

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

**LCB File No. R038-10**

June 25, 2010

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

AUTHORITY: §§1, 4, 5, 11, 12, 14, 16, 17 and 26, NRS 645E.300; §§2, 3, 6-10, 13, 15, 20-23, 25 and 27, NRS 645E.300, 645F.292 and 645F.293; §§18 and 19, NRS 645E.200, 645E.300, 645F.292 and 645F.293; §24, NRS 645E.280, 645E.300 and 645E.310.

A REGULATION relating to mortgages; providing various requirements relating to procedures, terms and deadlines related to the issuance, maintenance, renewal and reinstatement of a license as a mortgage banker; providing certain requirements related to exemptions and certificates of exemption; providing various requirements related to the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008; establishing a method for a person with a license to changing an electronic mail address; providing for various interaction with the Nationwide Mortgage Licensing System and Registry, including, without limitation, the sharing of information with the Registry; providing certain requirements related to independent contractors, including, without limitation, loan processors and underwriters; requiring a surety bond for certain persons; revising the definition of and various requirements related to a qualified employee; providing certain requirements related to the unique identifier of a residential mortgage loan originator; revising various requirements related to advertising; revising the procedure for closing an office; revising the timing of the payment of certain fees; and providing other matters properly relating thereto.

**Section 1.** Chapter 645E of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

**Sec. 2.** *“Nationwide Mortgage Licensing System and Registry” or “Registry” has the meaning ascribed to it in NRS 645B.0128.*

**Sec. 3.** *“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. 4.** *For the purposes of paragraph (b) of subsection 4 of NRS 645E.300, an adverse change in financial condition:*

*1. Is not proven solely by a decrease in income from any previous period if the mortgage banker 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. 5.** *For the purposes of paragraph (a) of subsection 2 of NRS 645E.670, “insolvent” is interpreted to mean that the liabilities of a mortgage banker 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 banker that is related to the intangible; and*

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

**Sec. 6.** *In addition to the requirements of subsection 1 of NRS 645E.160, a person who claims an exemption from the provisions of chapter 645E of NRS pursuant to subsection 1 of NRS 645E.150 must ensure that the entity or agency which regulates the conduct of his or her business provides to the Commissioner written notification that:*

*1. The license of the person provides the right to make mortgage loans;*

*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.*

*4. As used in this section, “residential mortgage loan originator” has the meaning ascribed to it in NRS 645B.01325.*

*Sec. 7. As regards the renewal of a license pursuant to subsection 1 of NRS 645E.280, the Commissioner will not renew the license of a mortgage banker if the mortgage banker:*

- 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. 8. If a licensee who provided an electronic mail address to the Division wishes to change that address, the licensee shall make the change and notify the Division through the Registry.*

*Sec. 9. When an applicant or licensee is required to submit information or pay fees to the Division, the Commissioner may:*

- 1. Require the applicant or licensee 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 licensee to submit extra copies of the information, including, without limitation, a set of the applicant’s or licensee’s fingerprints and written consent to an investigation of his or her credit history.*

**Sec. 10. 1.** *Each applicant for a license issued pursuant to chapter 645E of NRS must:*

*(a) Comply with any applicable federal and state law or regulation, including, without limitation:*

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

*(2) 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:*

*(I) A bond; or*

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

*and*

*(b) Register with the Division through the Registry.*

**2.** *As used in this section:*

*(a) “Clerical or support duties” has the meaning ascribed to it in section 1503(4)(B) of the S.A.F.E. Mortgage Licensing Act.*

*(b) “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.*

**Sec. 11. 1.** *Pursuant to subsection 3 of NRS 645E.200, the Commissioner will not issue a license as a mortgage banker unless the requirements of that subsection have been fulfilled.*

**2.** *For the purposes of subparagraph (2) of paragraph (b) of subsection 3 of NRS 645E.200, the Commissioner will not consider a person to have been convicted or entered a pleas of guilty or nolo contendere if the conviction or plea has been pardoned or vacated.*

3. *For the purposes of subparagraph (4) of paragraph (b) of subsection 3 of NRS 645E.200, a license shall not be considered to be suspended or revoked if the revocation or suspension was subsequently vacated.*

**Sec. 12.** *The Commissioner may only reinstate a mortgage banker's license pursuant to subsection 2 of NRS 645E.280 if, within 2 months after the date on which the license expired, the mortgage banker:*

- (a) Submits the items described in subsection 2 of NRS 645E.280; and*
- (b) Completes any unfulfilled requirements related to the license.*

**Sec. 13.** *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 645E 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. 14.** *1. A mortgage banker 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 banker subject to the provisions of chapter 645E of NRS, the surety bond of the mortgage banker may be used*

*to fulfill the mortgage agent's individual surety bond requirement pursuant to chapter 645B of NRS, if one exists, so long as the surety bond of the mortgage banker:*

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

*(b) Names the mortgage banker as a principal and names all mortgage agents employed by or associated with the 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:*

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

*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 banker who deposited the bond:*

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

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

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

*(d) If the mortgage banker does not comply with any requirements set out in the notification from the Commissioner, the license of the mortgage banker 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 banker; 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 banker for an unpaid balance.*

**Sec. 15. 1. The Division shall regularly report violations of this chapter and chapter 645E 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 that 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. 16.** NAC 645E.010 is hereby amended to read as follows:

645E.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645E.020 to 645E.100, inclusive, and NAC 645E.015 and 645E.030 *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

**Sec. 17.** NAC 645E.030 is hereby amended to read as follows:

645E.030 “Qualified employee” means a natural person who is ~~[a director, officer, member, partner, employee, manager or trustee of a partnership, corporation or limited liability company designated by the partnership, corporation or limited liability company pursuant to NAC 645E.310 to act on behalf of the partnership, corporation or limited liability company.]~~  
*designated by a mortgage banker to act on behalf of the mortgage banker and who is approved by the Commissioner pursuant to NAC 645E.310.*

**Sec. 18.** NAC 645E.210 is hereby amended to read as follows:

645E.210 1. An applicant must submit with his application for a license pursuant to chapter 645E 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 banker pursuant to chapter 602 of NRS indicating the fictitious name of the mortgage banker, 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 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 that includes the address of the place of business of the applicant.

(h) Documentation from the appropriate municipal or county authority which indicates that local ordinances allow permanent business signs to be maintained at the place of business of the applicant.

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

*(j) 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. 19.** NAC 645E.220 is hereby amended to read as follows:

645E.220 1. An applicant must submit with his application for a license for a branch office ~~the~~ :

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

(b) *The name of each mortgage agent who intends to work at the branch office.*

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

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

(b) The Commissioner approves the qualified employee designated 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.

(c) The applicant provides documentation from the appropriate municipal or county authority which indicates that local ordinances allow permanent business signs to be maintained at the branch 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 banker is licensed to conduct business at its principal office.

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

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

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

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

***7. The Commissioner may require that an applicant meet the requirements of the S.A.F.E. Mortgage Licensing Act.***

**Sec. 20.** NAC 645E.270 is hereby amended to read as follows:

645E.270 A person does not hold himself out as being able to perform the services described in NRS 645E.100 if ~~the only~~ *the person:*

***1. Is in compliance with the S.A.F.E. Mortgage Licensing Act and any regulation 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 banker licensed pursuant to chapter 645E of NRS; or

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

**Sec. 21.** NAC 645E.285 is hereby amended to read as follows:

645E.285 1. A mortgage banker shall not represent an activity which is not licensed pursuant to chapter 645E 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 645E of NRS must be separate and distinct from an advertisement for an activity which is not licensed pursuant to that chapter.

3. A mortgage banker 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 mortgage banker must include in his advertisements, including any advertising material available on the Internet:

(a) The complete name of the mortgage banker or the complete name under which the mortgage banker does business.

(b) The license number, *unique identifier*, address and telephone number that the mortgage banker has on file with the Division. Additional telephone or cellular phone numbers of the mortgage banker may also be included.

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

5. A mortgage banker 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 banker shall not refer to an existing lender or financial institution, other than the mortgage banker himself or any affiliate or subsidiary of the mortgage banker, on any advertising material without the written consent of the lender or financial institution.

7. In addition to the requirements of this chapter, each advertisement used in carrying on the business of a mortgage banker must comply with:

(a) NRS 598.0903 to 598.0999, inclusive, concerning deceptive trade practices; and



(b) All applicable federal statutes and regulations concerning deceptive advertising and advertising of interest rates.

8. *An Internet link on a website of the mortgage banker 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 banker.*

9. For *the* purposes of this section, “advertisement” ~~{does not}~~:

(a) *Does not* include white-page listings, employment recruiting announcements, office signs, banners, magnetic car signs ~~{, business cards}~~ and letterhead which contain only the name, address and telephone number of the mortgage banker, whether together or separate, and which are used for the purpose of identification only.

(b) *Includes commercial messages that promote the availability of mortgage products or investments offered by the mortgage banker. Commercial messages include, without limitation:*

- (1) *Print media;*
- (2) *Sales literature;*
- (3) *Sales brochures or flyers;*
- (4) *Billboards;*
- (5) *Yellow-page listings if more than a line listing;*
- (6) *Radio and television advertisements;*
- (7) *Mass mailings distributed by the United States Postal Service or another such delivery service or by electronic mail;*
- (8) *Telephone or seminar scripts;*
- (9) *Websites or other Internet sites that promote or accept loan applications; and*

*(10) Business cards.*

*10. As used in this section, “unique identifier” means a number or other identifier assigned by protocols established by the Registry.*

**Sec. 22.** NAC 645E.310 is hereby amended to read as follows:

645E.310 1. Every ~~[partnership, corporation or limited liability company]~~ *person, other than a natural person*, doing business as a mortgage banker in this State shall designate *a natural person as* a qualified employee who may, upon approval by the Commissioner, act on behalf of the ~~[partnership, corporation or limited liability company.]~~ *mortgage banker.*

2. The Commissioner will approve the qualified employee designated pursuant to subsection 1 if the qualified employee ~~[meets the requirements of an applicant for a license as a mortgage banker pursuant to chapter 645E of NRS.]~~ *is a natural person who:*

*(a) Is licensed in good standing as a mortgage agent pursuant to NRS 645B.410;*

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

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

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

3. ~~[The approval issued by the Commissioner entitles the qualified employee to act pursuant to the terms and conditions of the license issued to the partnership, corporation or limited liability company by the Commissioner pursuant to chapter 645E of NRS, but only as a qualified employee of the partnership, corporation or limited liability company, and not on his own behalf.~~

~~—4.]~~ 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 645E.030, the partnership, corporation or limited liability company]~~, *the mortgage banker* 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 ~~[partnership, corporation or limited liability company]~~ *mortgage banker* 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 645E.030;]~~ *pursuant to this section*; or

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

**Sec. 23.** NAC 645E.315 is hereby amended to read as follows:

645E.315 1. Any material change in the ownership, management or principal employees of a mortgage banker at its principal office or a branch office must be reported to the Commissioner not later than 30 calendar days after the change.

2. If a person acquires stock or ownership in a mortgage banker as a result of a transfer that constitutes a change of control : ~~[pursuant to NRS 645E.390;]~~

(a) A financial statement or personal interrogatory 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 banker until the Commissioner has approved the transfer; and

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

*3. A mortgage banker may not close his or her principal office or a branch office until:*

*(a) The mortgage banker has returned his or her license to the Division; and*

*(b) The Commissioner has approved the closure.*

*4. The request for approval of the closure of the principal office of the mortgage banker 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 banker and the plan for distribution of money in the account;*

*(c) If any mortgage agent associated with or employed by the mortgage banker terminates his or her association pursuant to NRS 645E.292, evidence of the termination; and*

*(d) In regard to the records of the mortgage banker maintained pursuant to subsection 1 of NRS 645E.350:*

*(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 banker 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.*

*6. As used in this section, “change of control” has the meaning ascribed to it in NRS 645E.390.*

**Sec. 24.** NAC 645E.320 is hereby amended to read as follows:

645E.320 1. Except as otherwise provided in this subsection, the Commissioner will charge and collect a fee of \$60 per hour from each mortgage banker for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 645E 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 645E of NRS.

2. The Commissioner will bill each mortgage banker upon the completion of the activity for the fee established in subsection 1. The fee must be paid not later than 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. Upon written request by a mortgage banker, the Division will provide an accounting of the time billed to the mortgage banker pursuant to this section.

**Sec. 25.** NAC 645E.500 is hereby amended to read as follows:

645E.500 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 645E.670, a mortgage banker commits a violation if the mortgage banker:

(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 banker 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.

**Sec. 26.** NAC 645E.231 is hereby repealed.

**Sec. 27.** 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 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.

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**TEXT OF REPEALED SECTION**

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**645E.231 Maintenance of permanent sign at each place of business.** A mortgage banker shall maintain a permanent sign that includes the name of the mortgage banker at each place of business of the mortgage banker, including, but not limited to, each branch office of the mortgage banker. This sign must be:

1. Readable from the nearest public sidewalk, street or highway; or
2. If the place of business of the mortgage banker is an office building, posted on the building directory of the office building or near the entrance to the office building on the exterior of the building.