

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

**LCB File No. R035-10**

June 25, 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 as an employee 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 engages solely in the activities of a loan processor or underwriter shall not represent to the public that the person can or will perform any of the activities of a residential mortgage loan originator.*

*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 shall:*

*1. 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. Register 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 suspension or revocation 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 suspension or revocation 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.

*(h) Evidence that the applicant has met the requirements imposed by the S.A.F.E.*

*Mortgage Licensing Act.*

*(i) 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~~; *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 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, *unique identifier*, 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 ,

*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~~; *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) Has not made 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 ~~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 Brokers;*
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 Professionals;*
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 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 *and any regulation adopted pursuant thereto* governing mortgage lending and related professions; ~~{and}~~
  - (e) Chapter 107 of NRS governing deeds of trust ~~{.}~~; *and*
  - (f) Chapter 645E of NRS and any regulation adopted pursuant thereto 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 the effective date of this regulation 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 the effective date of this regulation 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 the effective date of this regulation, 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 the effective date of this regulation, pass the other subject matter portions of the examination provided for in section 7 of LCB File No. R093-09.

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### **TEXT OF REPEALED SECTIONS**

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#### **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.