



May, 21 2021

Honorable Cathy Sheehy  
Commissioner  
Division of Mortgage Lending  
Nevada Department of Business and Industry  
3300 West Sahara Avenue, Suite 285  
Las Vegas, NV 89102  
[csheehy@mld.nv.gov](mailto:csheehy@mld.nv.gov)

Dear Commissioner Sheehy,

The Nevada Mortgage Lenders Association (NMLA)<sup>1</sup> and the national Mortgage Bankers Association (MBA)<sup>2</sup> are writing to thank the Division of Mortgage Lending (MLD) for its leadership during the global Coronavirus pandemic by issuing guidance which has provided remote work flexibility to Nevada licensed mortgage loan originators (MLOs). These MLD authorizations have been essential to protect the health of real estate finance professionals throughout the country as well as the consumers they serve seeking to buy, sell or refinance a home in Nevada. They have also been instrumental in protecting the families of all staff at our member companies, particularly those who have had to look after loved ones who are at higher risk of infection.

We are also writing to urge you to extend through December 2021 the MLD's current MLO work flexibility which ends on June 30, 2021 for licensed MLOs as stated in the MLD's March 15, 2021 memorandum, "Extended Provisional Guidance – Temporarily Working from Home."<sup>3</sup> Our organizations

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<sup>1</sup> NMLA's mission is to promote a robust, sustainable mortgage lending industry and expand access to affordable credit options through advocacy, leadership, and education.

<sup>2</sup> The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 330,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets, to expand homeownership, and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 1,700 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: [www.mba.org](http://www.mba.org).

<sup>3</sup> [https://mld.nv.gov/uploadedFiles/mldnvgov/MLO%20Memorandum%20March%202021\(2\).pdf](https://mld.nv.gov/uploadedFiles/mldnvgov/MLO%20Memorandum%20March%202021(2).pdf)

believe that the June sunset date is premature and that the uncertain trajectory of the virus in general and the new variants in particular, offer strong reasons for continuing to be cautious about the public's health in Nevada and in other states where Nevada-licensed MLOs reside and work.

The real estate finance industry and state regulators worked well together during 2020 in issuing these guidance documents in those states that required licensed staff to work from a licensed location, and in making sure MLOs and other staff adhered to states' strict consumer and data protection standards detailed in the various policy memoranda. This policy direction and these important standards were echoed in the attached "Dear Colleague" letter on August 25, 2020 by the Non-Depository Supervisory Committee (NDSC) of the Conference of State Bank Supervisors (CSBS).

The industry continues to believe that there are good reasons to not only continue these remote work flexibilities, but also to make them permanent.

- The Centers for Disease Control has confirmed that there are three "variants of concern" in the United States. These are variants of COVID-19 "for which there is evidence of an increase in transmissibility, more severe disease (e.g., increased hospitalizations or deaths), significant reduction in neutralization by antibodies generated during previous infection or vaccination, reduced effectiveness of treatments or vaccines, or diagnostic detection failures.<sup>4</sup> Data about the long term effectiveness of the current vaccines against the original strain and existing (or potential future) variants in the country is still be evaluated and uncertainty warrants caution.
- As of this writing, in Nevada the rate of residents that are fully vaccinated is still below 35 percent (one county as low as 18%), and no authoritative health policy source in the country is predicting the United States will achieve "herd immunity" by the end of June, if at all. Moreover, vaccines have not yet been authorized for use on children younger than 12. Thus, Nevada-licensed MLOs with at-risk children who continue to require social distancing at home will face a difficult choice on July 1<sup>st</sup> without a delay in MLD policy.
- While OSHA federal employment law guidance permits private employers to require employees to get vaccinated for COVID-19, our member companies must also comply with federal employment laws that prohibit discrimination on the basis of religion and disability. The balance that must be struck may leave unvaccinated consumers and staff vulnerable to others who have not yet been (nor plan to be) vaccinated. Moreover, if a member of staff becomes infected at their place of business, there are legal liability issues these companies could face for failing to offer a work environment to their staff free of risk from injury or death.<sup>5</sup>
- One of the most prescient concerns of the industry is with the asynchronous reopening of states. An MLO living in state with one set of requirements may be licensed in another state that has a different set of requirements. While current public health guidance is allowing for more openness, it remains unclear and some states where NV licensed MLOs reside are opening more slowly than others. For example, recent CDC guidance announced just earlier this month only allows fully vaccinated people (full injections plus two weeks) to resume activities without

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<sup>4</sup> <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/variant-surveillance/variant-info.html>

<sup>5</sup> <https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>

wearing a mask or physically distancing, except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance.<sup>6</sup>

For these reasons, we to urge you to extend through December 2021 the MLD's current MLO work flexibility.

Lastly, please know that MLOs and state-licensed companies in this health crisis have proven they can operate in a new paradigm where they can remotely serve consumers effectively while respecting all necessary consumer and data protection rules. Indeed, the industry's service to consumers impacted by the pandemic and needing assistance is a remarkable success story with nearly 4.3 million consumers receiving forbearance in the early weeks of the crisis. Our organizations believe this moment presents an opportunity to learn from current exigencies and facilitate new and more efficient ways for companies to operate and for regulators to conduct oversight.

NMLA and MBA would welcome an opportunity to collaborate with MLD on making the current remote work flexibilities permanent. This effort would better prepare the industry and regulators alike should the country ever again experience a similar national emergency, or more likely, need to serve consumers from alternative locations because of a regional natural disaster. Such an approach has already resulted in new law in Washington<sup>7</sup> and new regulations in Maryland.<sup>8</sup>

Our associations welcome the opportunity to engage with you further on this issue. If you have any questions, please contact Jonathan Gedde ([jon@simplifimortgage.com](mailto:jon@simplifimortgage.com) or 702-767-3056) at NMLA or Kobie Pruitt ([kpruitt@mba.org](mailto:kpruitt@mba.org) or 202-557-2870) at MBA.

Thank you for considering our views.

Respectfully,

Nevada Mortgage Lenders Association  
Mortgage Bankers Association

Attachment

- Dear Colleague Memorandum of the Non-Depository Supervisory Committee of the Conference of State Bank Supervisors, August 20, 2020

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<sup>6</sup> <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/fully-vaccinated.html>

<sup>7</sup> [https://app.leg.wa.gov/billsummary?BillNumber=5077&Year=2021&utm\\_campaign=Advocacy%20Update%20-%20March%2026%202021&utm\\_medium=email&utm\\_source=Eloqua](https://app.leg.wa.gov/billsummary?BillNumber=5077&Year=2021&utm_campaign=Advocacy%20Update%20-%20March%2026%202021&utm_medium=email&utm_source=Eloqua)

<sup>8</sup> <http://www.dllr.state.md.us/finance/advisories/advisory-remoteworkerregs.pdf> (Finalized as proposed)