

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

NRS 645B MORTGAGE COMPANIES AND MORTGAGE LOAN ORIGINATORS

LCB File No. _____ (NAC 645B)

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

AUTHORITY:

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

Section 1.

NAC 645B. _____ “Business of a mortgage company” defined. As used in this chapter and chapter 645B of NRS, the Commissioner will interpret the term “business of a mortgage company” to have the meaning ascribed to “business of a mortgage company” in NRS 645B. _____.

NAC 645B. _____ “Employee” defined. As used in this chapter and chapter 645B of NRS, the Commissioner will interpret the term “employee” to have the meaning ascribed to “employee” in NRS 645B. _____.

NAC 645B. _____ “Remote location” defined. As used in this chapter and chapter 645B of NRS, the Commissioner will interpret the term “remote location” to have the meaning ascribed to “remote location” in NRS 645B. _____.

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

1. A mortgage company may allow employees licensed as mortgage loan originators, other than Qualified Employees as defined pursuant to NAC 645B.008 and NRS 645B.021, to work from an authorized remote location without being physically present at such location. An employee of a licensed mortgage company may work remotely and will not be considered to be conducting business for which a license is required at a location other than the address that appears on the mortgage company’s license or licenses, as long as all of the following conditions are met:

- (a) The mortgage loan originator or other employee must be associated with a licensed branch location;*
- (b) Only activities that can be safely accomplished in full compliance with the provisions of this chapter while working remotely may be performed.*
- (c) The location from which the employee is working:
 - (1) Shall not be used to conduct a specific act that applicable law or regulation requires be conducted only at licensed locations;*
 - (2) Shall be authorized by the licensee as a location from which the employee may work;*
 - (3) Shall not be disclosed to consumers by use of signage, advertisement or other means as a location from which the licensee conducts the business for which a license is**

- required and shall, at all times, represent his or her business location as the licensed branch office to which he or she is assigned. An employee authorized to work remotely may not treat his or her remote location as if it were a commercial office space open for public business unless a license has been issued for that residence pursuant to NRS 645B.020;*
- (4) May not be a location where the employee will meet consumers in-person;*
 - (5) May not be used for the storage of books or records, in any form, relating to the business for which a license is required pursuant to NRS 645B.080(1);*
 - (6) May not be owned, controlled, or leased by the licensee or an affiliate of the licensee, or for the benefit of the licensee or an affiliate of the licensee; and*
 - (7) May not be used for the receipt of mail relating to the business for which a license is required.*
- (d) The mortgage company shall, at all times, adequately supervise the work-related activities of each employee working from a remote location and shall establish and maintain written policies and procedures related to the supervision of remote personnel. A licensee shall maintain and update, as appropriate, written records with respect to any employee authorized to work from a remote location, including:*
- (1) The initial authorization to work from a remote location;*
 - (2) Any updated authorization to work from a remote location;*
 - (3) Any information regarding the remote location from which an employee is authorized to work;*
 - (4) All records pertaining to mortgage transactions made by an employee of the mortgage company from a remote location; and*
 - (5) Any due diligence the mortgage company has taken to ensure compliance with this chapter.*
- (e) The mortgage company shall retain the records required by subsection (1)(d) of this provision for the greater of 2 years from the date the employee ceases using such remote location in connection with the business for which a license is required, or any retention period required by applicable law or regulation;*
- (f) The mortgage company shall provide appropriate training to its employees to ensure that remote employees work in an environment conducive and appropriate to maintain consumer privacy pursuant to this chapter.*
- (g) Access to the licensee's platforms and customer information is conducted in accordance with the licensee's comprehensive written information security plan as required by the Commissioner; and*
- (h) Customer interactions and conversations about customers will comply with all federal and state information security requirements, including applicable provisions under the Gramm-Leach-Bliley Act and the Safeguards Rule established under the Federal Trade Commission set forth in 16 C.F.R. § 314. In-person customer interaction does not occur at the remote location.*
- 2. An employee of a licensed mortgage company shall not establish his or her own office at any location other than the licensed branch office to which he or she is assigned, or the remote location authorized by the mortgage company pursuant to this chapter.*
 - 3. Only one employee of the licensed mortgage company may work out of a single remote location.*

4. *If the Commissioner determines that the licensee does not provide reasonable and adequate supervision of a remote employee pursuant to this section, after written notice from the Commissioner and within 5 business days of receiving such notice, the mortgage company shall terminate the employee's eligibility to work from a remote location provided for under this section.*
5. *The failure of a mortgage company to adequately supervise an employee is a violation subject to enforcement action pursuant to NRS 645B.670 to 645B.760, inclusive, and may result in a fine or license suspension or revocation.*

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

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

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

Amend Chapter 645B of the Nevada Revised Statutes by adding thereto:

NRS 645B_____

- 1. An employee of a mortgage company may conduct the business of the mortgage company at a remote location if authorized by the mortgage company.*
- 2. A mortgage company may authorize an employee to conduct the business of the mortgage company at a remote location if the mortgage company:
 - (a) Has adopted written policies and procedures for the supervision of employees working at a remote location to ensure that:
 - (1) Each employee working from a remote location complies with the provisions of this section and the regulations adopted pursuant thereto; and*
 - (2) The mortgage company exercises reasonable supervision and control over the activities of his or her mortgage loan originators pursuant to NRS 645B.460;**
 - (b) Has adopted a comprehensive written plan for the security of the information systems of the mortgage company and any customer information collected and maintained by the mortgage company, which must contain specific provisions regarding cybersecurity and the use of a virtual private network or other secure connection at the remote location that requires:
 - (1) Multifactor authentication;*
 - (2) A backup system and data recovery system; and*
 - (3) Protocols in the event of a cybersecurity incident; and***

- (c) *Ensures that the information systems of the mortgage company and any customer information collected and maintained by the mortgage company are accessed by employees working at a remote location only in accordance with the security plan adopted pursuant to paragraph (b).*
3. *An employee of a mortgage company shall not interact with a customer of the mortgage company in person at the residence of the employee unless a license has been issued for that residence pursuant to NRS 645B.020.*
4. *Any physical records of a mortgage company must not be maintained at a remote location. Any underlying origination records obtained through the conduct of the business of a mortgage company at a remote location must be maintained at the principal office or a branch office of the mortgage company.*
5. *The Commissioner shall adopt regulations governing the conducting of the business of a mortgage company at a remote location. The regulations:*
- (a) *Must include, without limitation, requirements for the keeping and maintenance of complete and suitable records of all mortgage transactions made by an employee of a mortgage company at a remote location; and*
 - (b) *May include, without limitation, any additional requirements for an employee of a mortgage company to conduct the business of a mortgage company from a remote location.*
6. *As used in this section:*
- (a) *“Business of a mortgage company” includes, without limitation, any activity for which a license is required pursuant to this chapter that is conducted by an employee who is a mortgage loan originator employed by or associated with a mortgage company.*
 - (b) *“Remote location” means a location, other than a principal office, branch office or other office or place of business for which a license has been issued pursuant to NRS 645B.020, at which an employee of a mortgage company conducts the business of the mortgage company pursuant to this section. The term includes, without limitation, the residence of an employee.*

NRS 645B.01125 “Employee” defined. “Employee” means a natural person:

1. Whose manner and means of performance of work are subject to the right of control of, or are controlled by, another person; and
2. Whose compensation for federal income tax purposes is reported, or required to be reported, on Form W-2 issued by the controlling person; ~~and~~
3. *Includes, without limitation, a mortgage loan originator who is employed by or associated with a company.*

NRS 645B.080 Records relating to mortgage transactions, financial condition and trust accounts; monthly report to Commissioner; accounting procedures for trust accounts; regulations; reports.

1. Each mortgage company shall keep and maintain at all times at each location, *other than a remote location*, where the mortgage company conducts business in this state complete and suitable records of all mortgage transactions made by the mortgage company at that location. Each mortgage company shall also keep and maintain at all times at each such location all original books, papers and data, or copies thereof, clearly reflecting the financial condition of the business of the mortgage company.

Each mortgage company shall keep and maintain complete and suitable records of all mortgage transactions made by an employee of the mortgage company at a remote location in accordance with the requirements established by the Commissioner by regulation pursuant to NAC 645B._____.

2. Except as otherwise provided in subsection 3, each mortgage company shall submit to the Commissioner each month a report of the mortgage company's activity for the previous month. The report must:
 - (a) Specify the volume of loans arranged and loans made by the mortgage company for the month or state that no loans were arranged or made in that month;
 - (b) Include any information required pursuant to NRS 645B.260 or pursuant to the regulations adopted by the Commissioner; and
 - (c) Be submitted to the Commissioner by the 15th day of the month following the month for which the report is made.
3. The Commissioner may waive the requirement to submit a report pursuant to subsection 2 if substantially similar information is available to the Commissioner from another source.
4. The Commissioner may adopt regulations prescribing accounting procedures for mortgage companies handling trust accounts and the requirements for keeping records relating to such accounts.
5. Each mortgage company who is required to register or voluntarily registers with the Registry shall submit to the Registry and the Commissioner a report of condition or any other report required by the Registry in the form and at the time required by the Registry.
6. *As used in this section, "remote location" has the meaning ascribed to it in NRS 645B._____.*