

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

LCB FILE NO. R190-24I

**The following document is the initial draft regulation proposed
by the agency submitted on 07/22/2024**

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

NRS 645B MORTGAGE COMPANIES AND MORTGAGE LOAN ORIGINATORS

LCB File No. _____ (NAC 645B)

EXPLANATION: Matter in (1) *blue bold italics* is new language; (2) [~~red strikethrough~~] is deleted language.

AUTHORITY:

Amend Chapter 645B of the Nevada Administrative Code by adding thereto:

Section 1.

NAC 645B._____ Remote location for licensed mortgage loan originators and certain other employees allowed under specific circumstances.

- 1. A mortgage company may authorize employees, other than Qualified Employees as defined pursuant to NAC 645B.008 and NRS 645B.021, to work from a remote location. An employee of a licensed mortgage company may work remotely, and any licensable activity conducted by the mortgage loan originator or employee shall designate the address that appears on the mortgage company's license or licenses, as long as all of the following conditions are satisfied:
 - (a) The mortgage loan originator or other employee must be associated with a licensed branch location and if applicable registered in the Nationwide Multistate Licensing System.*
 - (b) All activities shall be safely accomplished and in full compliance with the provisions of this chapter while working.*
 - (c) The mortgage loan originator or employee working at a remote location:
 - (1) Shall be authorized and supervised by the licensee;*
 - (2) Shall not disclose a remote location to consumers by use of signage, advertisement or other means as a location from which the licensee conducts the business for which a license is required and shall, at all times, represent his or her business location as the licensed branch to which he or she is assigned. An employee authorized to work at a remote location may not treat his or her remote location as if it were a commercial office space open for public business unless a license has been issued for that residence pursuant to NRS 645B.020;*
 - (3) May not meet consumers in-person at the employee's or mortgage loan originator's residence unless the residence has been issued a license pursuant to NRS 645B.020;*
 - (4) May not use a remote location for the storage of physical books and records relating to the business for which a license is required pursuant to NRS 645.080(1);*
 - (5) May not work at a remote location owned, controlled, or leased by the licensee or an affiliate of the licensee, or for the benefit of the licensee or***

- an affiliate of the licensee with the exception to personal residences and locations licensed pursuant to NRS 645B.020; and*
- (6) May not use a remote location for the receipt of mail relating to a consumer mortgage application or mail receipt of documents containing information protected under Gramm-Leach-Bliley Act.*
- (d) The mortgage company shall, at all times supervise the work-related activities of each employee working from a remote location and shall establish and maintain written policies and procedures related to the supervision of remote personnel. A licensee shall maintain and update, as appropriate, written records with the respect to any employee authorized to work from a remote location, including:*
- (1) The initial authorization to work from a remote location; and*
- (2) Any due diligence the mortgage company has taken to ensure compliance with this chapter.*
- (e) The mortgage company shall retain the records required by subsection (1)(d) of this provision for the greater of two (2) years from the date the employee ceases working remotely in connection with the business for which a license is required, or any retention period required by applicable law or regulation;*
- (f) The mortgage company shall provide appropriate training to its employees to ensure that remote employees work in an environment conducive and appropriate to maintain the privacy of, and confidentiality of the information pertaining to, the consumer.*
- (g) Access to the licensee's platforms and customer information is conducted in accordance with the licensee's comprehensive written information security plan as required by the Commissioner; and*
- (h) Customer interactions and conversations about customers will comply with all federal and state information security requirements, including applicable provisions under the Gramm-Leach-Bliley Act and the Safeguards Rule established under the Federal Trade Commission set forth in 16 C.F.R. § 314. In-person customer interaction does not occur at the mortgage loan originator's or employee's personal residence.*
- 2. If the Commissioner determines that the licensee's supervision of a remote employee is not compliant pursuant to this section, the Commissioner shall provide written notice. Within fifteen (15) business days of receiving such notice, the mortgage company shall either:*
- (a) Terminate the employee's eligibility to work from a remote location provided for under this section; or*
- (b) Address the Commissioner's determination with detailed explanation showing the supervision compliance issues cited by the Commissioner have been resolved or justification on how the current supervision should be considered compliant. The Commissioner shall provide final determination of a licensed mortgage company's supervision or require further information within fifteen (15) business days after receiving detailed explanation. If further information is required by the Commissioner, the licensed mortgage company has an additional fifteen (15) business days to respond.*
- 3. The failure of a mortgage company to respond in the time provided or correct compliance issues outlined in the final notice provided by the Commissioner pursuant to paragraph*

2 may be subject to enforcement action pursuant to NRS 645B.670 to NRS 645B.760. The Commissioner has the authority at his or her discretion to determine the most appropriate course of action with the cooperation of a mortgage company pursuant to paragraph 2.

Section 2. NAC 645B. _____ Data security program required for remote location.

- 1. Any licensee that allows an employee to work from a remote location authorized by this chapter shall develop, implement, and maintain a data and information security program that is consistent with all applicable federal and state laws and regulations, meets or exceeds the standards of the mortgage lending industry, addresses known vulnerabilities, and is commensurate with the licensee's size and complexity.*
- 2. A licensee's security program may be a part of the licensee's comprehensive data and cybersecurity program.*
- 3. A licensee's security program shall consider the following objectives:*
 - (a) Allowing employees working at remote locations authorized by this section to access the licensee's information technology system, other systems, and data needed to perform the employer's job functions in a safe and secure manner, including a cloud-based system, directly from any out-of-office device the mortgage loan originator or other employee uses, including, but not limited to, a laptop, phone, desktop computer, mobile device or tablet, via a virtual private network or comparable system that ensures secure connectivity and requires passwords or other forms of authentication to access;*
 - (b) Ensuring the security and confidentiality of the licensee's data containing personal information and other sensitive information;*
 - (c) Identifying the types of devices an employee may use to access the licensee's information technology systems, other systems, and data, and protecting those devices from security breaches and unauthorized access;*
 - (d) Ensuring that mortgage loan originators or other employees working at a remote location access the company's secure systems;*
 - (e) Ensuring that appropriate security updates, patches, or other alterations to the security of all devices used at remote locations are installed and maintained and that the licensee has an ability to remotely lock or erase company-related contents of any device or otherwise remotely limit all access to a company's secure systems;*
 - (f) Ensuring that the Nationwide Multistate Licensing System record of a mortgage loan originator that works from a remote location designates the principal place of business as the mortgage loan originator's registered location unless the mortgage loan originator elects another licensed branch office as the registered location;*
 - (g) Providing training and support to the licensee's employees that is necessary to ensure compliance with the security program and establishing appropriate sanctions for failures to comply;*

- (h) A virtual private network (VPN) or other secure connection shall be required to access the licensee's platform and customer information;*
- (i) Protecting the licensee's information technology systems, other systems, and data against breaches and unauthorized access, including unauthorized access by employees; and*
- (j) Upon the discovery of a security breach of the security system, including but not limited to following the actions required under NRS 603A.220 or other applicable laws. The following steps shall be taken in the event of a security breach:
 - (1) Upon learning of the breach of the security of a system, the employee of a licensed mortgage company working remotely shall immediately notify the licensee;*
 - (2) Upon learning of the breach of the security system, the licensee shall within 72 hours notify the Commissioner in writing and make any other notifications that may be required by applicable law or regulation;*
 - (3) The licensee shall investigate the breach of the security of a system and document the findings, including remedial steps, if any, that have been undertaken by the licensee to remediate any harm to consumers and to update policies, procedures, and processes as a result of the finding; and*
 - (4) If requested by the Commissioner or his or her designees, the licensee shall provide a copy of the documentation of the investigation required by this section.**