

**PROPOSED REGULATION OF THE
COMMISSIONER OF MORTGAGE LENDING**

LCB File No. R035-10

NRS 645B MORTGAGE BROKERS AND MORTGAGE AGENTS

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

AUTHORITY:§2(b), NRS 645B.060 and section 76 of Assembly Bill No. 523 of the 75th Legislative Session.

A REGULATION relating to mortgage lending; establishing provisions for the implementation of the federal Secure and Fair Enforcement for Mortgage Lending Act of 2008; and providing other matters properly related thereto.

Section. 1. *Chapter 645B of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this regulation.*

Sec. 2. *“Immediate family member” means a spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.*

Sec. 3. *“Individual” means a natural person.*

Sec 4. *“Residential real estate” for purposes of section 5 of Assembly Bill No. 523 enacted in the 75th Session of the Nevada Legislature (AB 523) means any real property located in Nevada, upon which is constructed or intended to be constructed a 1 to 4 unit dwelling, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, manufactured or mobile home, and trailer, if it is used as a residence.*

Sec. 5. *“Loan processor or underwriter” means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under NRS Chapter 645B or 645E.*

Sec. 6. *“Unique identifier” means a number or other identifier assigned by protocols established by the Registry.*

Sec. 7. *Except as otherwise required by law, for purposes of this chapter and NRS chapter 645B, any requirement for the Division to provide written notification to an applicant or licensee may be met by sending an e-mail to the last known e-mail address of the applicant or licensee.*

Sec. 8. *The term Residential Mortgage Loan Originator, as defined in Section 6 of AB 523 does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with Nevada law, unless the person or entity is compensated by a lender, a mortgage broker or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator.*

for purposes of this section the term “real estate brokerage activity” means any activity defined in NRS 645.030.

Sec. 9. *Except as otherwise provided in NRS 645B.015, the provisions of this Chapter and NRS Chapter 645B do not apply to:*

(a) Any individual who offers or negotiates terms of a residential mortgage loan to or on behalf of an immediate family member of the individual.

(b) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that serves as the individual’s residence.

(c) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney’s representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator.

Sec. 10. *1. Each person licensed pursuant to NRS Chapter 645B must register with and maintain a valid unique identifier issued by the Registry and comply with the provisions of the federal Secure and Fair Enforcement for Mortgage Lending Act of 2008(“SAFE Act”) and any regulations promulgated thereunder.*

2. To promote compliance with this section, the Commissioner shall, without limitation:

(a) Allow the Registry to process applications, renewals, changes of association, as well as other documentation of behalf of the Division;

(b) Allow the Registry to collect Nevada statutory required fees or assessments on behalf of the Division, which must be remitted after collection to the Fund for Mortgage Lending created by NRS 645F.270;

(c) Require an applicant or licensee to pay any independent fees assessed by the Registry as a condition of licensure;

(d) Require licensees to submit financial statements required pursuant to NRS 645B.085 and section 1(1) of R055-08 to the Registry on behalf of the Division;

(e) Allow the Registry to accept and monitor applicant and licensee compliance with pre-licensing and continuing education requirements pursuant to NRS Chapter 645B;

(f) Allow the Registry, or a vendor acting on behalf of the Registry, to administer any tests required to hold licensure pursuant to federal law, this Chapter or NRS Chapter 645B;

(g) Allow the Registry to approve any provider, course or instructor for purposes of compliance by applicants or licensees with the pre-licensing or continuing education requirements pursuant to federal law, this chapter or chapter 645B of the NRS;

(h) Require licensees to submit reports of condition and other required reports to the Registry, which shall be in such form and shall contain such information as the Registry may require;

(i) Require licensees or applicants to submit fingerprint cards to the Registry;

(j) Require applicants or licensees to authorize the Registry to obtain the person's credit report as a condition of licensure;

(k) Require licensees to report the termination of a mortgage agent required by subparagraph (2) of paragraph (b) of subsection 3 of NRS 645B.450 and changes of associations required pursuant to subparagraph (4) of NRS 645B.430 to the Registry on behalf of the Division; and

(l) Undertake all other actions as may be required by the Registry.

Sec. 11. *1. The Commissioner shall not issue a mortgage agent license unless the Commissioner makes at a minimum the following findings:*

(a) The applicant has never had a mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation.

(b) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

(1) During the 7-year period preceding the date of the application for licensing or registration; or

(2) At any time preceding the date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering; provided that any pardon of a conviction shall not be a conviction for purposes of this subsection.

(c) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly, and efficiently within the purposes of this chapter and NRS Chapter 645B.

(d) For purposes of this subsection, a person has shown that he or she is not financially responsible if his personal credit history includes, but is not limited to:

(1) Liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds;

(2) Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant, or

(3) Other items which, in the determination of the Commissioner or his designee, indicate an applicant fails to demonstrate character and general fitness such as to command the confidence of the community and to warrant a determination that the applicant will operate honestly, fairly, and efficiently.

2. An applicant's failure to meet the minimum standards shall be construed as a license denial and subject to the provisions of NRS 645B.750.

Sec. 12. *A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless such independent contractor loan processor or underwriter obtains and maintains a license under NRS 645B.410. Each independent contractor loan processor or underwriter licensed as a mortgage agent must have and maintain a valid unique identifier issued by the Registry.*

Sec. 13. *1. In connection with an application for licensing pursuant to NRS Chapter 645B, the person shall, at a minimum, furnish to the Registry information concerning the applicant's identity, including, but not limited to:*

(a) Fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a state, national or international criminal history background check; and

(b) Personal history and experience on a form prescribed by the Registry, including the submission of authorization for the Registry and the Commissioner to conduct a background investigation to determine an applicant's suitability;

(c) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(d) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

2. For purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation or the Commissioner may have to maintain for purposes of this section, the Commissioner may use the Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any federal or state governmental agency or to and from any source so directed by the Commissioner.

3. Nothing in this section shall be construed as limiting the Commissioner's ability to conduct his own independent investigation of an applicant, including without limitation requests of fingerprints or authorizations by an applicant to obtain an independent credit report or other information deemed necessary to determine the suitability of an applicant.

Sec. 14. *1. In addition to any other requirement set forth in NRS 645B.430, an applicant for renewal as a mortgage agent must continue to meet the standards prescribed in NRS 645B.410 (3). The Commissioner will not renew a license issued pursuant to NRS 645B.410 if an applicant fails to meet these standards.*

2. The Commissioner may reinstate a mortgage agent license if an applicant corrects his deficiencies within six months of the scheduled renewal date and pays any applicable reinstatement fee.

3. The Commissioner or the Registry may conduct, at any time, any investigation authorized for initial licensing determination to determine that an applicant continues to meet the standards prescribed in NRS 645.410 (3), including without limitation the authorization to obtain a person's personal credit report. The Commissioner or Registry may also require a person to provide additional fingerprint cards for purposes of such determinations.

Sec. 15. *1. Each mortgage agent shall deposit with the Commissioner and keep in full force and effect a corporate surety bond payable to the State of Nevada, in the amount set forth in subsection 2 of this section, which is executed by a corporate surety satisfactory to the Commissioner. In the event that the mortgage agent is an employee of, or is associated with a mortgage broker subject to licensing pursuant to NRS Chapter 645B, the surety bond of the mortgage broker can be used in lieu of the mortgage agent's individual surety bond requirement so long as the bond expressly covers the mortgage agent as a principal. A bond deposited pursuant to this section by a mortgage broker must name the mortgage broker as a principal as well as name all mortgage agents associated with the mortgage broker as principals, either by individual name or as a group, such as "All Associated Mortgage Agents".*

(a) The surety bond shall provide coverage in an amount as prescribed in subsection (2) of this section.

(b) If the amount of coverage required pursuant to subsection 2 is equal to or greater than the bond placed by the person for purposes of compliance pursuant to section 8, subsection 4 of Assembly Bill No. 486, enacted in the 75th Session of the Nevada Legislature (AB 486), no additional coverage will be required by this section.

(c) If the amount of coverage required pursuant to subsection 2 is less than the surety bond placed by the person for purposes of compliance pursuant to section 8 of AB 486, the person must deposit an additional bond in the amount equal to the difference of the bond placed pursuant to AB 486 and the amount specified in subsection 2.

(d) The bond placed pursuant to this section should be formatted as prescribed in AB 486 section 8(3) and must name as principals the licensed person and all associated mortgage agents, if any, either individually or as a group.

(e) Bonds placed pursuant to this section are subject to the provisions of AB 486 sections 10 and 11.

2. The required amount of the surety bond that complies with the provisions of this section is calculated by combining the annual loan production amounts for an individual, or in the case where an individual is covered under his licensed mortgage broker's bond, of all persons originating residential mortgage loans on behalf of the mortgage broker from all business locations of the mortgage broker. The Commissioner shall determine the appropriate amount of the surety bond that must be deposited initially by the mortgage broker or mortgage agent based upon the expected annual residential loan production. After the initial deposit, the Commissioner shall, on an annual basis, determine the appropriate amount of the surety bond that must be deposited by the mortgage broker or mortgage agent based upon the residential loan production by the mortgage broker or mortgage agent in the previous year. The surety bond amounts will be set and adjusted as necessary annually by the Division in accordance with the following scale:

<i>Annual Loan Production</i>	<i>Bond Amount Required</i>
<i>\$20,000,000 or less.....</i>	<i>\$50,000</i>
<i>Greater than \$20,000,000.....</i>	<i>\$75,000</i>

3. A licensee must meet the greater of either the bond requirement prescribed in subsection 2 of this section or the bond requirement pursuant to section 8, subsection 4 of AB 486.

Sec. 16. *1. Final administrative actions, including but not limited to final license denials or revocations, orders to cease and desist, executed stipulated settlement agreements and final disciplinary orders, taken by the Division against a person pursuant to NRS Chapter 645B shall be considered public information and may be disseminated through the Registry for public posting. The report to the Registry of these actions shall be in such form and shall contain such information as the Registry may require.*

2. A person may challenge information provided by the Division to the Registry. All challenges must be sent to the Division in writing addressed to the attention of the

Commissioner. Once received, the Division shall consider the merits of the challenge raised and provide the person with a written reply that shall be the Division's final decision in response thereto.

3. The Commissioner shall not submit the challenge or the results of the challenge to the Registry unless otherwise required by the Registry. If the Commissioner determines that the challenged information submitted to the Registry is factually incorrect, the Commissioner shall take prompt steps to correct the information submitted.

Sec.17. 1. *Except as provided in subsection 2, for purposes of NRS 645B.060 (4)(b), a licensee shall not be considered to have had an adverse change in financial condition solely if its financial statement discloses a decrease in income from a prior period, so long as the licensee remains profitable.*

2. A licensee may be considered to have had an adverse change in financial condition if the licensee's financial statement discloses the existence of material receivables or payables to related parties, material off balance sheet commitments, contingent liabilities or other identified concerns related to deterioration of net worth or liquidity.

Sec.18. Section 2 of R093-09 is hereby amended to now read: 1. "Approved course" means a course of education that has been:

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

~~{b. A}~~ *reviewed and approved by the Registry.*

2. Review and approval of an approved course shall include review and approval of the course provider.

~~[2.]~~ **3.** For the purpose of this section, "Registry" has the meaning ascribed to it in Section 2 of AB 523.

Sec.19. Section 3 of R093-09 is hereby deleted.

Sec.20. Section 4 of R093-09 is hereby amended to now read: *"Provider" means any person or entity approved by the Registry.*~~{}~~

~~{1.—Any university or community college which is a part of the Nevada System of Higher Education or any other university or college bearing the same or an equivalent accreditation.~~

~~———2.—Any professional school or college licensed by the Commission on Postsecondary Education.~~

~~———3.—Any out of state mortgage lending regulator or professional school or college licensed or accredited by a department of education or an equivalent agency of the state in which such an entity is located.~~

~~———4.—Any organization set forth in NAC 645B.360.~~

~~———5.—Any professional school that meets the requirements relating to course content and relevance to the industry as required by any organization set forth in NAC 645B.360.~~

~~———6.—Any person or entity approved by the Division.]~~

Sec.21. Section 5 of R093-09 is hereby amended to now read: 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. **Ethics, which shall include instruction on fraud, consumer protection, and fair lending issues;**
3. **Lending standards for the nontraditional mortgage product marketplace;**
2. 4. The provisions of *Nevada state law including*:
 - (a) This chapter or chapter 645B of NRS governing mortgage brokers and mortgage agents;
 - (b) Chapter 598D of NRS governing unfair lending practices;
 - (c) Chapter 645A of NRS governing escrow agencies and agents;
 - (d) Chapter 645F of NRS governing mortgage lending and related professions; ~~[and]~~
 - (e) Chapter 107 of NRS governing deeds of trust; **and**
 - (f) **Chapters 645E of NRS and NAC governing mortgage bankers.**
- ~~[3.]~~ 5. Mortgage industry practices and information ~~[, including ethics].~~
- ~~[4.]~~ 6. Any other subject approved by the ~~[Division]~~ **Registry.**

Sec.22. Section 6 of R093-09 is hereby amended to now read: 1. A natural person who is an applicant for an initial license as a mortgage broker or mortgage agent must complete at least 30 hours of instruction from the subjects set forth in section ~~[5]~~ **21** of this regulation. ~~[Except as otherwise provided in subsections 5 or 6, an applicant must complete a minimum of 15 of the 30 hours of required instruction from live classroom instruction.]~~

2. The 30 hours of instruction required pursuant to subsection 1 must include:
 - (a) Four hours of ethics, which must include instruction on fraud, consumer protection and fair lending issues;
 - (b) ~~[Twelve]~~ **Ten** hours of federal law and regulations relating to mortgage lending ~~[including,];~~
 - (c) 2 hours of training ~~[relating to subprime lending and other non-traditional mortgage products]~~ **related to lending standards for the nontraditional mortgage product marketplace;**
 - ~~[(e)]~~ **(d)** Four hours of Nevada law and regulations relating to mortgage lending; and
 - ~~[(d)]~~ **(e)** Ten hours of electives.

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

~~[4.]~~ **3.** 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.]~~ **complete the pre-licensing education required by this section from Registry approved providers providing courses that have been approved by the Registry.**

~~[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 officer 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.]~~

5. Nothing in this section shall preclude any pre-licensing education course, as approved by the Registry, that is provided by the employer of the applicant or an entity which is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of such employer or entity.

6. Pre-licensing education may be offered either in a classroom, online or by any other means approved by the Registry.

7. The pre-licensing education courses approved by the Registry for any state shall be accepted as credit towards completion of pre-licensing education requirements in Nevada pursuant to this section.

Sec.23. Section 7 of R093-09 is hereby amended to now read: 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]~~ 22 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.]~~

2. In order to meet the written test requirement prescribed in NRS 645B.0137, an individual shall pass, in accordance with the standards established under this section, a qualified written test developed by the Registry on behalf of the Division and administered by a test provider approved by the Registry on behalf of the Division based upon reasonable standards. The testing requirement pursuant to this section may be offered as two tests covering specific required subject matter.

3. A written test shall not be treated as a qualified written test for purposes of subsection (1) of this section unless the test adequately measures the applicant’s knowledge and comprehension in appropriate subject areas, including:

(a) Ethics;

(b) Federal law and regulation pertaining to mortgage origination;

(c) State law and regulation pertaining to mortgage origination;

(d) Federal and State law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

4. *Nothing in this section shall prohibit a test provider approved by the Registry from providing a test at the location of the employer of the applicant or 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.*

5. *An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.*

6. *An individual who fails to pass a qualified written test may retake a test 3 consecutive times with each consecutive taking occurring at least 30 days after the preceding test.*

7. *After failing 4 consecutive tests, an individual shall wait at least 6 months before taking the test again.*

8. *A licensed mortgage agent who fails to maintain a valid license for a period of 5 consecutive years or longer shall retake the test, not taking into account any time during which such individual is a registered mortgage agent.*

Sec.24. Section 8 of R093-09 is hereby amended to now read: *1. In order to meet the annual continuing education requirements referred to in NRS 645B.051 and NRS 645B.430(1)(b), [A] a licensee must complete at least 10 hours of approved courses of continuing education during the 12 months immediately preceding the date on which the license expires. [A course of continuing education must emphasize the practical application of mortgage lending transactions and, except as otherwise provided in subsection 4, a licensee must not repeat the course content taken during the same license renewal period or during the immediately preceding license renewal period.] The 10 hours of approved courses must be comprised of:*

(a) 3 hours of Federal law and regulations;

(b) 2 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(c) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(d) 3 hours of training related to Nevada law as detailed in subsection 4 of section 21 of this regulation.

~~*[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.]*~~

2. For purposes of subsection (1) of this section, continuing education courses shall be reviewed, and approved by the Registry based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider.

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

4. Continuing education may be offered either in a classroom, online or by any other means approved by the Registry.

5. A licensed mortgage agent,

(a) May only receive credit for a continuing education course taken within the 12 months preceding the expiration of the person's license; and

(b) May not take the same approved course in the same or successive years to meet the annual requirements for continuing education unless the course has been revised to reflect changes in law or marketplace.

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

7. A person having successfully completed the education requirements approved by the Registry in this section for any state shall be accepted as credit towards completion of continuing education requirements in Nevada.

8. A mortgage agent who reinstates a mortgage agent license as provided for in Section 14 of these regulations must complete the continuing education requirements for the last year in which the license was held prior to the issuance of the renewed license.

Sec.25. Sections 9 through 24 of R093-09 are hereby repealed.

Sec.26. Section 2 of R058-08 is hereby amended to now read:

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. The person is compliant with the requirements of the federal Secure and Fair Enforcement for Mortgage Lending Act of 2008 or regulations promulgated thereunder, if the person conducts activity as a residential mortgage loan originator.

Sec.27. Section 3 of R058-08 is hereby amended to now read:

The Commissioner will not renew the license of a mortgage broker or mortgage agent if:

*a. ~~+~~ The mortgage broker or mortgage agent has not paid all fees, fines and assessments owed to the Division *or the Registry*;*

b. The mortgage broker or mortgage agent is not properly registered with the Registry;
or

c. The mortgage broker or mortgage agent fails to provide any required annual financial statements or condition reports to the Division or Registry.

d. The mortgage broker or mortgage agent fails to provide any other item deemed required by state or federal law.

Sec.28. Section 4 of R058-08 is hereby repealed.

Sec.29. NAC 645B.017 is hereby amended to read as follows: Activity not constituting services as mortgage broker. A person does not hold himself out as being able to perform the services described in NRS 645B.0127 if the person *is in compliance with any applicable requirements prescribed in the Secure and Fair Enforcement for Mortgage Lending Act of 2008 or regulations promulgated thereunder and the person* only offers to provide money to invest in loans secured by an interest in real property to:

1. A mortgage broker licensed pursuant to chapter 645B of NRS; or
2. A person exempt from the provisions of chapter 645B of NRS.

Sec.30. NAC 645B.020, as amended by section 6 of R058-08, is hereby amended to now read:

1. An applicant must submit with his application for a license pursuant to chapter 645B of NRS *to the Division or the Registry*:

(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 agent 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 agent, 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.

(h) Evidence that the applicant is in good standing with the Registry.

(i) Any other requirements imposed by the Registry pursuant to federal law or required by the Commissioner as a condition of licensure.

(k) A current e-mail address.

2. If an applicant has received a letter *or e-mail* of conditional approval of his application from the Division *or the Registry* 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 *or e-mail* was issued by the Division *or the Registry*. If the applicant does not satisfy all additional requirements set forth in the letter *or e-mail* 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.

3. An application shall be deemed abandoned if the applicant fails to respond to any written request, *including e-mail requests*, for information by the Division *or the Registry* within 30 days after the date of the request.

Sec.31. NAC 645B.030, as revised by section 7 of R058-08, is hereby amended to read as follows:

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.

(c) The Commissioner may require that an application for a branch license and any additional required information be submitted to the Registry.

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.

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

8. An application for a branch license shall be deemed abandoned if the applicant fails to respond to any written request, *including e-mail requests*, for information by the Division *or the Registry* within 30 days after the date of the request.

Sec.32. NAC 645B.055, as amended by R123-08, is hereby amended to read as follows:

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~~[-]; and~~

(e) Is licensed in good standing with the Registry.

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.33. NAC 645B.057, as revised by section 8 of R058-08, is hereby amended to read as follows:

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

2. Any material change in the ownership or any change of control of a mortgage broker at his principal office or a branch office must be approved by the Commissioner. An application for approval of a change of ownership or a change of control must be submitted to the Commissioner *or the Registry* on a form prescribed by the Division *or the Registry* not later than 30 days before the proposed change.

3. 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.

4. 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.
5. 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 records of the mortgage broker will be maintained pursuant to subsection 1 of NRS 645B.080 and subsection 5 of NAC 645B.080-; **and**
 - (e) The Commissioner may require the person to submit any required item or notification to the Registry.***
6. As used in this section, “change of control” has the meaning ascribed to it in NRS 645B.095.

Sec.34. NAC 645B.095 is hereby amended to read: **1.** For the purpose of determining the ~~net worth of a mortgage broker pursuant to NRS 645B.115~~ ***financial position of a mortgage broker, as shown by financial statements of the mortgage broker,*** the Commissioner will:

a. interpret the term “net worth” ***pursuant to NRS 645B.115*** to mean the amount by which the assets of a mortgage broker exceed his liabilities, calculated in accordance with generally accepted accounting principles ~~where the mortgage broker~~:

b. Interpret “solvency” pursuant to NRS 645B.670 (2) to mean that the assets of a mortgage broker shall exceed his liabilities, calculated in accordance with generally accepted accounting principles.

2. In calculating net worth or solvency the Commissioner;

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

~~2-2~~ May exclude any shareholder debt that is subordinated.

Sec.35. NAC 645B.240 as amended by R058-08 is hereby amended to now read as follows:

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 with whom the mortgage agent is associated.

(b) The license number, *Registry number*, address and telephone number 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 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.

Sec.36. NAC 645B.300, as amended by section 18 of R058-08, is hereby amended to read as follows:

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 examination requirements set forth *in the federal Secure and Fair Enforcement for Mortgage Lending Act of 2008*, NRS 645B.0137, the regulations adopted pursuant thereto; ~~and~~
- (c) A record of personal history *and experience* ~~on~~ *in* a form prescribed by the Division *or Registry, including the submission of authorization for the Registry and the Commissioner to conduct any investigations deemed necessary to determine an applicant’s suitability, including obtaining a credit report on the applicant; and*
- (d) *Fingerprints for submission to the Federal Bureau of Investigation by the Registry, and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check.*

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

3. A mortgage agent may associate with or be employed by a mortgage broker at only one licensed office location of the mortgage broker, *for purposes of conducting Nevada activity* and, while the mortgage agent associates with or is employed by a mortgage broker, the mortgage agent may not associate with or be employed by another mortgage broker, 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, *unless the associated mortgage broker and mortgage agent are duly licensed in another state.*

4. Upon request of a mortgage broker, 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]~~ **6 months** immediately preceding the date the application is submitted, ***unless otherwise required by federal law or the Registry.***

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 ***federal law***, this section and NRS 645B.410. ***For purposes of NRS 645B.410, the Commissioner has issued a license once an applicant has been notified by either the Division or the Registry that the application has been verified and the Division or Registry records reflect issuance of the license. The Commissioner shall not be required to issue a paper license to an applicant to reflect verification of an application or any renewals of a license issued pursuant to NRS 645B.410.***

6. ***Except as provided in section 77 of AB 523, [F] 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 terminates the association or employment of a mortgage agent for any reason, the mortgage broker 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.37. NAC 645B.330, as amended by R058-09, is hereby amended to read as follows:

1. The Commissioner may refer to, ***produce documents upon the written request of*** and cooperate 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) Any other applicable federal or state law or regulation related to mortgage transactions.

2. For the purposes of NRS 645B.670, a mortgage broker or mortgage agent 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;

(c) Improperly influences or attempts to improperly influence the proper development, reporting, result or review of a real estate appraisal with respect to the making of a mortgage loan; ~~forb~~

~~(d) 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) Any other applicable federal or state law or regulation related to mortgage transactions., or~~

~~_____ (e) Fails to comply with the requirements of the Secure and Fair Enforcement for Mortgage Lending Act of 2008 or the requirements of the Registry, including without limitation registration on the Registry.~~

~~3. Nothing in this section shall be construed to prohibit a mortgage broker from requesting an appraiser of real estate to do one or more of the following:~~

~~(a) Consider any appropriate information relating to the property;~~

~~(b) Provide additional details, substantiations or explanations in support of the appraiser's valuation of the property; or~~

~~(c) Correct errors in the appraisal report.~~

~~Sec.38. NAC 645B.360, as amended by R093-09, is hereby amended to now read as follows:~~

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

(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~~[-]; and~~

(m) The Registry.

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

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

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

Sec.39. *For the purpose of this Chapter, "Registry" has the meaning ascribed to it in Section 2 of AB 523.*

Sec.40. 1. *The effective date for subsection (10) shall be no later than December 1, 2010, unless otherwise ordered by the Commissioner. In order to facilitate an orderly transition onto the Registry, the Commissioner may require licensees to begin to transition onto the Registry on a date prior to December 1, 2010.*

Sec.41. *Section 85 of AB 523 is hereby amended to comply with the SAFE Act as follows:*

(a) An individual who was not licensed as a mortgage agent as of July 1, 2009, but because of his lawful activities, is now required to be licensed as a mortgage agent pursuant to the provisions of AB 523 and the SAFE Act, may continue his activities without obtaining a license as a mortgage agent until July 31, 2010, or such later date approved by the Secretary of the U.S. Department of Housing and Urban Development, pursuant to the authority granted under Public Law 110-289, Section 1508(a).

(b) All individuals licensed as mortgage agents as of July 31, 2009 shall comply with the provision of the SAFE Act by January 1, 2011, or such later date approved by the Secretary of the U.S. Department of Housing and Urban Development, pursuant to the authority granted under Public Law 110-289, Section 1508(a).

Sec.42 . *Any person licensed as a mortgage agent or who applies for a mortgage agent license must comply with the provisions of section 22 unless the person has previously completed the requirement through Division approved instruction and the Division certifies to the Registry that the person has met the requirement.*

Sec.43. *Any person licensed as a mortgage agent or who applies for a mortgage agent license must comply with the provisions of section 23. The Division may certify to the Registry that a person has met the requirement as it relates to passage of the state law section of the test requirement if the person successfully passed the test offered by the approved vendor PSI. However, all persons must take the federal, ethics and general practice sections of the test pursuant to section 23 without regard to passage of the PSI test.*

TEXT OF REPEALED SECTIONS

Sec. 44. Section 4 of R058-08: 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.

Sec. 45. Section 3 of R093-09: “Hour of instruction” means 50 minutes of instruction or more.

Sec. 46. Sections 9 through 24 of R093-09:

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

- (a) The name and address of the provider;
- (b) The type of provider and a description of its facilities;
- (c) Any information requested by the Division concerning the ownership of the provider, including, if applicable, the business organization and the names and addresses of all directors, principals, officers and any other person with an ownership interest;
- (d) A list of the instructors;
- (e) A list of the courses to be offered and a hard copy of the course materials for each course;
- (f) The allotment of time for each subject;
- (g) A tentative schedule of courses;
- (h) The titles, authors and publishers of all required textbooks;
- (i) A copy of each examination to be used and the correct answer for each question;
- (j) A statement disclosing whether the provider or any instructor employed by the provider has ever been disciplined by any governmental agency of this State or any other jurisdiction;
- (k) A statement indicating that educational courses will not be provided free of charge to any person as an inducement for students or their employers to use the services of the provider for any mortgage-related activities; and
 - (l) A statement of:
 - (1) The purpose of the provider;
 - (2) The fees to be charged;
 - (3) The days, times and locations of each class;
 - (4) The number of quizzes and examinations;
 - (5) The grading systems, including the methods of testing and standards of grading;
 - (6) The attendance requirements; and
 - (7) The location of the students’ records.

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

Sec. 3. 1. A provider must submit an application to the Commissioner for the approval of each course the provider intends to offer on a form prescribed by the Division. The application must contain the information required by section 9 of this regulation.

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

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

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

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

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

Sec. 4. 1. A provider approved by the Commissioner to offer courses to meet the requirements for licensure or continuing education under this chapter or chapter 645B of NRS shall:

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

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

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

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

Sec. 5. 1. Within 15 days after the occurrence of any material change in the information provided by a provider in its application pursuant to section 9 of this regulation which would affect its approval by the Commissioner, the provider shall give the Division written notice of that change.

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

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

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

Sec. 6. 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 its intent to withdraw approval of the course. The notice must include the specific reasons upon which the Division is basing the decision to withdraw approval of the course. Not later than 30 days after the date on which the provider receives the notice, the provider may provide a written response to the

Division that clearly sets forth the reasons why approval of the course should not be withdrawn and outlining any corrective measures that the provider will undertake. After the 30-day period has elapsed, the Division will review the notice and any response submitted by the provider and:

- (a) Withdraw approval of the course;
- (b) Allow the course to remain approved if certain specific enumerated conditions are met; or
- (c) Allow the continued approval of the course.

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

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

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

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

- (a) Affirm the decision of the Division to withdraw approval of the course;
- (b) Suspend approval of the course for a limited period of time and under such conditions as the Commissioner deems appropriate; or
- (c) Reverse the decision of the Division to withdraw approval of the course.

Sec. 7. A provider approved by the Commissioner shall not make any misrepresentation in its advertising about any approved course which it offers to fulfill requirements for licensing or continuing education under this chapter or chapter 645B of NRS.

Sec. 8. A provider that conducts approved courses:

- 1. May employ as instructors of the approved courses only persons who meet the qualifications set forth in section 16 of this regulation.
- 2. Shall limit guest lecturers who are experts in related fields, excluding personnel of the Division, to 25 percent of the total hours of instruction per approved course.
- 3. Shall include a statement that the provider is approved by the Commissioner on all advertisements of the provider.
- 4. Shall require each student to attend the entire approved course as a condition of receiving certification for the approved course.
- 5. Shall certify the completion of only the number of hours for which the approved course has been approved by the Commissioner. A portion of an approved course does not satisfy the requirements for certification.
- 6. Shall update its course materials at least annually to reflect changes in the law and the marketplace.
- 7. Shall not allow a student to pass an approved course by taking an examination without having the required attendance. In addition, an owner, instructor, affiliate or other person associated with the provider may not take an examination administered by the provider to meet

the requirements for initial licensure or continuing education under this chapter and chapter 645B of NRS.

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

9. Shall not present an approved course for the main purpose of selling products or services and shall limit the announcement of products or services during the approved course to not more than 1 minute for each credit hour.

10. Shall, if a course is 5 hours or more in duration, require each student to pass an examination consisting of at least five multiple-choice questions for each hour of instruction.

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

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

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

Sec. 9. 1. An instructor must have written approval from the Division before teaching an approved course. No retroactive approval for instructors will be granted.

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

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

(a) Has been disciplined by the Division:

(1) Within the immediately preceding 5 years; or

(2) More than one time; or

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

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

(a) Has:

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

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

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

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

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

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

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

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

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

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

- (a) Affirm the decision of the Division to deny approval as an instructor;
- (b) Approve the instructor for a limited period of time and under such conditions as the Commissioner deems appropriate; or
- (c) Reverse the decision of the Division to deny approval as an instructor.

Sec. 10. 1. The Division may withdraw the approval of an instructor who:

- (a) Does an inadequate job of teaching the subject matter of an approved course, as evidenced by student evaluations or an audit conducted by the Division;
- (b) Has been determined in any administrative or judicial proceeding to have violated any statute, rule, regulation or order pertaining to mortgage lending or real estate in this State or in any other jurisdiction;
- (c) Has been convicted of, or entered a plea of guilty or nolo contendere to, any crime involving fraud, deceit, misrepresentation or moral turpitude;
- (d) Engages in inappropriate behavior in the classroom as evidenced by an audit conducted by the Division; or
- (e) Except as otherwise provided in subsection 9 of section 15 of this regulation, advertises or promotes the products or services of affiliated or unaffiliated persons.

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

- (a) Withdraw the approval of the instructor;
- (b) Allow the instructor to remain approved if certain specific enumerated conditions are met; or
- (c) Allow the continued approval of the instructor.

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

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

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

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

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

- (a) Affirm the decision of the Division to withdraw approval of the instructor;
- (b) Suspend approval of the instructor for a limited period of time and under such conditions as the Commissioner deems appropriate; or
- (c) Reverse the decision of the Division to withdraw approval of the instructor.

Sec. 11. 1. An instructor of an approved course shall ensure that:

- (a) Class sessions are commenced in a timely manner and are conducted for the full amount of time that is approved; and
- (b) Each approved course is taught according to the course plan and any instructor guide that was approved by the Commissioner, including the furnishing to students of appropriate student materials.

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

- (a) The ability to present instruction in a thorough, accurate, logical, orderly and understandable manner, to use illustrative examples as appropriate and to respond appropriately to questions from students;
- (b) The ability to effectively use varied instructional techniques in addition to lectures, including, without limitation, class discussion, role-playing and other techniques;
- (c) The ability to use varied instructional aids effectively to enhance learning;
- (d) The ability to maintain an appropriate learning environment and effective control of a class; and
- (e) The ability to interact with adult students in a positive manner that:
 - (1) Encourages students to learn;
 - (2) Demonstrates an understanding of varied student backgrounds;
 - (3) Avoids offending the sensibilities of students; and
 - (4) Avoids personal criticism of any other person, agency or organization.

Sec. 12. 1. A course must:

- (a) Be approved annually by the Division;
- (b) Be certified annually by an organization set forth in NAC 645B.360; and
- (c) Relate to mortgage lending or mortgage lending transactions.

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

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

- (c) A course designed to motivate a person or to develop the self-image of a person;
- (d) A course for the development of instructors; or
- (e) A meeting for the promotion of sales, a program of office training or other activity which is held as part of the general business of a mortgage broker or mortgage agent.

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

Sec. 13. 1. A provider must apply annually for the renewal of approval of a course on a form prescribed by the Division. An application for renewal must be submitted to the Division at least 5 weeks before the previous approval expires. If the provider does not timely submit the application for renewal, the provider must apply for an original approval as provided in section 9 of this regulation.

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

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

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

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

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

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

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

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

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

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

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

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

(1) Prohibiting discrimination on the basis of disability;

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

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

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

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

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

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

Sec. 14. A provider seeking approval of a computer-based distance education course must:

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

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

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

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

(c) If the course involves self-paced study, the course must be designed so that the time required for a student of average ability to complete the course is within the number of hours for which the course is approved and the provider shall use a system which ensures that students have actually performed all tasks designed to ensure participation and mastery of the subject matter of the course by the students.

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

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

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

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

(h) The provider shall use procedures which reasonably ensure that a student who receives credit for completing a course actually performed all the work required to complete the course. Upon request by the Division, the provider shall submit evidence of the means used to identify each student and the means to ensure that each student actually performed the work required to complete the course. If the course involves independent or self-paced study by students, such procedures must include, without limitation, the opportunity for direct contact by the provider with the student at the student's home or place of business via telephone or electronic mail, with a signed statement by the student certifying that the student personally completed all course work. The provider shall retain such signed statements and records of student contact together with all other course records the provider is required to maintain.

Sec. 15. In determining whether to approve a computer-based distance education course pursuant to section 21 of this regulation, the Commissioner may consider:

1. The duration of the course.

2. Whether students are required to complete a written examination which is proctored by a person acceptable to the Division or by using a secure electronic method acceptable to the Division.

3. Whether the course is presented by an accredited university or college that offers distance education in other disciplines or whether the course is certified by an organization set forth in NAC 645B.360. For the purposes of this subsection, an organization shall make the following considerations when determining whether to accredit a distance education course:

(a) The mission statement of the provider;

(b) The minimum design of the course and the procedures for updating the course;

(c) The interactivity of the instruction with the students;

(d) Whether the instruction provided in the course teaches a mastery of the course material;

(e) The support services that are available to students;

(f) The medium through which the course is delivered to students;

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

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

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

(1) At least one learning objective;

- (2) A structured learning method to enable the student to achieve each such learning objective;
- (3) A method of assessment of the student's performance during the course; and
- (4) A method of remediation by which a student who, based on the assessment of the student's performance, has been determined to be deficient in his or her mastery of the course material may repeat the course until the student understands the course material.

Sec. 16. 1. To receive a certificate of completion for an approved course, a student must:

- (a) Direct his or her attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction;
- (b) Refrain from engaging in activities which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class, including, without limitation, the use of text messages, voice pagers, beepers, smartphones and cellular phones; and
- (c) Not be absent from the classroom for more than 18 minutes per every 3 hours of instruction, not including break periods.

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

Sec. 17. 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.