

Audit Highlights



Highlights of performance audit report on the Division of Mortgage Lending issued on October 18, 2016. Legislative Auditor report # LA16-16.

Background

The mission of the Division of Mortgage Lending (Division) is to promote and grow Nevada's non-depository mortgage lending and related industries through implementation and enforcement of laws; to protect industry and consumer interests and safeguard the public trust by creating a regulatory climate that fosters a competitive level playing field and advances professionalism, education, compliance, and ethics in the mortgage lending and related industries; and to provide a thorough and fair consumer complaint resolution process.

The Division licenses and regulates mortgage brokers, agents, bankers, escrow agencies, and covered service providers. It has one office located in Las Vegas, with the licensing and fiscal functions centralized at the Department in Carson City. The Division has one budget account, which is self-funded, primarily by license and examination fees, as well as industry assessments. In fiscal year 2016, the Division had 19 authorized positions.

The Division must conduct examinations of each licensed mortgage broker, mortgage banker, escrow agency, and covered service provider it regulates. Upon completion of an examination, the examiner prepares the examination report and assigns a rating to the licensee on a scale from "1" to "5", denoting the best to the worst ratings.

Purpose of Audit

The purpose of this audit was to determine if the Division performed timely examinations of mortgage companies and has adequate controls over the examination fee billing process. Our audit focused on examination and billing activities conducted from July 2014 through December 2015, and included fiscal year 2016 in some instances.

Audit Recommendations

This audit report contains two recommendations to improve activities related to compliance examinations of mortgage companies. The Division accepted the two recommendations.

Recommendation Status

The Division's 60-day plan for corrective action is due on January 19, 2017. In addition, the six-month report on the status of audit recommendations is due on July 19, 2017.

Division of Mortgage Lending

Department of Business and Industry

Summary

The Division of Mortgage Lending (Division) continues to have problems completing timely examinations of most mortgage companies it regulates. An inadequate staffing plan coupled with employee turnover led to the Division's inability to meet its statutory mandate to perform examinations. Although problems persist since our prior audit, the Division's implementation of additional controls over the examination process has helped reduce the number of unexamined licensees. However, the Division needs to take steps to ensure it maintains appropriate staffing levels before it can achieve and sustain compliance in completing all required examinations.

The Division needs to address inconsistencies in its billing practices for examination fees. Examiners' time is frequently recorded as non-billable hours, resulting in wide fluctuations in the percentages of hours that are billed to licensees. Because of inconsistent practices, many examination hours are not billed to licensees, and billing disputes can occur. By implementing written procedures for the tracking and billing of examiners' time, the Division can help ensure consistent billing practices and reduce its potential for subsequent billing problems.

Key Findings

The Division did not perform required examinations timely for most of the 238 licensed mortgage companies it regulates. Over the 18-month period ended December 31, 2015, 58% of licensees either were not examined or had untimely examinations. Furthermore, as of December 31, 2015, examinations for 124 licensees were past due by an average of 13 months. (page 4)

Examiners did not conduct timely follow-up examinations for 14 of 22 licensees (64%) that had adverse ratings on their most recent examinations. For these 14 high-risk licensees, the follow-up examinations averaged 5 months past due but some went unexamined for longer periods of time. Timely follow-up with licensees that receive adverse ratings is important to help ensure they implement appropriate corrective action. The Division may conduct limited scope examinations when following up on these licensees. Performing a limited scope examination in these situations conforms to best practices for regulatory programs by focusing on the specific areas of concern from the prior examination. (page 6)

The Division needs to address its staffing issues before efforts to reduce the examination backlog will be effective. An inadequate staffing plan coupled with employee turnover directly affected examination timeliness. Specifically, the Division does not use workload projections to determine the number of examiner positions it needs. In addition, during 2015, four of seven examiner positions (57%) had turnover, and one examiner position remained unfilled for nearly 10 months as of March 31, 2016. Until the Division develops and utilizes a plan for determining the proper number of examiner positions it needs and fills vacancies timely, it will likely continue to fall short of its statutory mandate to examine all licensees. (page 7)

The Division does not use a consistent method for recording billable examination hours to licensees. Examination fees billed to licensees were inconsistent due to variances in allocations of examiners' time between billable and non-billable hours. This inconsistent billing practice occurred because staff do not have written guidelines for determining how much of the time they spend on examinations should be billed to the licensee. During fiscal year 2015, examiners' timesheets showed 2,252 hours were non-billable, which is 37% of their total examination hours. Therefore, about \$135,000 was not billed based upon the timesheet allocations to non-billable hours. For 25 examinations we tested, allocations of the examination time to billable hours ranged from 42% to 100% of the total examination hours. (page 10)