



# State of Nevada Division of Mortgage Lending

## Pre-Licensing Information for Mortgage Bankers



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# Division Responsibility

- The Division of Mortgage Lending has the general duty to regulate and exercise supervision over the activities of mortgage brokers, mortgage bankers, mortgage agents, escrow agencies and escrow agents in the State of Nevada.

# Broker vs. Banker

## Which License Do I Need

- Mortgage Brokers may fund loans using corporate cash, a warehouse line of credit, table funding or they may broker loans to institutional investors.
- Mortgage brokers may not license office or originate loans from out of state locations.
- Mortgage Bankers must close all loans using corporate cash or a warehouse line of credit. Brokering or table funding loans under a banker license is expressly prohibited.
- Mortgage Bankers may license out of state locations.

# Sharing Office Space

- Sharing office space with a Real Estate broker is prohibited unless the companies are affiliated as defined in NAC 645E.225.
- If office space is shared with any other company, including a real estate broker, the mortgage banker must maintain its own designated space with signage identifying the mortgage banker.
- The designated space must have a locking door and file cabinets to maintain the privacy of borrower information.
- Please refer to Exhibit 1 for additional information.



# Change of Address

- Prior to moving to a new location a Change of Address form must be submitted to the Division along with the original license. Upon verification of the new address, the Division will issue an amended license.
- The Change of Address form is on the forms link of the Division's Website.

# Branch Offices

- A mortgage banker may apply for a branch license by submitting a Banker Branch Application. This form is on the forms link of the Division's Website [www.mld.nv.gov](http://www.mld.nv.gov).
- All other forms/documents listed on the application form must be submitted simultaneously with the branch application.
- The Principal Nevada office must receive a satisfactory examination rating within the preceding 12 months before a branch license application will be issued.
- Virtual offices are not permitted.
- Please refer to Exhibit 2 for additional information.




# Working From Licensed Location

- Owners and qualified employees are required to work from the licensed location. Appointments may be made at other locations only at the borrower's request. Loan applications may not be solicited or accepted at any location other than the licensed location.
- All mortgage loan files must be kept at the licensed location.

# File Retention

- You must maintain a hard copy of the mortgage loan file for a period of 2 years.
- The hard copy of the file must be maintained at the licensed location for a period of one year after the close of escrow.
- A hard copy record may be maintained during the second year at a location wherein the file is retrievable within 24 hours of request by the Division.
- Files may be stored electronically or in hard copy from years 3-4 after the close of escrow. An electronic file must be retrievable or printed within 24 hours of any request made by the Division.
- Please refer to Exhibit 3 for additional information.



# Suitable Books and Records

- The mortgage banker is required, at a minimum, to maintain the records defined in NAC 645E.355 in every mortgage loan file.
- It is recommended that a correspondence log is maintained and documentation is retained to support changes in loan products offered.
- See Exhibit 4 for additional information.

# Submission of Monthly Activity Reports

- NAC 645E.350 requires all bankers to submit a monthly report of activity on a form approved by the Commissioner. The form is on the Division's Website [www.mld.nv.gov](http://www.mld.nv.gov) under the forms link.
- Southern Nevada offices must e-mail their report to [marlv@mld.nv.gov](mailto:marlv@mld.nv.gov).
- Northern Nevada offices must e-mail their report to [marcc@mld.nv.gov](mailto:marcc@mld.nv.gov).
- Reporting is required even if no loans were closed during the reporting period.
- The monthly report must be submitted to the Commissioner by the 15th day of the month following the month for which the report was made.

# Financial Statement Filing

- NRS 645E.360 requires a mortgage banker to submit financial statements to the Division no later than 120 days after the last day of the mortgage banker's fiscal year.
- The statements must be prepared by an independent public accountant who holds a license with the State of Nevada Board of Accountancy.
- If the mortgage banker maintains trust accounts as defined in NRS 645E.430, the trust accounts must be audited.
- See Exhibit 5 for additional information.

# Change of Control

- If a transfer of power or voting stock of more than 25% is proposed, the mortgage banker must apply to the Commissioner for a change of control prior to the transfer.
- If a transfer of 5% or more of voting stock occurs, the Commissioner must be notified.
- See Exhibit 6 for additional information.
- The Change of Control application form is on the Division's Website [www.mld.nv.gov](http://www.mld.nv.gov).

# Examinations

- The Division conducts periodic examinations to verify compliance with state and federal laws.
- A rating of 1-5 is issued upon completion of the examination. Please refer to Exhibit 7 for additional information regarding ratings.
- Pursuant to NAC 645E.340 the Division shall bill the mortgage banker \$60 per hour for the examination. Please note, not all examination hours take place at the mortgage banker's office. Review of Division files, report writing and required research may take place at the Division's office.

# Examination Forms

- The following forms are on the forms link of the Division's Website:
- Statutory Compliance Questionnaire.
- Division's Regulatory Compliance Questionnaire.
- Manager's Questionnaire. This is provided to the Qualified Employee and lists all documents which must be produced for an examination. This list is not exhaustive and the Division has the right to request any additional information required to complete the examination.
- Loan Line Slip used for examination of individual loan files.
- Please note, each of the above forms are samples only. Each of these forms may be changed at the Division's discretion without notice to the licensee.



# Administrative Actions

- Pursuant to NRS 645E.670, the Division may take administrative action and/or impose fines for any violations of state or federal laws. The maximum fine is up to \$10,000 per violation.
- Violations of state or federal laws may be referred to the appropriate agency for investigation pursuant to NAC 645E.500.

# Exhibit 1

## **NAC 645E.225 Sharing office space with another business. ([NRS 645E.300](#))**

1. Except as otherwise provided in subsection 2, a mortgage banker may share office space with any other business if each business has a designated space within the office space and each business is separately identifiable by a sign or other method of identification within the office space.
2. A mortgage banker may share office space with a business licensed pursuant to [chapter 645](#) of NRS if:
  - (a) Each business has separate and distinct office space and signs such that a reasonable customer would understand which business he is transacting with at all times;
  - (b) Each business operates as a separate legal entity;
  - (c) Each business maintains separate accounts, books and records;
  - (d) Each business maintains separate licenses; and
  - (e) The businesses are subsidiaries of the same parent corporation or are otherwise affiliated businesses.

# Exhibit 2

**NAC 645E.220 Branch office: Prerequisites and name for issuance of license; display of license; responsibilities of mortgage banker. ([NRS 645E.200](#), [645E.300](#))**

1. An applicant must submit with his application for a license for a branch office the name, residence address and telephone number of a qualified employee designated to manage 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 authorized to conduct mortgage lending activity at a branch office of the mortgage banker.

# Exhibit 3

## **NAC 645E.360 Retention and maintenance of certain records. ([NRS 645E.300](#), [645E.350](#))**

1. Each mortgage banker shall retain records of all its completed mortgage transactions for a period of at least 4 years after the date of the last activity relating to the transaction. After a record has been retained for 2 or more years, the mortgage banker may cause the original record to be reproduced by the microphotographic process, optical disc imaging or any other equivalent technique designed to ensure an accurate reproduction of the original record. A record reproduced as authorized by this section must be considered by the Commissioner to be the same as the original record. Upon completion of the reproduction of a record as authorized by this section, the original record may be destroyed.
2. Each mortgage banker shall retain applications for mortgages that were denied or withdrawn for a period of at least 1 year or as otherwise required by federal law.
3. Each mortgage banker shall maintain records of completed mortgage transactions at the location at which the mortgage loan was made for at least 1 year after the date of closing of the loan. After expiration of the 1-year period required pursuant to this subsection, any such record may be maintained for the minimum period prescribed in subsection 1 at another location if the record can be provided not later than 24 hours after a request for the record. The Commissioner, for good cause shown, may allow a longer period to provide records.

# Exhibit 4

- **NAC 645E.355 “Complete and suitable records” interpreted.** ([NRS 645E.300, 645E.350](#)) As used in [NRS 645E.350](#), the Commissioner interprets “complete and suitable records” to mean:
  - 1. For residential mortgage loans, a file that includes, but is not limited to, the following documents, if applicable to the type and purpose of the loan:
    - (a) The real estate sales contract;
    - (b) Escrow instructions;
    - (c) The preliminary title report;
    - (d) The loan application, including, but not limited to, any attachments or supplements;
    - (e) An appraisal report;
    - (f) Any verification of representations made by the consumer on the application for the loan;
    - (g) A credit report;
    - (h) A good faith estimate of closing costs and any disclosures required pursuant to the federal Truth in Lending Act, 15 U.S.C. §§ 1601 et seq.;
    - (i) The Uniform Settlement Statement, as described pursuant to 12 U.S.C. § 2603;
    - (j) Any commitments made by the lender to the consumer, including, but not limited to, a commitment to guarantee the consumer a certain interest rate and a commitment to fund the loan;
    - (k) A recorded or confirmed deed of trust;
    - (l) The title insurance policy;
    - (m) The note;
    - (n) Any subsequent assignment of the loan to institutional investors; and
    - (o) The hazard insurance policy.

# Exhibit 4 – Cont'd

2. For commercial mortgage loans that are funded by the mortgage banker, a file that includes, if applicable, the items required pursuant to paragraphs (a) to (j), inclusive, of subsection 1.
3. Any additional books and records that must be maintained or readily accessible at each place of business of the mortgage banker, including, but not limited to:
  - (a) Any book or record that evidences compliance with applicable federal and state laws and regulations;
  - (b) A copy of each item of advertising material that was published or distributed by or on behalf of the mortgage banker, in the format in which the material was published or distributed;
  - (c) A copy of any written complaint received by the mortgage banker, together with all correspondence, notes, responses and other documentation related to the disposition of the complaint;
  - (d) All checkbooks, check registers, bank statements, deposit slips, withdrawal slips, cancelled checks and other records that relate to the business of the mortgage banker;
  - (e) Copies of all federal tax withholding forms, reports of income for federal taxation and evidence of payments to all employees, independent contractors and other persons that worked for the mortgage banker;
  - (f) Copies of all documents evidencing a contractual relationship between the mortgage banker and any third-party provider of services related to mortgages, including, but not limited to, contracts, invoices, billings and remittances to the provider by or on behalf of the mortgage banker;
  - (g) Copies of all material correspondence related to the business of the mortgage banker, including, but not limited to, electronic messages; and
  - (h) Copies of all reports, audits, examinations, inspections, reviews, investigations or other similar activities relating to the business of the mortgage banker performed by any third party, including, but not limited to, any regulatory or supervisory authority.

# Exhibit 5

## **NRS 645E.360 Annual financial statement; audit of trust accounts; regulations.**

1. Except as otherwise provided in this section, not later than 120 days after the last day of each fiscal year for a mortgage banker, the mortgage banker shall submit to the Commissioner a financial statement that:
  - (a) Is dated not earlier than the last day of the fiscal year; and
  - (b) Has been prepared from the books and records of the mortgage banker by an independent public accountant who holds a permit to engage in the practice of public accounting in this State that has not been revoked or suspended.
2. The Commissioner may grant a reasonable extension for the submission of a financial statement pursuant to this section if a mortgage banker requests such an extension before the date on which the financial statement is due.
3. If a mortgage banker maintains any accounts described in [NRS 645E.430](#), the financial statement submitted pursuant to this section must be audited. The public accountant who prepares the report of an audit shall submit a copy of the report to the Commissioner at the same time that he submits the report to the mortgage banker.
4. The Commissioner shall adopt regulations prescribing the scope of an audit conducted pursuant to subsection 3.

# Exhibit 6

## **NRS 645E.390 Notification of certain transfers required; application to Commissioner for approval of change of control; investigation; waiver.**

1. The Commissioner must be notified of a transfer of 5 percent or more of the outstanding voting stock of a mortgage banker and must approve a transfer of voting stock of a mortgage banker which constitutes a change of control.
2. The person who acquires stock resulting in a change of control of the mortgage banker shall apply to the Commissioner for approval of the transfer. The application must contain information which shows that the requirements of this chapter for obtaining a license will be satisfied after the change of control. Except as otherwise provided in subsection 3, the Commissioner shall conduct an investigation to determine whether those requirements will be satisfied. If, after the investigation, the Commissioner denies the application, he may forbid the applicant from participating in the business of the mortgage banker.
3. A mortgage banker may submit a written request to the Commissioner to waive an investigation pursuant to subsection 2. The Commissioner may grant a waiver if the applicant has undergone a similar investigation by a state or federal agency in connection with the licensing of or his employment with a financial institution.
4. As used in this section, "change of control" means:
  - (a) A transfer of voting stock which results in giving a person, directly or indirectly, the power to direct the management and policy of a mortgage banker; or
  - (b) A transfer of at least 25 percent of the outstanding voting stock of a mortgage banker.

# Exhibit 7

**NAC 645E.340 Rating of mortgage banker upon completion of examination. (NRS 645E.300)** Upon completion of an examination of a mortgage banker, the examiner shall rate the mortgage banker on a scale of “1” to “5,” as follows:

1. A rating of “1” indicates that the mortgage banker and the management of the mortgage banker have demonstrated a high degree of compliance with applicable laws and regulations. A rating of “1” may be given if there is a minor violation or deficiency and the mortgage banker acted to correct the violation or deficiency immediately and the action taken by the mortgage banker is likely to prevent future violations or deficiencies.
2. A rating of “2” indicates that the mortgage banker and the management of the mortgage banker have demonstrated substantial compliance with applicable laws and regulations and that any violations or deficiencies noted in the report made by the examiner pursuant to [NAC 645E.345](#) can be corrected by the mortgage banker with a minimum of regulatory supervision. A rating of “2” may be given if there are minor violations or deficiencies and the mortgage banker acted to correct the violations or deficiencies immediately and the action taken by the mortgage banker is likely to prevent future violations or deficiencies.
3. A rating of “3” indicates that the mortgage banker and the management of the mortgage banker have demonstrated less than satisfactory compliance with applicable laws and regulations and that regulatory supervision is required for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to [NAC 645E.345](#). A rating of “3” may be given if there were previous minor violations or deficiencies that were not corrected.
4. A rating of “4” indicates that the mortgage banker and the management of the mortgage banker have demonstrated substantial lack of compliance with applicable laws and regulations and that immediate remedial action is required for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to [NAC 645E.345](#). The mortgage banker will be subject to close regulatory supervision and the examiner will recommend disciplinary action against the mortgage banker to the Commissioner.
5. A rating of “5” indicates that the mortgage banker and the management of the mortgage banker have demonstrated unsatisfactory compliance with applicable laws and regulations and that immediate remedial action is required for the correction of the violations and deficiencies noted in the report made by the examiner pursuant to [NAC 645E.345](#) and may include action by the Commissioner to take possession of the business and assets of the mortgage banker. The examiner will recommend disciplinary action against the mortgage banker to the Commissioner.

# Exhibit 8

## **NAC 645E.360 Retention and maintenance of certain records. ([NRS 645E.300](#), [645E.350](#))**

1. Each mortgage banker shall retain records of all its completed mortgage transactions for a period of at least 4 years after the date of the last activity relating to the transaction. After a record has been retained for 2 or more years, the mortgage banker may cause the original record to be reproduced by the microphotographic process, optical disc imaging or any other equivalent technique designed to ensure an accurate reproduction of the original record. A record reproduced as authorized by this section must be considered by the Commissioner to be the same as the original record. Upon completion of the reproduction of a record as authorized by this section, the original record may be destroyed.
2. Each mortgage banker shall retain applications for mortgages that were denied or withdrawn for a period of at least 1 year or as otherwise required by federal law.
3. Each mortgage banker shall maintain records of completed mortgage transactions at the location at which the mortgage loan was made for at least 1 year after the date of closing of the loan. After expiration of the 1-year period required pursuant to this subsection, any such record may be maintained for the minimum period prescribed in subsection 1 at another location if the record can be provided not later than 24 hours after a request for the record. The Commissioner, for good cause shown, may allow a longer period to provide records.

# CERTIFICATE OF ACKNOWLEDGMENT

- I certify I have viewed the Pre-Licensing Information for Mortgage Bankers presentation.
- I acknowledge the presentation does not include all state and federal laws by which I must abide.
- I acknowledge it is my responsibility to remain abreast of all laws affecting the mortgage industry and take steps to ensure compliance with new statutes, regulations, rules or acts which may be passed.
- I understand failure to comply with all laws, state and federal, may result in investigation, administrative action and/or fine by the Division of Mortgage Lending.

Please email any questions to [mldinfo@mld.nv.gov](mailto:mldinfo@mld.nv.gov). This form must be returned to the Division with all conditional approval items necessary for licensing.

Acknowledged by:

Company Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
Phone: \_\_\_\_\_

\_\_\_\_\_  
Signature of Qualified Employee

\_\_\_\_\_  
Date