme into the regulations. We looked to the fact that bonds are already in place for our brokers and if they meet minimum requirements, they would not need to get a second bond.

Commissioner Waltuch: I am going to address a little more. The Nevada Association of Mortgage Professionals comments I think is to replace the bond with a victim recovery fund. There was a bill introduced at the last session that was killed. The bond was enacted instead. Under the SAFE Act a victim recovery fund is an option that the State has. Since we have a requirement of a bond, if we were to voluntarily adopt a victim recovery fund, it would be as well as a bond and I don’t think that is what anybody really wants to see their fees going towards.

Janis Grady: Can we not undo what was done?

Commissioner Waltuch: That would take legislative action next session. That would be up to the legislature to decide to whether or not to repeal the bonding requirement and replace it with a straight victim recovery fund or not.

Janis Grady: Well that is what I would propose.

Commissioner Waltuch: I will tell you, if you do that, and the reason the bill was killed last time, was because the victim recovery funding mechanism came out of your licensing fees, but we could not increase your fees to offset what would have to go out to the victim recovery fund. The problem with that is by the time you took out the NMLS fees and the victim recovery fund fees, for every mortgage agent renewal of \$100 that we charge; we would have been spending \$110. There was no funding mechanism.

Janis Grady: Right. Virginia and a few other east coast states have where every closed loan they charge \$5.00 that goes into the victim fund.

Commissioner Waltuch: Right. This would have been a fee increase and that was not something that could have gotten through. That is something that will have to be addressed at the next session. The other thing I need to point out is that even if you have this victim recovery fund, whether it is \$100,000 or ten million dollars, as we just saw in this last special session, the legislature took money from the Attorney General’s Tort recovery fund if I remember correctly and allocated it for general fund purposes.

Sheila Walther: They also swept the real estate recovery fund and the insurance recovery fund.

Commissioner Waltuch: So, it’s possible that with a victim recovery fund it will be swept for general operating purposes whereas the bonds are not. If it is a

consumer protection issue, the last thing you want is that fund to be swept for other purposes. These are things that will have to be addressed at the legislature. Regardless of the victim recovery fund, the SAFE Act in talking about bonds does not permit additional or other security. We have some brokers who have posted Certificates of Deposit. We have a couple like in the loan mod cases that have posted letters of credit in lieu of the bond. None of that is permitted under the SAFE Act. Regardless, we are going to have to go back to the legislature and eliminate those provisions in current State Law that authorize other forms of collateral. It is a bond, a net worth requirement or a victim recovery fund.

Sheila Walther: Janis, the next area that you have a comment on is credit history. The SAFE Act requires that we establish the criteria for issuance of a license. One of the criteria was that an applicant had to demonstrate financial responsibility. They have left this totally to the state's interpretation on how they want to have that affect the issuance of a license. There are some states that have established minimum FICO scores. There is a state that says you can not use a FICO score to deny a license. The language that was put into this draft was kind of copied from California. California wanted to not establish certain FICO scores because a lot of people would not meet the criteria. Some states said that you can not have had a foreclosure in the last 3 years. You can not have a bankruptcy in the last 3 years. Those types of criteria would really deter – I would say 90% have had some credit issues because of the way the economy has hit this industry so hard. Nevada did not want to go that route. The language in the proposed regulation looks more to credit that denotes fraud or misrepresentation - that or a pattern of these things. I have been designated to approve agent licenses. I have probably looked at 30,000 scenarios and people's situations. With the exception of a couple, I have not denied a license solely on credit issues. This is one area where we did strike out number 3 which you have quoted in this which was deemed a little bit vague. Things happen to people that are out of their control that does not reflect their character or lack of character. NMLS is letting the states decide. There is no intent to yank somebody's license just because of a credit report. It would have to be more along the lines of fraud and misrepresentation for that to happen. The next one is the provision for loan processor underwriters. That was one of the deficiencies that HUD pointed out to us. The state required that if a loan processor underwriter works for a broker or banker and is a W-2 employee, and they do clerical functions as a processor, they do not need to be licensed. However, if that loan processor is an independent contractor, then they are subject to licensing. Our law requires that loan officers all be W-2 employees. They would have to switch them over. They would be W-2 and then maybe the problem would go away. There are all kinds of scenarios. Nevada currently has a provision in the regulations that states that if a company is merely providing – funding a loan originated by a licensed mortgage broker, then they are not subject to licensing – they are not considered doing licensable activity. We added in there as kind of a qualifier so long as they are compliant with the SAFE Act. If they are subject to licensing at the state level, they are going to have to be licensed. If they are subject to licensing at the federal level –

registration – they are going to have to do that. The term “underwriter” is more consistent with another way of saying “loan processor”. In the calls that I have been on with NMLS, they use the terms interchangeably. We had to define that independent loan processors/underwriters have to be licensed. If they are W-2 employees and they work for a broker, they don’t as long as they are not crossing the line and doing anything other than the clerical functions of a processor.

Commissioner Waltuch: This is one of the things that HUD will have to clarify at some point in time. We may need legislation at the state level as well. So, we should know in the next few months. What we have got right now is what we think is out there, but it is subject to change.

Janis Grady: To me, it would create a conflict of interest for a processor to be processing for 4 different mortgage companies, but they are licensed to a 5th company.

Commissioner Waltuch: It may not be that they have to be licensed with us. They will have to at least have a unique identifier on the federal system. State law right now does not require mortgage underwriters – independent contractors – to be licensed. This is something that is going to have to be clarified.

Sheila Walther: That is put in the regulations that they do need to be licensed.

Commissioner Waltuch: That is Section 12.

Sheila Walther: It may not stay in. The Legislative Council Bureau says that if it is preempted by federal law, that possibly we could by regulation put something in that may conflict with statute. It has got that higher preemption at the federal level. Some of the things in here may change when we get the Legislative Council Bureau’s draft back. We have to have authority in the statute to draft a regulation.

Commissioner Waltuch: Since this is not going to be the final version, when the next version is available we blast it out to everybody on our email list. Is there anybody here that wants to sign up for our email list? On your way out give us your name and email address.

Sheila Walther: It is important to make sure that you email address is up to date with us.

Janis Grady: I am getting the idea that everything that the SAFE Act says, we have to comply with. There is no way that we can go back and query it? To me, it is insane to make every loan officer register at the same time every year. We used to do that and then it was changed. It is insane for someone to have to work on thousands of loan officers every year renewing them all at once.

Sheila Walther: It is going to impact the division. We have half of our licenses expire in June. Half expire in December. NMLS is just a repository for information. You go on. You fill the forms out. You pay it. Then at the state level, we download that application outside the NMLS system any Yes answer items have to come directly to the state. They are a one size fits all. We don't all fit into their little pegs. Anything that does not fit within their pegs has to be handled outside of the system. We envisioned getting a more elaborate database system. We were going to have an online piece. I equate NMLS to that online piece. We still have to work the files. They will pull the credit for us eventually. They are currently processing fingerprints. They are getting FBI reports. That will save us having to do that. We have to fit into the SAFE Act. The HUD commentary period – you point out in one of your last comments that the National Association of Mortgage Brokers (NAMB) had a very long comment on some of the issues in there. We hope that some of these clarifications will come out of those rules. SAFE Act had no exemptions. They did not address any exemptions. That is one area that we have in our statutes. We have several exemptions. They are going to have to change in the next session. HUD said that if somebody is selling their own personal residence, and they or a family member or friend can negotiate a seller carry back - that is the only time a person is exempt. They even say that someone that sells mobile homes possibly need to be licensed. Right now those types of activities are covered by the Financial Institutions Division and they carry a 675 small loan license. Those individuals will have to be addressed next session. In 523 we had coverage for Title 5556 and those licensees are subject to that. We actually have credit unions that are coming – their loan officers – credit unions – State chartered credit unions are regulated by FID, yet their loan originators pursuant to SAFE Act have to be licensed as mortgage originators, so they are licensing with us. They are the people that work with credit unions that are self-insured. This is reaching further than we ever reached as far as who needs to be licensed. Through statute changes, we are going to try to bring this up. We are learning as we go. The bottom line is that it's the law. It's a federal mandate. You have to joint SAFE Act. We are just going to get on the system and maybe through future regulations or statute changes, address some of the changes that may come out of HUD.

Janis Grady: We, as a State, don't have the right to query some of this stuff?

Commissioner Waltuch: Ok. The question is “Do we as a State have the right to query?” Let's put it this way. For the SAFE Act, since it is a federal law, you have the right to query through your congressional representatives. But a query does not change a federal law. It will take congress to change a federal law. For the NMLS and the things that the Conference of State Bank Supervisors and ARMOR are doing, yes, we have a right to query, but if they say “No”, we are stuck. Washington and where ever they are located in Maryland for the new non-profit that CSBS ARMOR formed to do all this – what they say is a voluntary unfunded mandate. We are stuck with it.

Sheila Walther: There is added cost. I have been told there would just be an initial application fee. Now I have been told that instead of \$100 for companies to go on and open that transition period for people to go on in October and November – now it is \$200. There is an application fee and a first year set up fee in addition to our fee. Instead of \$100, it will be \$200. For individuals, it will be \$60 instead of \$30.

Janis Grady: That is in addition to the fee for taking the exam.

Sheila Walther: Yes. When you sign on, you have to pay \$39 for fingerprint even though everybody has been fingerprinted in Nevada, they will not recognize that. Everybody has to be fingerprinted again. You have to take their test. Our PSI test is \$50. We don't make any money on the PSI. It covered everything. At the federal level the NMLS has developed the national section of the test and ethics. They charge \$94 for that. Everybody is going to have to take that irrespective of if they took the PSI or not. If they took the PSI, we are going to be able to certify that they have completed the Nevada section. We are going to turn off the PSI test some time in the fall and everybody will have to take the test through NMLS. Even when we transfer people and give them a list of loan officers who have taken the Nevada section, passed the PSI test, these people have completed at least the 20 hours of education and were certified that they could come on the system without having to do that. Every loan officer has to go on there and pay the five bucks to certify that test and fifteen bucks to certify their education. We charge when a loan officer changes brokers which I am sure brokers know. You do the change of broker form. You do the termination. We charge \$10 to do the change of broker. In addition now they will have to pay \$30 to NMLS. It is going to cost everybody more money but we have to do this.

Janis Grady: I figure it's about \$500 per loan officer just to get into the system.

Sheila Walther: Well. It depends. I try to encourage people to take the PSI test and have that out of the way. Then they can get certified. It saves them – its \$50 to take the test, \$5 to certify which is a little cheaper than \$69 to take the test when it is developed. At least that one criteria will be out. I am hoping to be able to use the C.E. towards that education. To take another 20 hours would cost more than the \$15 to get it certified. It is going to be additional cost, but at least it will be a little bit less than having to redo it. Florida has decided that everybody goes on the new system. If we did that, everybody would have to pay. The companies would have to pay the \$2500 to get licensed again. We are trying to work to get people to transfer on to the system at the minimal cost. Florida has 30,000 loan originators. They just did not want to have to do the processes to do that transition – give NMLS all the names and numbers and all of that, so they opted to do it that way. We are trying to work through it as best we can. We recognize that this is burdensome. This is what we have to do.

Commissioner Waltuch: I was going to open this up for questions right now.

Terry Dachnowski with Kenden Mortgage: I just want to find out when this is going to take effect that the loan officers are going to have to register?

Sheila Walther: Nevada is going to go live on October 1st. Vicki Slater has advised that we should open it up for licensees to go on October and November. Anybody can go on today and set up a base record. If they want to take the federal test part – because they need that unique identifier number, they can set up a base record, get that number and go take the test. It is not going to really do anything yet. They will have to go on in October then and create that full record. There is really like 4 things that are running at the same time. We have the transition, who is licensed, the number of people, names; we have the certification of the education, who has taken education, who has taken the test... We are developing the test for NMLS at the same time. We are also trying to figure out how to download – IT issues – how to download that database to the system. Vicki Slater has advised us that we should open up our full record of time for people to go on October 1st. To get all of the tests done and all of these things that I am throwing out there, they usually give at least 6 months. I want to point out that this change is in here and I anticipate that we will put an effective date when we transfer on to NMLS and turn off that PSI test. SAFE Act says you can only fail the test 4 times and you have to wait 6 months to take it. If you fail the test you have to wait 1 month between each test. Because of the way that SAFE Act is written, we had to adopt that language. Everybody goes on in October or November. You have got to meet requirements. You have got to take that Federal section of the test. They give you time. I think we have some ability to say how long. We can extend time too.

Corrine Cordon with Cappella Mortgage – For a broker who gets licensed June 30th – if I signed up today – as you said, we can go on to NMLS and get our unique identifier – could I take my 10 hours that is due for my brokers license, then right after June 30th, take my additional 10 hours so I have qualified for my 20 hours and then take their test and then be ready for the State System in October so I do not have to double my education – Is that possible?

Sheila Walther: Corrine, you have been licensed a long time. You have taken a lot of 10 hour CEs right?

Corrine Cordon – Yes.

Sheila Walther: You may not have to take any additional. We will just look at those past CEs that you have taken for your normal renewal here in Nevada and qualify you – certify you.

Commissioner Waltuch: For \$250.

Corrine Cordon: I'll pay it. So I just have to take that federal test.

Sheila Walther: Did you take your PSI test?

Corrine Cordon: No.

Sheila Walther: You would have to take the PSI test or once that Nevada test is developed in the fall, you would have to take it. It is cheaper to take the PSI.

Corrine Cordon: Opinions can be voiced on **www.NevadaTrustDeeds.com**. The minutes will be listed and the agenda from the last workshop will be listed as well as 5 general questions and then there will be more as a result of this.

Commissioner Waltuch: I need to add that this is not a Division or State sponsored website. It is totally private. We do not endorse anything.

Corrine Cordon: Except it came as a result of the last workshop here, while we were all here.

Sheila Walther: I want to point out too that in the regulation we have adopted R093-09 which established the criteria for approval for education courses at the division level of which we are striking the majority of those regulations because of the requirement in SAFE Act that all courses provided be approved by NMLS and not the division. We have been working with education providers. Most have been approved by NMLS or are in the process of getting that approval. In State – pre-licensing requires 15 hours live. Out of State that was not a requirement. We are striking that live requirement because SAFE Act does not have that. In SAFE Act world you can do all of your classes online. There are a lot of changes in the education section. You will see in the regulations that is often refers to the Registry. That is the same as NMLS.

Commissioner Waltuch: Sheila, you had a 2nd letter?

Sheila Walther: The 2nd letter was pertaining to that question that we covered on the loan processor/underwriter. It was sent in by Shawn Schofield. Shawn, did you have any other questions?

Shawn Schofield: I really don't. I think we will just wait until HUD comes out and gives some more clarification.

Terry Dachnowski: If a loan officer has taken the PSI test, does he have to take the federal test on the federal website?

Sheila Walther: Yes. We are going on October 1st. I am assuming you will have 6 months to complete that requirement. There is no grandfathering in SAFE Act world. Everybody has to comply. Everybody will have to take the federal section test that is being developed by NMLS – that \$94 test. I will tell you that it has a

passage rate of 67% so it must be kind of tough. If you don't pass it, you have got to wait a month. I think that's why they give you 6 months to complete that requirement. You can fail it 4 times and then you have to wait that 6 month period. In essence, if you are out of compliance, you would have to stop working. There are 2 tests at the NMLS level. There is the federal test and the individual state test. Someone that is licensed in 3 states only has to take the federal test once, but they would have to take the 3 unique state tests.

Teresa McKee – Legal counsel for the Nevada Association of Realtors – Our interest really is only in Section 4 regarding the definition of real estate. When you look at AB523, when they are talking about residential real estate, they are talking about the residential mortgage loan on a dwelling or residential real estate. They are talking about 2 things. Dwelling then is defined in the Truth in Lending Act and if you look at that dwelling – they are talking about structure – essential structure – a mobile home, 1 to 4 family housing units or individual units. What I think they are trying to do with the bill is say loans on these structures and also loans on this underlying real estate are what we are concerned with. I think in Section 4 I think it is pretty good at describing it in the first part. It is talking about underlying properties – the land. Then the last sentence says the terms includes if a condominium unit, manufactured mobile home and trailer is used as a residence – I think then you are bringing structure back into it. I think structure is already covered under dwelling. I just recommend taking out that last sentence just because you are muddying the waters by talking about dwellings and structures in one place and I think you are trying to talk about the underlying land in another place. Then you bring structures back into it.

Sheila Walther: We have historically allowed our mortgage brokers to only do loans secured by real property. We have always told our brokers to establish real property. That is not consistent with the requirements in SAFE Act.

Teresa McKee – I understand that, but you are already covering the structures within the bill language. Now you are saying it is already defined in the bill.

Sheila Walther: Do you think it is redundant?

Teresa McKee: I do.

Colleen Hemingway: Do you foresee some kind of a problem?

Teresa McKee: Only because it is also defined in the Real Estate licensees section. My interest is keeping the waters clear. If there is litigation or problems over a definition of what is covered or not, I don't think you want to have – dwelling means dwelling but residential real estate also means dwelling – I think it is not good to have it both ways.

Sheila Walther: I pulled that into our language because it is a change for our licensees and they have to understand that if they do these other types, they are subject to, as a residential mortgage loan originator, they are subject to licensing now. We can attempt to try to clarify and put it in simple terms what types of loans should require a license.

Teresa McKee: I completely agree with you. I just think maybe it should not be included in the definition where it is already defined as a different term.

Colleen Hemingway: I think this is going to be construed for these purposes only. That's what I would think.

Teresa McKee: I think maybe you need to restate "dwelling" in here also if that is your concern. Dwelling is ABC and Residential Real Estate is XYZ and ABC.

Commissioner Waltuch: Ok. We will take a look at that one.

Ray Joakimson with Summit Mortgage: I would like to know, what forces the State of Nevada to comply with the SAFE Act?

Commissioner Waltuch: Besides Congress?

Ray Joakimson: Just because Congress passes a law does not mean it is Constitutional.

Commissioner Waltuch: I will ask you to take that up with the Governor and with the Attorney General's Office. The bottom line is that this is a totally voluntary unfunded mandate. What the SAFE Act says is "States – we are strongly requesting you to join on to this system. If you don't you are required to join on to a system that HUD will develop and HUD will take over all of the State's licensing functions." They put the gun to your head and say you don't have to join but if you don't, HUD will do it.

Ray Joakimson: Does HUD have the authority to do that?

Commissioner Waltuch: Presumably, yes. We are not going to debate that. That would be something for you and your counsel to decide if you want to file a lawsuit against, let's just say, the SAFE Act and HUD.

Ray Joakimson: The reason that I am asking is that the Mortgage Lending Division has a system. It seems to work very well. Why fix something that is not broken?

Commissioner Waltuch: I understand fully what you are saying and you will note that Sheila's comment somewhere in the middle of all of this was that we held out as long as we could. We were the 50th state to officially join on to the system and

the 49th state to pass legislation to do it. We held out as long as we could, but the hammer was over our head. There are many other states that had systems in place as well, but we are all forced on to this one way or another. It is up to you and your counsel. I assume that is a very unsatisfactory answer for everybody.

Janis Grady: What about the Attorney General's office. I see the Governor is trying to get them to do the health care bill. Why could we not use the attorney general for this?

Commissioner Waltuch: We are staying out of that debate. You are more than welcome to talk to the Attorney General.

Linda Williams with Mortgage Trainers of North America: I just want to clarify something. Back when we first initiated all of the education, you had education or a test. Some people took one or the other. When we go into this, it is my understanding that if they took the test, they now have to go back and take 20 hours of SAFE Act training and if they took the education, they have to go take the State Test. Is that the way it is going to be?

Sheila Walther: A lot of licensees have taken 10 hours continuing education. We can use that continuing education for certification as well as the pre-licensing. I don't know if they are going to say that you have to have x number of hours in certain subjects. There are not a lot of specifics. They put the burden on the states. In my mind, if someone has renewed twice and taken 20 hours, we are going to certify them. Everybody has to take at least 20 hours of education. They are going to have to take the federal section of the test.

Linda Williams: It was my understanding that they were allowing the states to certify the classes. I assumed that anyone that has taken it would be certified over. It sounds like it is going to be a little more selective than that.

Sheila Walther: Anybody who has taken the pre-licensing 30 hours is going to get certified and then anybody who has taken continuing education at least 20 hours – we don't know all the answers – but they have mentioned that you can utilize both continuing education and pre-licensing education for purposes of certification.

Commissioner Waltuch: As we know more, we will blast it out.

Linda Williams: In regard to Commercial Brokers – we do have some people in our State that only do commercial that do not fall under the SAFE Act. I asked the people who were at the conference “Are you ever even going to take commercial into account?” They said it is not even on the chalkboard or even in their thoughts.

Sheila Walther: We have to put all of our brokers on. We have to put all of our loan officers on. I think we only have 10 or less companies that do just commercial. Even the hard money shops up here will occasionally take a residential as cross-collateralization or as part of a modification of a loan. They will take additional collateral and they have crossed that line. We can not manage our licensees by having 10 companies and a handful of loan originators off of that system. We have to manage everybody.

Linda Williams: Even though Federal does not require commercial lenders to be included in the SAFE Act, because of our requirements for them to be educated and that, they have to follow the ride so to speak.

Corrine Cordon: You guys said mortgage broker, but nobody said mortgage banker.

Sheila Walther: We are having the banker workshop at 10:30. Every mortgage banker has to go on NMLS too.

Corrine Cordon: Right now those mortgage bankers have not been taking education and they are now going to have to take the 20 hours.

Sheila Walther: They are going to take 30. They are coming on. The mortgage agents have to be fully licensed that work for bankers by July 31st. AB523 had a different transition period. It allowed by regulation for the commissioner to establish a different for compliance if it is required by federal law. Everything has to be done for them by July 31st or they have to stop working.

Corrine Cordon: On private money lenders there are a lot of individuals in Las Vegas that lend their own money and they are not licensed. They lend it on residential real estate. Do they have to be licensed?

Commissioner Waltuch: I don't know if we know the answer to that. If you want to be as technical as possible, you could probably say yes to that. I don't think that the NMLS and Congress intended the mom and pop investor to be licensed. We have asked that verbally, but I don't know if we have ever gotten an answer to that question.

Sheila Walther: Pretty much the answer would be Yes, those people would have to be licensed as either mortgage agents or get their own company. The only exclusion that HUD noted was the seller carry-back of your own residence. That is inconsistent with our own statute NRS 645B.015 and 150 in the E chapters. It allows for a natural person lending money from their own account, so long as they don't sell that interest in that deed of trust for a 5 year period, to anyone other than a spouse or a child so that is inconsistent with SAFE Act. That is one of the changes for next session.

Corrine Cordon: That then means that if they are licensed, they need to start doing RESPA and TILA, good faith estimates and truth in lendings and Section 32s. Now they don't.

Sheila Walther: TILA applies to them too. If a private investor lends money through a broker, once in a 12 month period, they have to give disclosures. If they are not giving these required disclosures, they are in violation today. They will fall under our jurisdiction and we will have authority to take action.

Commissioner Waltuch: TILA, RESPA, The SAFE Act never envisioned private investors because I am willing to wager that most of the states don't even permit what we permit here and it just has never been on anybody's radar. Everybody talks about creditors, mortgage brokers, mortgage agents, mortgage bankers, but they don't think about the personal investors who are basically loaning to the borrower through the broker. Maybe your business practice will change to where they loan it to the broker and the broker becomes the creditor and gives all the disclosures. There are ways ...

Corrine Cordon: Right. And that is what I like doing. That way I get the business. I have actual competition out there. I have a couple of guys who a couple million dollars. They are lending all day long. They have a line of credit. They are not regulated by anything.

Commissioner Waltuch: Right now they are not but they may soon be.

Janis Grady: You had mentioned at one point that it was going to cost the State \$200,000 to buy into this. Is that correct?

Commissioner Waltuch: The buy in fee for the NMLS is \$155,000. That gets us the opportunity to join on to the system. The other costs are data processing. It is computer related. It is other things. We are anticipating another \$60,000 give or take.

Janis Grady: Where are we going to get that money from?

Commissioner Waltuch: We are hopeful that on the April 29th interim finance committee meeting that the Financial Institutions Division has already agreed to pay the \$155,000.00 on our behalf. The theory being that they have people that need to be on the system as well. They have some under the privately insured thrifts and credit unions. They are going to have more under Chapter 675 small installment loan licenses. We are doing all the work. They are going to pay the \$155,000 for us. That does not come out of you guys pocket. The data processing, training and travel costs that we have, we are going to pay. When you add our time and our out of pocket expenses, which you guys pay, and compare it to what FID has agreed to pay it is almost 50/50 over all.

Janis Grady: Are we to expect an increase in any of our fees?

Commissioner Waltuch: No. The only increase in fees that I know of are what is being charged by the NMLS. We don't envision raising any of our fees. Nor could we get it through. That will take legislative enactment as well because we only have one fee that we can play with and that is mortgage agent renewal fees. Other than that, everything is set by statute.

Lou Filippo: The way the regulations are right now, you have to have 30 hours of education for a mortgage agent. With the new system coming down the road, also with those 30 hours, 15 have to be live. With the new system, with the 20 hours, a person..

Sheila Walther: The 30 is in tact. The 15 live is going away.

Lou Filippo: That is what I was getting at. Because it is actually an inconvenience for people who live in the State of Nevada. They actually have to take an additional 5 hours if the system stays in place.

Commissioner Waltuch: Lou's point is that if we did not eliminate that 15 hours of live classroom, they might have to take an additional 5 hours of education in order to meet the 15 requirement. We are striking it out.

Lou Filippo: Would that be as of October 1st?

Sheila Walther: Probably. I don't know yet for sure when the test will be developed. We are going to have a transition time to turn off one test and turn on the other. We have to get this through the system. We have to get this back from the Legislative Council Bureau before we can have the hearing to adopt.

Commissioner Waltuch: It is possible that we may have to have a 2nd workshop. We don't know yet. I will tell you that HUD has requested to see the language after it gets out of the Legislative Council Bureau. Everybody has got their finger in the pie on this one. It is going to take time.

Lou Filippo: As an educator, the requirements have changed drastically over the last few years. To be an educator a few years ago, you had to have a sponsor to approve the educator and the course. If you were approved, you can conduct your classes. That changed and the State got involved. The Mortgage Lending Division said that they wanted to see the course and instructor and we want to approve it. They had the final word. Now we have to be approved by the post secondary education system. Now in addition to that, we have to be approved by the NMLS. It seems like there are so many factions going on now that it is very confusing for us educators. Who has the ultimate say as to who approves the educator and the courses? What is the function of the sponsors? They don't have the ability to approve a course or the educator.

Sheila Walther: Currently we have 093 in place until this gets changed, but classes have to be certified by one of the 360 and I say 360 is NAC 645B.360 organizations and there is a variety of organizations and then it has to come to Paula for her review and the Division's approval or 093 or classes approved by the registry. That instructor requirement is still in place - with the - vested totally with the Division under 093 but under these proposed regulations, in order to be compliant with SAFE Act you guys are going to have all of your classes and it is no cheap. We recognize that. Paula did her stuff for free. She never assessed any fees based on that. The initial approval of a course – there is a flat \$300 fee and a \$20 per credit fee annually that has to be renewed by NMLS. On approval it is a flat \$200 fee and \$20 per credit. In addition, when you have to provide your list of attendees and people that passed the test or took the test, you have to pay \$1.50 per student per credit. You are going to have additional fees just to put that information on the NMLS to be monitored.

Lou Filippo: One on the problems we have though in addition to the fees is this: The state right now is losing their ability to approve educators for courses.

Sheila Walther: They are rubber stamping stuff because they are trying to get the availability of classes. There is this big push to get those courses approved – those providers and instructors approved and they are rubber stamping them. There are ones that Paula has denied that they are approving.

Lou Filippo: Sheila, this is my whole point.

Sheila Walther: They do not look at it like Paula looks at this.

Lou Filippo: That is my whole point then. I think that it is all run backwards with the education system. The State is getting tough on their requirements and they have disallowed some educators and some courses because of that. Now all they have to do is get approved through the NMLS and the State says “your fine”.

Commissioner Waltuch: Well, for the 20 hours, you are right. Not for the other 10 hours of pre and 2 of post.

Lou Filippo: But the 10 hours is how they get licensed initially. That is the most important one.

Sheila Walther: We are actually striking any approval requirement by the Division. This is to be consistent. They would not track that. We thought about that. They refused to track that on NMLS. In order for the logistics of it, we have to have that education information tracked on NMLS by the loan officer. Some of the stuff we are doing is not because we think it is necessarily the best approach; it is just that we have to do this this way. I really admire Paula. She is very

knowledgeable. She really takes her time reviewing this information. I don't know what to tell you.

Lou Filippo: I am probably going to embarrass Paula. Paula does an outstanding job and I thank you personally my friend. She's tough but she is fair.

Commissioner Waltuch: On that note, do we have any other questions?

Linda Williams: So we are losing the sponsorship?

Sheila Walther: In this regulation – actually when we wrote R052 – that is the regulation that established the licensing requirement for 3rd party loan modification companies – we referenced 360. When we just passed our education regulation for escrow agencies which have to have pre-licensing and continuing education we made not reference to sponsors. 360 will go away. It is the list of entities that can certify. Yes to answer your question Linda that will be going away. We had to keep it in tact because there is another regulation that lies on that process still. Pursuant to HUD's rules all of those 3rd party – anybody that does a 3rd party modification is going to need to be relicensed as a mortgage agent on NMLS.

Commissioner Waltuch: That is what is proposed.

Sheila Walther: It is down the road but um, so yeah then their education will all be done through the registry.

Linda Williams: What about escrow?

Sheila Walther: The only one we will have left will be the escrow agencies. That will be strictly Paula. She will look at those courses.

Commissioner Waltuch: Escrow won't change.

Linda Williams: So, in other words, I am rewriting the Nevada Law Class again. Is that it?

Commissioner Waltuch: Merry Christmas.

Linda Williams: For like the 30th time in the last year.

Commissioner Waltuch: Just think of all the work Paula did for naught.

Linda Williams: That's Ok. Me too.

Commissioner Waltuch: At 10:30 we will do E which is the banker part of this. If anybody wants to stick around for E feel free and then we can continue this.

Chuck Mohler with Eagle Mortgage: Section 24 Item 5b – Not take the same course in the same or successive years. I am concerned with that because we have got certain criteria courses that we have to take. And then we can never retake it again. I am concerned that we are being – next year – two years – three years – and I need that education again and Nevada law is Nevada Law or Ethics is Ethics and so my suggestion would be maybe strike that or modify it in some fashion that every 3 years I can go back and take Nevada Law again.

Lou Filippo: I can partly answer that from my conversations with Paula. I am speaking for you Paula. For example, if you took NRS 645 B that was required, the State says you have got to take a different course. But, if that course was altered or changed or modified – that now constitutes as a new course.

Chuck Mohler: I understand that. There are some of these things that are not being changed and how do I as a participant know that your course has been changed – because I am just signing up?

Lou Filippo: You would know that because the State – it has to be approved by the State.

Sheila Walther: The NMLS standard is that you can not take the class again. Period. Even if it has been revised. What we put in here was to be a little bit more flexible than what their language wanted us to be. Again, that is a little bit inconsistent, but the reality is like Chuck is saying is that a class is a class. You take ethics and you develop an ethics class and you have to take – by our requirements and within our 10 hours you have to have some ethics because that is in SAFE Act again. Ethics is Ethics. You develop a class. It's a good class. You have to take it the next year. I see a lot of problems with the way the SAFE Act was written and the NMLS. We are a small state. There is only X number of providers. Especially up in the Northern Nevada area. It is difficult to take a different class every year. I tried to be a little more flexible. We are going to send these to HUD. They are going to look at it. They may come back and say "You can't take the same class twice." So they will be even more stringent than the language is currently here.

Chuck Mohler: So, I guess internally the only way I can resolve that is there is no loyalty to one provider and I have got to use a different provider each year and hopefully they have named their class a little different so it doesn't show up twice.

Sheila Walther: Maybe that is what you could do. Each year you have got to pay the \$200 and \$20 bucks a credit. You can all it a different name. There is not a lot of flexibility with the model language and the State provisions for that. You will just have to go to Lou's and then to Linda's and then to Lou's.

Linda Williams: Let's say they are a 645B licensee. Could they take a 645F licensee class? Could they take different Nevada Law Classes? In the continuing education it does not say. In the pre-licensing, it has to be 645B. In the continuing it just says Nevada Law. I was wondering that myself. Could they take another law class? It's still Nevada law.

Lou Filippo: Paula, you and I have had this conversation before about 645B.

Sheila Walther: Would you like me to put more – you know on Section 24 it says – as described in Section 21 – let's see. I think my numbers are off.

Linda Williams: I am thinking if we could take different Nevada Law classes that would be fine.

Sheila Walther: You can take other chapters. Section 21 - I don't know if you think that there are other sections – please give me feedback – if you think there are some areas of law – Chapter 645 F is in there. 598D is in there. This is unfair lending practices. Escrow agencies law – so there are a variety of sections. We could add in real mortgages in chapter 106. We could expand on that if you think there should be additional areas of study that would be acceptable. We can control the Nevada part of it anyway.

Commissioner Waltuch: Ok, Sheila, I will interrupt you. If you have any other questions on the education, send them up to Sheila and Paula and put them in writing.

Lin Buck: We were registered with NMLS with our Louisiana branch. Do we need to re-register with the State of Nevada and California? Do we keep that same number?

Sheila Walther: You would keep the same number. You go in and add California and Nevada to your record and then meet the requirements for those individual states.

Terry Dachnowski: I just want to find out – when hiring loan officers if they have an option to take the PSI or the federal test – you know mortgage banker and broker?

Sheila Walther: They can take the PSI test. That is the only Nevada part of the - the PSI test covers Nevada law. That is all that is currently offered. We will turn off PSI once the NMLS Nevada state test is developed and turn that on and then that will be the only option. I don't anticipate that there is going to be any overlap. PSI will continue to offer that test up until we advise them that it needs to be turned of. Any new loan officer coming in – Nevada law requires that they pass the PSI test and complete 30 hours of pre-licensing education.

Terry Dachnowski: For banker and broker?

Sheila Walther: Yes. We are just slammed at the Division up here with all of the banker, loan officer and mortgage agent applications. We had one of our licensees send in 275. So we are really busy up here processing those applications.

Commissioner Waltuch: Any other questions for brokers and mortgage agents under 645B? Hearing no other questions we are going to adjourn.

Workshop Adjourned at 10:45 am

Submitted by Susan Slack