

**PROPOSED REGULATION OF THE
SECRETARY OF STATE**

LCB File No. R080-11

November 16, 2011

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

AUTHORITY: §§1-10, NRS 76.140.

A REGULATION relating to business licenses; adopting provisions relating to state business licenses issued by the Secretary of State; and providing other matters properly relating thereto.

Section 1. Chapter 76 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Average annual wage” means the average annual wage for a calendar year as computed pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.*

Sec. 4. *“Federal tax year” means any period of 12 months for which a person is required to report income, tax deductions and tax credits pursuant to the provisions of the Internal Revenue Code and any regulations adopted pursuant thereto.*

Sec. 5. *For the purposes of this chapter and NRS 76.020, the Secretary of State interprets the term:*

1. “Governmental entity” to mean:

- (a) The government of the United States, this State or any other state or territory of the United States or an incorporated or unincorporated agency or instrumentality thereof;*
- (b) A corporation which is wholly owned by the government of the United States; and*
- (c) A county, city, town, district or other political subdivision of this State or any other state or territory of the United States.*

2. “Person who operates a business from his or her home” to mean a natural person who individually operates or a married couple who jointly operate a business from a personal residence in this State if:

- (a) No part of the personal residence is held open to the general public for use in furtherance of that business; and*
- (b) No real property is owned, leased, rented or licensed by the natural person or the married couple for use in furtherance of that business, other than the personal residence and any real property owned, leased, rented or licensed for the sole purpose of:
 - (1) Maintaining a post office box;*
 - (2) Posting a business license in accordance with the requirements of a municipal or county ordinance; or*
 - (3) Periodically exhibiting or selling goods or services at a temporary fair, market, show or exhibition.**

Sec. 6. *The exemption from the requirement to obtain a state business license which is set forth in paragraph (e) of subsection 2 of NRS 76.020 applies only to a person who:*

- 1. Is registered with the Division of Motion Pictures pursuant to paragraph (a) of subsection 1 of NRS 231.128;*

2. *Provides annually to the Secretary of State the registration number assigned to the person by the Division of Motion Pictures; and*

3. *Creates or produces in this State feature films, movies made for broadcast on television or programs made for broadcast on television in episodes.*

Sec. 7. *The exemption from the requirement to obtain a state business license which is set forth in NRS 680B.020 applies only to a person who:*

1. *Conducts business under a license or certificate of authority issued by the Division of Insurance of the Department of Business and Industry pursuant to title 57 of NRS; and*

2. *Provides to the Secretary of State the number of that license or certificate of authority.*

Sec. 8. 1. *The exemption from the requirement to obtain a state business license which is set forth in paragraph (c) of subsection 2 of NRS 76.020 does not apply to a person who operates a business from his or her home during a federal tax year ending on or after December 31, 2010, in which:*

(a) *He or she at any time failed to qualify as a person who operates a business from his or her home; or*

(b) *His or her net earnings from that business were greater than 66 2/3 percent of the average annual wage for the most recent calendar year ending before the last day of that federal tax year.*

2. *Except as otherwise provided in NRS 76.120, a person described in subsection 1 must obtain a state business license for his or her home-based business not later than 180 days after the last day of a federal tax year ending on or after December 31, 2010, in which the exemption for a home-based business does not apply to him or her.*

Sec. 9. 1. *If a person who operates a business from his or her home is required to obtain a state business license as a result of his or her net earnings from that business, his or her liability for each annual fee required by NRS 76.130 depends upon the net earnings of the person from that business for the most recent federal tax year ending before the date on which that fee would otherwise become due. The person is not liable for the fee if he or she establishes to the reasonable satisfaction of the Secretary of State that those net earnings were less than 66 2/3 percent of the average annual wage for the most recent calendar year ending before the date on which that fee would otherwise become due.*

2. For the purposes of this section, the Secretary of State will accept a copy of a federal income tax return filed with the Internal Revenue Service for a business which a person operates from his or her home as satisfactory evidence of the net earnings of the person from the business for the period covered by the return.

Sec. 10. 1. *If a person, other than a natural person, has a state business license for the conduct of a business by that person, no natural person is required to obtain a state business license for any activity conducted in furtherance of that business solely because any income, tax deductions or tax credits attributable to that activity may be reported to the Internal Revenue Service as income or loss from a partnership, S corporation, estate, trust or real estate mortgage investment conduit on a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form.*

2. If a partnership or limited-liability company has a state business license for the conduct of a business by that person, no partner or member thereof is required to obtain a state business license for any activity conducted in furtherance of that business solely because

any income, tax deductions or tax credits attributable to that activity may be reported to the Internal Revenue Service as income or loss from:

(a) A sole proprietorship on a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form; or

(b) A farm on a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form.

3. For the purposes of this section:

(a) “Limited-liability company” means a person organized pursuant to chapter 86 of NRS or the equivalent laws of another jurisdiction.

(b) “Partnership” means any association of two or more persons described in NRS 87.060, regardless of whether that association reports to the Internal Revenue Service partnership income, tax deductions or tax credits on Form 1065, U.S. Return of Partnership Income Form, or its equivalent or successor form.