

STATE OF NEVADA

Brian Sandoval
Governor



Dennis Perea
Interim Director

Renee Olson
Administrator

**Department of Employment, Training and Rehabilitation
EMPLOYMENT SECURITY DIVISION
500 E. Third Street
Carson City, Nevada 89713-0001**

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing to adopt the amended Career Enhancement Program (CEP) Veterans and Senior Citizens Small Business Loan Program regulation

The purpose of the hearing is to receive comments from all interested persons regarding the amendment of a regulation that pertains to Chapter 612, pursuant to Nevada Revised Statute (NRS) 612.607. The proposed amendment clarifies the requirements of conditions for approval of loans, modifies the maximum loan amounts, amends how interest is charged and clarifies the reimbursement of administrative costs.

Name of Division: Nevada Employment Security Division

Date and Time of Hearing: Tuesday, August 12, 2014; 10:00 A.M.

Place of Meeting: **Live Meeting:**

Legislative Building
401 S. Carson Street, Room 3138
Carson City, Nevada 89701

Video Conference To:

Grant Sawyer Building
555 E. Washington Ave, Room 4406
Las Vegas, Nevada 89101

Note: This hearing will also be broadcast on the internet at www.leg.state.nv.us.

AGENDA

- I. Call to order and welcome – Renee Olson, Administrator, Employment Security Division
- II. Public comment – *Chair may limit public comment to 5 minutes per speaker*
- III. *** For Possible Action:**
 - a. Review of amended regulation to the Career Enhancement Program (CEP) Veterans and Senior Citizens Small Business Loan Program
 - b. Public comment on regulation
 - c. Administrator adoption of regulation to CEP Veterans and Senior Citizens Small Business Loan Program
- IV. Closing public comment - *Chair may limit public comment to 5 minutes per speaker*
- V. Adjournment

Agenda items may be taken out of order. Two or more agenda items may be combined for consideration. An item may be removed or discussion on an item may be delayed at any time.

NOTICE AND EXPLANATION

The purpose of the hearing is to receive comments from all interested persons regarding the amendment of a regulation that pertains to Chapter 612 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. Statement of need and purpose of the proposed regulation

The proposed amendment to the regulation pertaining to NAC 612, pursuant to Nevada Revised Statute (NRS) 612.607, clarifies the following: the requirements of conditions for approval of loans, the maximum loan amounts, how interest is charged, and the reimbursement of administrative costs.

2. Description of the regulations to be amended

The proposed amendment clarifies the requirements of conditions for approval of loans, modifies the maximum loan amounts, clarifies how interest is charged and clarifies the reimbursement of administrative costs.

3. The estimated economic effect

Effect on Businesses Affected by Regulation

The proposed regulation will only regulate a nonprofit lender who chooses to participate in the CEP loan program. The regulation only places additional burdens on any such lenders with respect to the grants received for this loan program, and does not restrict any business practices outside of the loan program. The regulation does provide for reimbursement of administrative costs both through interest collected on loans issued and provides for up to 10% of the grants made to the lender to be used for reimbursement of administrative expenses. Therefore, no adverse effects on the business being regulated are expected, in the short term or long term. A nonprofit lender participating in the program will have access to additional funds, which may be used to issue loans to qualified borrowers, potentially increasing the amount of business that lender is able to participate in. This would be a potential benefit to the lender.

Effect on the Public

Under this regulation, there are two paths by which the public is affected. First, the effect of the loans being made in assisting the formation of new businesses. The potential beneficial impact here is to the owners of any business that may take advantage of these loans, which would provide an interest-free loan for the first year of borrowing, which is a cheaper cost of capital than may otherwise be available. If such a business has employees, the cheaper cost of capital may allow for additional employment opportunities. Such effects may be limited by the size of the loans, and the size of the grants made under this regulation.

Second, the effect of the money being pulled out of other CEP programs in order to make these loans. To the extent that grants made under this program reduce the funding available to other CEP programs, which have a direct effect on helping individuals within the state find employment, those programs may be able to help fewer jobseekers than they would be otherwise unable to do. However, this depends upon whether the grants made under this program deplete the available CEP resources, or simply draw upon otherwise unspent reserves. The regulation does not force the Administrator to issue grants of a particular size, allowing the Administrator to balance the funding needs of the various CEP programs, so the potential adverse effect on other CEP programs is expected to be negligible.

4. What methods were used by the agency to determine the impact of the proposed regulation on small businesses pursuant to subsection 3 of NRS 233B.0608?

An analysis of the text of the regulation, the source of the funds used for the CEP program, and a summary of other programs funded under CEP as presented at the Employment Security Council meeting on May 27, 2014.

What are the reasons for the conclusions of the agency?

This regulation contains no fees or restrictions on the formation, operation, or expansion of any small businesses, with the possible exception of any small businesses which are nonprofit lenders who may voluntarily partner with DETR to administer the loans described in this regulation. Therefore, DETR believes there is no negative impact to small businesses in Nevada due to this regulation.

5. The estimated cost to the agency for enforcement of the proposed regulation.

Based on the expectation that proposals will be requested for one statewide program, with a total grant award greater than \$100,000, the total expected cost to administer and enforce the regulation is approximately \$6,500 per year. Costs would be higher if more than one grantee were needed to provide services statewide.

6. Overlap or duplication of regulations

The proposed regulation does not overlap or duplicate any regulations of other state or local government agencies.

7. Required pursuant to federal law

The proposed regulation is not required by federal law.

8. More stringent than federal regulations

The proposed regulation is not required pursuant to federal law, nor is there a federal regulation that regulates the same activity.

9. New or increased fee

This regulation does not impose any new fees or change any existing fees.

PUBLIC COMMENT

Persons wishing to comment upon the proposed action of the Department of Employment, Training and Rehabilitation (DETR), Employment Security Division, may appear at the scheduled public hearing or address their comments, data, views or arguments in written form to the Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713 – Attention Joyce Golden. The Employment Security Division must receive all written submissions on or before August 4, 2014. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Employment Security Division may proceed immediately to action upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the Nevada State Library and Archives, 100 N. Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the Department of Employment, Training and Rehabilitation, Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. To obtain a copy of the proposed regulation and Determination of Impact to Small Businesses, write to the Department of Employment, Training and Rehabilitation, Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713, or telephone Joyce Golden at (775) 684-3909. Copies of pertinent documents will also be made available on the DETR web site at: <http://nvdetr.org>. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

This proposed regulation has been publicly noticed in accordance with Nevada's open meeting law, public comment has been solicited, and the regulation has been submitted to the Legislative Counsel Bureau for review, as outlined in NRS 233B.064, cited below.

NRS 233B.064 Permanent regulation not to be adopted until text approved or revised by Legislative Counsel; agency's reasons for adoption.

1. An agency shall not adopt, amend or repeal a permanent regulation until it has received from the Legislative Counsel the approved or revised text of the regulation in the form to be adopted. The agency shall immediately notify the Legislative Counsel in writing of the date of adoption of each regulation adopted.

2. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Note: Persons with disabilities who require reasonable accommodations or assistance at the meeting should notify the Employment Security Division in writing at 500 East Third Street, Carson City, Nevada 89713, or call Joyce Golden at (775) 684-3909 (*for individuals who are deaf or have hearing disabilities, dial TTY (800) 326-6868 or 711 for Relay Nevada*), or send a fax to (775) 684-3910, within 72 hours of meeting date and time. Supporting materials as provided for in NRS 241.020(5) may be obtained by contacting Joyce Golden at the above-noted contact information.

Notice of this meeting was posted at the following locations on or before the *thirtieth* working day prior to the meeting:

Nevada State Library & Archives, 100 North Stewart Street, Carson City, NV 89701
Legislative Building, 401 South Carson Street, Carson City, NV 89701
Grant Sawyer State Building, 555 E. Washington Ave., Las Vegas, NV 89101
Legislative Counsel Bureau Web Site
Department of Employment, Training and Rehabilitation Web Site
All County Libraries in Nevada
Employment Security Division, State Administrative Office, 500 East Third Street, Carson City, NV 89713
Employment Security Division Southern Administrative Office, 2800 E. St. Louis Ave, Las Vegas, NV 89104
Unemployment Insurance Contributions, 1320 South Curry Street, Carson City, NV 89710
Reno Field Audit Office, 1325 Corporate Blvd, Suite B, Reno, NV 89502
Las Vegas Field Audit Office, 2800 E. St. Louis Ave, Las Vegas, NV 89104
Reno Appeals Office, 1325 Corporate Blvd, Suite C, Reno, NV 89502
Las Vegas Appeals Office, 2800 E. St. Louis Ave, Las Vegas, NV 89104
Reno Casual Labor Office, 420 Galletti Way, Sparks, NV 89431
Las Vegas Casual Labor Office, 1001 North A Street, Las Vegas, NV 89106
Nevada JobConnect-Carson City, 1929 North Carson Street, Carson City, NV 89701
Nevada JobConnect-Elko, 172 Sixth Street, Elko, NV 89801
Nevada JobConnect-Ely, 1500 Avenue F, Suite 1, Ely, NV 89301
Nevada JobConnect-Fallon, 121 Industrial Way, Fallon, NV 89406
Nevada JobConnect-Henderson, 119 Water Street, Henderson, NV 89015
Nevada JobConnect-Las Vegas, 3405 South Maryland Parkway, Las Vegas, NV 89169
Nevada JobConnect-North Las Vegas, 2827 Las Vegas Boulevard North, Las Vegas, NV 89030
Nevada JobConnect-Reno Town Mall, 4001 South Virginia Street, Suite H-1, Reno, NV 89502
Nevada JobConnect-Sparks, 1675 E. Prater Way, Suite 103 Sparks, NV 89434
Nevada JobConnect-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445

Notice of this meeting was posted on the Internet on the following site:
http://nvdetr.org/public_notices.htm and the State of Nevada's Public Notice website at:
<https://notice.nv.gov/>.

PROPOSED REGULATION OF THE EMPLOYMENT SECURITY
DIVISION OF THE DEPARTMENT OF EMPLOYMENT,
TRAINING AND REHABILITATION

LCB File No. R084-14

July 10, 2014

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-4, NRS 612.607.

A REGULATION relating to unemployment compensation; providing for the repayment of unexpended money from certain grants disbursed to nonprofit private entities for the purpose of making loans for certain start-up businesses of veterans and senior citizens; revising provisions relating to the conditions for the approval of certain loans for such start-up businesses; revising provisions relating to interest paid on certain loans for such start-up businesses; revising conditions under which a nonprofit private entity may be entitled to reimbursement for the costs of administering such loans; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to establish a program to provide grants of money to a nonprofit private entity to make loans to veterans and senior citizens to start small businesses. (NRS 612.607)

Existing regulations set forth guidelines for the application for, and awarding of, grants to nonprofit private entities for the purpose of making loans for certain start-up businesses of veterans and senior citizens. (NAC 612.677) **Section 1** of this regulation provides that the Administrator may require a nonprofit private entity to repay money from such a grant that has not been expended in compliance with the terms of the grant.

Existing regulations set forth certain conditions for the approval of such a small business start-up loan by a nonprofit private entity. (NAC 612.679) **Section 2** of this regulation revises the conditions by increasing the amount of a loan which may be approved and by revising the prohibitions against the approval of a loan to an applicant who has a specified relationships with the person who is responsible for approving the loan on behalf of the nonprofit private entity.

Existing regulations establish guidelines for the repayment of such a small business start-up loan and interest accruing thereon. (NAC 612.683) **Section 3** of this regulation revises the calculation for the accrual of that interest and authorizes the Administrator to require a nonprofit private entity to use a portion of such interest to make additional loans under certain circumstances.

Existing regulations provide that a nonprofit private entity may be entitled to reimbursement for the administrative costs of administering a loan under certain circumstances. (NAC 612.685) **Section 4** of this regulation revises the terms of this entitlement to include the condition that interest received by the nonprofit private entity be insufficient to pay the administrative costs of administering a loan.

Section 1. NAC 612.677 is hereby amended to read as follows:

612.677 1. A nonprofit private entity that applies for a grant pursuant to the program must do so in the manner prescribed by the Administrator. The Administrator:

(a) Shall, at a minimum, require the submission of the financial statements of the nonprofit private entity for the 3 years immediately preceding the date of the application; and

(b) May require the nonprofit private entity to demonstrate, to the satisfaction of the Administrator, fiduciary responsibility, principles of accounting practices and fiscal mechanisms consistent with safeguarding public funds and the public interest.

2. Any grant which is awarded to a nonprofit private entity is subject to audit and review by the Division.

3. The Administrator may require a nonprofit private entity to repay any grant money that has not been expended in compliance with the terms under which the grant was awarded.

Sec. 2. NAC 612.679 is hereby amended to read as follows:

612.679 1. A nonprofit private entity which administers the disbursement of money received as a grant pursuant to the program may approve an individual loan of up to ~~[\$5,000]~~

\$15,000 to a start-up business without the approval of the Administrator. The Administrator may waive the loan limit prescribed in this subsection for a loan not exceeding ~~[\$10,000.]~~ *\$20,000*.

2. A loan may not be made to:

(a) An applicant for a loan by the person responsible for approving the loan on behalf of the nonprofit private entity if the person approving the loan has a dating relationship with the applicant or ~~[is a relative of the applicant within the third degree of consanguinity or affinity;~~

~~—(b) A start-up business owned wholly or in part by any person who is an employee of the nonprofit private entity or under a contract of service to the nonprofit private entity; or~~

~~—(c)] :~~

(1) Is the spouse or domestic partner of the applicant;

(2) Is a member of the household of the applicant;

(3) Is related to the applicant, or to the spouse or domestic partner of the applicant, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;

(4) Employs the applicant, the spouse or domestic partner of the applicant or a member of the household of the applicant;

(5) Has a substantial and continuing business relationship with the applicant; or

(6) Has any other commitment, interest or relationship with the applicant that is substantially similar to a commitment, interest or relationship described in subparagraphs (1) to (5), inclusive; or

(b) A start-up business which has not complied with the provisions of chapter 76 of NRS or which fails to demonstrate compliance with applicable requirements governing contributions or industrial insurance pursuant to the provisions of chapter 612 or 616C of NRS.

3. An applicant for a loan pursuant to this section must submit to the nonprofit private entity a business plan which clearly identifies and explains the intended use of the loan in the manner prescribed by the nonprofit private entity.

4. An applicant for a loan may not have more than one loan which is obtained pursuant to this section and which is in repayment, except that a borrower who has repaid such a loan pursuant to NAC 612.683 may apply for another loan for the purposes of expanding the business if the business still qualifies as a start-up business.

5. Any legally organized business entity which receives a loan from a nonprofit private entity pursuant to this section:

(a) May use the money for business-related costs, including, without limitation, costs associated with the start-up of the business and licensing and permitting; and

(b) May not, in any manner, use any portion of the money for expenses commonly considered personal in nature.

6. As used in this section ~~[, “dating”]~~:

(a) *“Dating”* relationship” has the meaning ascribed to it in NAC 284.0533.

(b) *“Domestic partner”* has the meaning ascribed to it in NRS 281A.085.

(c) *“Domestic partnership”* has the meaning ascribed to it in NRS 281A.086.

(d) *“Household”* has the meaning ascribed to it in NRS 281A.100.

Sec. 3. NAC 612.683 is hereby amended to read as follows:

612.683 1. Except as otherwise provided in subsection ~~3.~~ 4, both principal and interest on a loan made under the program must be repaid to the nonprofit private entity not later than 4 years after the date on which the loan is made. The nonprofit private entity administering the loan must establish a payment schedule and agreement with the borrower. The schedule and agreement must provide that:

(a) The first year of repayment of a loan is free from interest. ~~4.~~

(b) ~~4.~~ *From the beginning of the second year of repayment of a loan, a* loan which is not repaid in full by the end of the first year is subject to ~~an interest rate of 5%~~ *a maximum rate of interest not higher than the maximum rate of interest set forth in this paragraph on the outstanding balance of the loan until the loan is paid in full. For the purposes of this paragraph, the maximum rate of interest is a rate of interest equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the beginning of the second year of repayment of the loan, plus 2.25 percent simple interest per annum ~~and~~, with the amount of this maximum rate of interest adjusted accordingly on each January 1 and July 1 thereafter until the loan is paid in full.*

(c) The failure of the borrower to repay the principal and interest on the loan may result in collection proceedings to the extent allowable under the applicable laws and regulations of this State.

2. ~~Any~~ *Except as otherwise provided in subsection 3, any* interest earned by the nonprofit private entity pursuant to subsection 1:

- (a) Must be deposited in a separate account established and maintained by the nonprofit private entity for the purpose of administering loans; and
 - (b) Must not be commingled with any other money.
3. *If the Administrator determines that a nonprofit private entity has earned and collected interest in excess of the amount of money which is necessary for the purpose of administering loans, the Administrator may require that the amount of the excess be used to issue additional loans.*

4. The Administrator may forgive the outstanding balance of a loan if:
- (a) The Administrator determines that the loan was not secured either in whole or in part by fraud or misrepresentation of the borrower;
 - (b) The borrower demonstrates an inability to repay the loan; and
 - (c) The recovery of the loan would be against equity and good conscience, as determined by the Administrator.

Sec. 4. NAC 612.685 is hereby amended to read as follows:

612.685 1. ~~[A]~~ *If the amount of interest collected by a nonprofit private entity is insufficient for the purpose of administering loans pursuant to subsection 2 of NAC 612.683, the nonprofit private entity may be entitled to reimbursement for administrative costs incurred as a result of administering a loan under the program, but any such reimbursement must not exceed 10 percent of the total amount of all grants awarded to the nonprofit private entity for the purposes of making loans under the program.*

2. A claim for reimbursement pursuant to subsection 1 must be made:

- (a) In accordance with generally accepted accounting principles; and

(b) On a form prescribed by the Administrator.