LA16-16

STATE OF NEVADA

Performance Audit

Department of Business and Industry
Division of Mortgage Lending

2016

Legislative Auditor
Carson City, Nevada

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)

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This report contains the findings, conclusions, and recommendations from our performance audit of the Division of Mortgage Lending. This audit was conducted pursuant to the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This report includes two recommendations to improve activities related to compliance examinations of mortgage companies. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

Rocky Cooper, CPA
Legislative Auditor

August 26, 2016
Carson City, Nevada

Division of Mortgage Lending
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Introduction

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. Covered service providers include loan modification and foreclosure consultants. Through examinations of licensees, investigations of consumer complaints, and actions taken to curtail unlicensed activity, the Division safeguards public interests. Exhibit 1 shows the number of licensees by type for fiscal years 2014 and 2015.

Number of Licensees by Type **Exhibit 1**
Fiscal Years 2014 and 2015

Description	2014	2015
Mortgage Brokers and Bankers	297	321
Branch Offices – Broker/Banker	659	851
Mortgage Agents	3,523	4,388
Escrow Companies	20	17
Escrow Agents	37	31
Covered Service Providers	7	5
Covered Service Agents	18	9

Source: Auditor analysis of data provided by Division.

The Division 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. Exhibit 2 summarizes the Division's revenues and expenditures for fiscal years 2014 and 2015.

Revenues and Expenditures **Exhibit 2**
Fiscal Years 2014 and 2015

Revenues	**2014**	**2015**
License Fees	$1,256,550	$1,342,600
Transfers From Attorney General[(1)]	1,088,469	1,041,950
Examination Fees	191,757	313,389
Assessments	285,135	182,024
Investigation Fees and Administrative Penalties	66,063	58,589
Other Revenue[(2)]	63,490	11,515
Total Revenues	**$2,951,464**	**$2,950,067**
Expenditures		
Personnel Services	$1,256,976	$1,280,805
Operating	149,253	147,668
Investigative and Examination Costs	72,827	49,163
Information Services	13,617	14,607
Travel	4,324	2,616
Cost Allocations, Transfers and Assessments	372,620	383,103
Total Expenditures	**$1,869,617**	**$1,877,962**
Difference	1,081,847	1,072,105
Beginning Funds	1,708,745	2,790,592
Ending Funds	**$2,790,592**	**$3,862,697**

Source: State accounting system.

(1) Transfers from Attorney General were mortgage settlement funds for a mortgage fraud enforcement unit over the 2013-2015 biennium, and to build up reserves for use over future biennia to compensate for any shortfalls in fee revenues.

(2) Other Revenue consists of book and pamphlet sales, State Treasurer's interest distributions, and a prior year correction in 2014.

Licensee Examinations

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. Examination ratings are based upon the licensee's compliance with statutes and regulations, as well as the Division's assessment of the licensee's capability to achieve and maintain compliance. Companies that receive adverse ratings of “3”, “4”, or “5” are subject to heightened supervision and must have a follow-up examination within 12, 9, or 6 months, respectively. Appendix A summarizes the Division’s examination ratings criteria.

Scope and Objectives

The audit focused on examination and billing activities conducted from July 1, 2014, through December 31, 2015, and included fiscal year 2016 in some instances. Our audit objectives were to determine whether:

- The Division performed timely examinations of mortgage companies.
- The Division has adequate controls over the examination fee billing process.

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature’s oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

Examination Backlog Needs Reduction

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.

Required Examinations of Most Mortgage Companies Not Completed Timely

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.

Annual and Biennial Examination Schedules

In general, statutes provide for annual examinations of licensees, but allow for biennial examinations of mortgage brokers and bankers that are considered to have lower risk factors. Specifically, annual examinations are required for escrow agencies, covered service providers, and mortgage brokers and bankers that:

- Maintain trust accounts or arrange loans funded by private investors.
- Received a rating of “3” or higher on the previous examination. Those with ratings of “4” or “5” on the

previous examination must have a follow-up examination within 9 or 6 months.

- Were the subject of formal disciplinary action taken by the Commissioner since the last examination.

- Had any adverse change in their financial condition.

Mortgage bankers and brokers not required to have annual examinations are on the biennial examination schedule. In some cases, staff may perform limited scope procedures in which the review is limited to determining the licensee's compliance with specific requirements. For instance, a limited scope examination may be performed to determine whether a licensee has implemented appropriate corrective measures to address deficiencies identified in a previous examination or investigation.

Risk-Based Examination Policy

The Division's risk-based examination policy defines the criteria for prioritizing examinations in order to give scheduling priority to licensees with greater risk than others. For instance, licensees with substantiated serious issues arising from complaints or investigations have the highest scheduling priority. Other risk factors that influence scheduling priority include licensees that arrange private investor loans, maintain trust accounts, or had an adverse rating of “3”, “4”, or “5” on their last examination. For licensees considered high-risk because of these and other risk factors, timely follow-up examinations are important to help ensure appropriate corrective action was implemented. Exhibit 3 summarizes the Division's examination timeliness for active licensees.

Summary of Examination Timeliness **Exhibit 3**
July 1, 2014 through December 31, 2015

Description	Licensees Subject to Exams	Licensees Examined Timely	Licensees Examined Untimely	Licensees Not Examined	Average Months Untimely
Annual Examinations[1]	69	35	12	22[1]	6
Biennial Examinations	169	65	2	102	14
Total	**238**	**100**	**14**	**124**	**-**

Source: Auditor analysis of Division's examination database.
[1] Includes two licensees that received adverse ratings of "4" on their most recent examinations, whose follow-up examinations were required within 9 months.

Exhibit 3 shows the Division gave scheduling priority to licensees that were required to have annual examinations. Of the required examinations that were either performed untimely or not completed as of December 31, 2015, the Division averaged 6 months late for licensees on the annual schedule. However, untimeliness averaged 14 months for lower risk licensees on the biennial schedule. Thus, licensees that should have no more than 2 years between examinations, on average went unexamined more than 3 years.

High-Risk Licensees Had Untimely Follow-Up

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 licensees, the follow-up examinations averaged 5 months past due but some went unexamined for longer periods of time. The following are a few examples of untimely follow-up examinations for high-risk licensees.

- A covered service provider received an examination rating of "4" in August 2014. The follow-up examination, due within 9 months, was 218 days late as of December 31, 2015. Although the records reflect an examination began in September 2015, it did not progress because, according to management, the examination involved novel issues, was complex and contentious. The draft examination report, issued in April 2016, again gave the licensee an adverse rating of "4" and cited numerous violations. A rating of "4" indicates substantial non-compliance requiring immediate remedial action with the licensee subject to close regulatory supervision.

- A commercial loan broker received an adverse examination rating of “3” in March 2014. The follow-up examination, due within 12 months, was 303 days late as of December 31, 2015. The Division’s records indicated the lender arranged privately funded loans, maintained trust accounts, and processed 65 loans for over $52 million in value in 2015.

- A mortgage banker received an adverse examination rating of “3” in May 2014, and the follow-up examination was due within 12 months. The Division’s records indicated the licensee processed 55 loans for over $12 million in value in 2015. The follow-up examination was completed 314 days late in March 2016.

Timely follow-up with licensees that receive adverse ratings is important to help ensure they implement appropriate corrective action. As previously mentioned, 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.

Staffing Issues Contributed to Ongoing Examination Backlog

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.

The Division does not use workload projections to forecast its staffing needs. However, sufficient data is readily available for determining the number of examiner positions needed. For example, the examination database provides the number and type of examinations required with the due dates. The Division also tracks the hours staff spent on prior examinations. Furthermore, management reports are generated monthly with other information useful for projecting workload.

To properly document staffing needs to the Legislature, the Division will need to develop a staffing plan based upon workload projections. The Division's problems in maintaining sufficient staff were reported in our prior audit and documented in a 2007 Letter of Intent issued by the Legislature's money committees. In 2013, the money committees again documented their concern with the Division's staffing issues in another Letter of Intent, which requested the Division submit a business plan to fund the ongoing staffing needs and support costs required to carry out its responsibilities. The Division's response focused on proposals to change its revenue structure while indicating current staffing levels were near those necessary, without specifying its staffing needs. Management indicated the Division intends to seek authority to add two new examiner positions during the interim and request authority to add three more examiner positions for the next biennium.

The Division's existing revenue structure and fund balance is sufficient to pay for new examiner positions. The cost of examiners is self-funded by fees. In addition, in the 2013 Letter of Intent, the money committees indicated the Division's accumulated reserves were to be used over future biennia and to compensate for any shortfall in revenues. The Division held nearly $3.9 million in reserves as of June 30, 2015.

For future biennia, the Division is taking steps to replace the hourly examination fee with an annual supervision fee that all licensees will pay. In its July 2014 response to the money committees' Letter of Intent, the Division stated the process of billing licensees for examination fees will be replaced with a supervision fee all licensees pay by applying a base fee plus a percentage of loan volume or dollar volume. The Division indicated the proposed fee structure was the result of studying other fee-funded regulatory agencies in Nevada and other states. Management further stated the proposed change to a supervision fee that all licensees would pay will provide a long-term solution to the current revenue structure's vulnerabilities that result from fluctuations in the licensee population.

Examination Process Controls Have Been Strengthened
The Division implemented two controls over the examination process since the prior audit. First, the Division instituted a risk-based approach for scheduling and prioritizing examinations. Second, the examination process was shifted from conducting separate examinations of a licensee's various branch offices to performing a comprehensive company-wide examination of each licensee with one examination report covering the mortgage activity of the corporate office and the licensed branch locations. These examination process controls help ensure consistency in the examination process and that examinations are prioritized based upon risk when staff is not available to complete all required examinations.

Since the prior audit the Division has reduced the number of unexamined licensees and decreased the length of time licensees went unexamined.

- Although our current audit found 58% of licensees did not have timely examinations, the prior audit reported an exception rate of 77%.

- We found 14 of 22 (64%) licensees with adverse examination ratings had untimely follow-up that averaged 5 months past due as of December 31, 2015. In contrast, the prior audit reported 13 of 15 (87%) licensees with adverse ratings that were tested did not have timely follow-up examinations and some went for several years without a follow-up examination.

Recommendation

1. Implement a staffing plan for determining the number of examiner positions needed and fill vacancies timely.

Inconsistencies Exist in Examination Fee Billing Practices

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.

Inconsistent Practices Result in Billing Variances

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 spent 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 the 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 varied as follows:

- Overall examiners' timesheets showed an average of 70% of the total examination time as billable, while the remaining examination hours were recorded as non-billable.

- Wide fluctuations were noted in examiners' percentages of billable time. For example, allocations to billable hours ranged from 42% to 100% of the total examination hours.

Exhibit 4 is an example of the time recorded for 1 week of an examiner's time spent on a mortgage broker examination.

Mortgage Broker Examination – Time Recorded **Exhibit 4**
December 15-18, 2014

Date	Start Time	End Time	Billable Time	Non-Billable Time	Work Performed
12/15/14	9:45	10:00		.25	Confirm loans on disc and email licensee.
	10:15	11:30	1.25		Review Builders loan file.
	11:30	12:00	.50		Review Trust loan file.
	12:00	12:30	.50		Review Trust loan file.
	12:30	1:00		.50	Review Builders loan file.
	1:30	2:30	1.00		Review Properties loan file.
	2:30	3:00		.50	Review Properties loan file.
	3:15	4:00		.75	Review Properties loan file.
12/16/14	10:30	11:15	.75		Review loan file.
	11:30	12:30	1.00		Review loan file.
	1:00	1:30	.50		Review loan file.
	1:45	2:00	.25		Review loan file.
	2:45	3:30	.75		Review LLC loan file.
12/17/14	8:30	10:00		1.50	Compile letter for additional information needed.
	3:00	3:30		.50	Supervisor sign letter regarding litigation, scan and email to licensee.
12/18/14	8:30	10:30	1.00	1.00	Email, phone with licensee to get files to us, licensee had many questions regarding what documents to send. Review files to determine majority of docs missing. Review Management Questionnaire, Policies and Procedures.
	3:15	3:45	.50		Read emails from licensee. Review past exam to see if they were cited for not providing complete files.
Total Hours for the Week			**8.00**	**5.00**	

Source: Examiner time provided by Division.

As noted in Exhibit 4 above, the time the examiner spent on some tasks was allocated between billable and non-billable time without further explanation. This 1-week excerpt of time recorded is fairly representative of the overall methodology used for recording time spent on the examination. Overall, the examiner recorded 63 hours on this examination from December 2, 2014, through March 26, 2015. However, only half of that time, 32 hours, was billed to the licensee and the remaining 31 hours were not billed, although the time recorded shows examination tasks were performed.

The Division has statutory authority to bill licensees at the rate of $60 per hour for examinations that staff conduct. At the conclusion of an examination, the Division issues a billing, due within 30 days, based upon the total billable hours, plus a small amount for clerical and supervisory time. In fiscal year 2015, the Division recognized over $313,000 in examination fee revenues. For the 25 items we tested, billings ranged from $423 to $6,735 per examination, and averaged $2,400. Examination hours vary between licensees based on multiple factors such as licensee type, loan volume, number of offices, and overall complexity of the loan transactions.

More consistent billing practices may help avoid billing disputes with licensees. For example, 3 of 25 billings we tested (12%) had billing disputes that resulted in management authorizing write-downs of examiner time and re-issuing revised billings. The three adjustments amounted to a 42% reduction of the examiners' billable hours and totaled about $4,500 overall. Although these billing adjustments were insignificant financially, management indicated the handling of billing disputes is a time consuming process, which detracts personnel from performing their primary job responsibilities.

Management stated examiners record their direct examination hours as billable but may also use the non-billable category for other examination hours. Non-billable hours may include such tasks as planning the examination, research, or wrapping up after the direct examination phase. Management further stated supervisory personnel modify timesheets by moving hours to the non-billable category in efforts to be fair and reasonable with the billings. However, without written procedures, there is no assurance examination fees are billed consistently regardless of which staff performed the examination.

Recommendation

2. Implement written procedures for tracking and billing examination hours.

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Appendix A
Examination Ratings Criteria

Rating	Criteria
1	Licensee demonstrated a high degree of compliance. A rating of "1" may be given if there is a minor violation or deficiency, but only if the licensee acted to correct the violation or deficiency immediately and the action taken by the licensee is likely to prevent future violations or deficiencies.
2	Licensee demonstrated substantial compliance and any deficiencies noted in the examiner's report can be corrected by the licensee with a minimum of regulatory supervision. A rating of "2" may be given if there is more than one minor violation or deficiency, but only if the licensee acted to correct the violations or deficiencies immediately and the action taken by the licensee is likely to prevent future violations or deficiencies.
3	Licensee demonstrated less than satisfactory compliance and regulatory supervision is required for the correction of the violations and deficiencies noted in the examiner's report. A rating of "3" may be given if there were minor violations or deficiencies from a previous examination that were not corrected.
4	Licensee demonstrated substantial lack of compliance and immediate remedial action is required for the correction of the violations and deficiencies noted in the examiner's report. The licensee will be subject to close regulatory supervision, and the examiner will recommend disciplinary action against the licensee to the Commissioner.
5	Licensee demonstrated unsatisfactory compliance and immediate remedial action is required for the correction of the violations and deficiencies noted in the examiner's report. The Commissioner may take possession of the business and assets of the licensee. The examiner will recommend disciplinary action against the licensee to the Commissioner.

Source: NAC 645A.305, 645B.067, 645E.340, and 645F.450.

Appendix B
Audit Methodology

To gain an understanding of the regulatory activities at the Division of Mortgage Lending, we interviewed staff and reviewed statutes, regulations, policies, and procedures significant to the Division's operations. We reviewed financial information, budgets, legislative committee minutes, and other information addressing Division activities. Further, we reviewed significant processes and controls related to examinations of mortgage companies and the examination fee billing function.

To determine if controls over data in the examination database were sufficient relative to our audit objectives, we tested the accuracy and completeness of the data by comparing license and examination data for 15 licensees to hard copy files. Similarly, we compared license and examination information in hard copy files for 15 other licensees to computer-generated data.

We obtained the Division's licensee records as of February 5, 2016, and the examination records for calendar year 2013 through February 5, 2016. To compile our population for testing purposes of all licensees subject to examination from July 1, 2014, through December 31, 2015, we merged the annual listings of examination data and excluded new licensees that would not have been subject to examination during the audit period. This resulted in a population of 238 licensees subject to examination.

Next, we analyzed the examination population of 238 licensees to determine the number of examinations required, number conducted, and number untimely. For each untimely examination, we calculated the number of days untimely. Then, we analyzed the examination timeliness of several licensee groups including: those with adverse ratings on the prior examination, those with trust or private money, and licensees subject to biennial examinations.

To evaluate if the Division followed its risk-based approach for prioritizing and scheduling examinations, we held discussions with key personnel and reviewed scheduling documentation in the database.

To test if examinations were conducted in accordance with policies and procedures, we selected a random sample of 25 examinations from the population of examinations conducted from July 1, 2014, through December 31, 2015. Our sample consisted of 10 new licensees that had an untimely first examination, 5 licensees with a prior adverse rating and an untimely follow-up examination, and 10 selected from all other examinations performed. For the 25, we reviewed the examination file documentation for evidence of supervisory review and examination of loan files. We also calculated the percentage of loans examined based upon the total loans the licensee closed.

To determine if the performance measures for examinations were mathematically accurate and properly supported, we recalculated the measures for 2014 and 2015 based upon supporting documentation in the examination database. We traced the results to the 2014 measures presented in the Executive Budget and to the Division's 2015 monthly management reports.

To verify the accuracy and reliability of computerized information for examination fee billings, we traced billing data for 9 examinations from the Division's computerized records to hard copy billings, and conversely, we traced billings for 10 other examinations to the computerized billing data. To test the accuracy of the Department's payment records, we reconciled examination fee payments for 6 months to cash receipts in IFS.

To determine if the billings for examination fees were accurate and timely, we tested the billings for our random sample of 25 examinations noted above. For each item, we compared examiner hours on timesheets to actual hours billed, recalculated the billing, and held discussions with key personnel to clarify the Division's methodology for determining billable and non-billable examination hours.

To determine if the Division had adequate controls over the collection process for examination fees, we tested the payments for our random sample of 25 examinations noted above. For each item, we traced the payment date and amount paid from the Department's listings to hard copy records, calculated the payment timeliness, and, if applicable, calculated late payment penalties pursuant to regulations.

For our sample design, we used non-statistical audit sampling, which was the most appropriate and cost-effective method for concluding on our audit objectives. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that non-statistical sampling provides sufficient appropriate audit evidence to support the conclusions in our report.

Our audit work was conducted from June 17, 2015, to April 14, 2016. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Commissioner of the Division of Mortgage Lending. On August 15, 2016, we met with agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix C which begins on page 18.

Contributors to this report included:

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Appendix C

Response From Division of Mortgage Lending

STATE OF NEVADA
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DIVISION OF MORTGAGE LENDING

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Dear Mr. Cooper:

The Department of Business and Industry, Division of Mortgage Lending (the "Division") has received and reviewed the findings reported in the performance audit report ("Report") as presented by the Legislative Counsel Bureau on August 5, 2016. The Division accepts the two recommendations set forth in the Report.

The Division offers the following in response to the specific recommendations:

Recommendation #1:
Implement a staffing plan for determining the number of examiner positions needed and fill vacancies timely.

Response:
The Division accepts this finding. The Division has begun to refine its existing staffing plan to address the identified deficiencies. The Division is pleased to advise that since the end of the scope period outlined in the Report, December 2015, seventy-one (71) of the one hundred twenty-four (124) licensees identified as "Licensees Not Examined" have received an examination with Final Reports of Examinations being issued. Additionally, the Division's examination staff is fully staffed with six (6) mortgage lending examiners and one (1) supervisory examiner.

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Recommendation #2:
Implement written procedures for tracking and billing examination hours.

Response:
The Division accepts this finding. The Division will work to modify existing procedures and develop and implement written policies and procedures for tracking and billing of examination hours. The process will include the training of staff members and internal reviews to ensure compliance.

On behalf of the Division, we would like to express our appreciation to you and your staff and we look forward to continuing to work with the Legislative Counsel Bureau as we implement the recommended changes. If there are additional questions, please contact me at (702) 486-0788 or by e-mail at njcorbin@mld.nv.gov.

Sincerely,

Nancy Corbin
Acting Commissioner

Enclosure

Cc: Bruce Breslow, Director, Department of Business and Industry
Diana Giovannoni, Deputy Legislative Auditor, Legislative Counsel Bureau

Division of Mortgage Lending's Response to Audit Recommendations

	Recommendations	Accepted	Rejected
1.	Implement a staffing plan for determining the number of examiner positions needed and fill vacancies timely..................	X	
2.	Implement written procedures for tracking and billing examination hours.	X	
	TOTALS	2	