

**PROPOSED REGULATION OF THE DEPARTMENT
OF MOTOR VEHICLES**

LCB File No. R081-03

October 15, 2003

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

AUTHORITY: §§1-15, NRS 482.293.

Section 1. Chapter 482 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 15, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Financial institution” means an institution that engages in the business of lending money or extending credit to a person for the purchase of a motor vehicle. The term includes, without limitation, a bank, credit union, installment lender, savings and loan association, savings bank or thrift company.*

Sec. 4. *“Program” means the program described in NRS 482.293.*

Sec. 5. *“Vehicle dealer” has the meaning ascribed to it in NRS 482.020.*

Sec. 6. 1. *To be eligible to participate in the program, a vehicle dealer must:*

(a) Have been continuously licensed by the Department as a vehicle dealer for not less than 1 year immediately preceding the date of application;

(b) Not have had a license to engage in an occupation or business that is regulated by the Department revoked;

(c) Have satisfactorily conducted business as a vehicle dealer in accordance with the provisions of chapter 482 of NRS for not less than 1 year immediately preceding the date of application;

(d) Not have knowingly issued a check to the Department that was returned for insufficient money or credit within 1 year immediately preceding the date of application; and

(e) Not have committed:

(1) A violation of any provision of the Nevada Revised Statutes or Nevada Administrative Code that resulted in the imposition of an administrative fine by the Department or the suspension of a license to engage in an occupation or business that is regulated by the Department within 1 year immediately preceding the submission of the application; or

(2) Two or more violations of any provision of the Nevada Revised Statutes or Nevada Administrative Code that resulted in the imposition of administrative fines by the Department or suspensions of a license to engage in an occupation or business that is regulated by the Department within the 3 years immediately preceding the submission of the application.

2. To be eligible to participate in the program, a financial institution must:

(a) Have been continuously licensed by the Commissioner as a financial institution for not less than 1 year immediately preceding the date of application;

(b) Not have had a license to engage in an occupation or business that is regulated by the Commissioner revoked;

(c) Have satisfactorily conducted business as a financial institution in accordance with the applicable provisions of titles 55 and 56 of NRS for not less than 1 year immediately preceding the date of application;

(d) Not have knowingly issued a check to the Commissioner, the Department of Business and Industry or the Division of Financial Institutions of the Department of Business and Industry that was returned for insufficient money or credit within 1 year immediately preceding the date of application; and

(e) Not have committed:

(1) A violation of any provision of the Nevada Revised Statutes or Nevada Administrative Code that resulted in the imposition of an administrative fine by the Commissioner or the suspension of a license to engage in an occupation or business that is regulated by the Commissioner within 1 year immediately preceding the submission of the application; or

(2) Two or more violations of any provision of the Nevada Revised Statutes or Nevada Administrative Code that resulted in the imposition of administrative fines by the Commissioner or suspensions of a license to engage in an occupation or business that is regulated by the Commissioner within the 3 years immediately preceding the submission of the application.

3. The Department may deny an application of a vehicle dealer or financial institution to participate in the program if the dealer or institution is owned in whole or in part by, or employs, any person who, within the 4 years immediately preceding the date of application, has been convicted of or pleaded nolo contendere to:

(a) A felony or gross misdemeanor; or

(b) A misdemeanor in violation of the provisions of:

(1) If the applicant is a vehicle dealer, this chapter or chapter 482 of NRS; or

(2) If the applicant is a financial institution, title 55 or 56 of NRS or any regulation adopted pursuant thereto.

4. The issuance by the Department or the Commissioner of a cease and desist order or an order to cease from further action to a vehicle dealer or financial institution is not a ground to deny the application of the dealer or institution to participate in the program.

5. For the purposes of this section, a charter issued to a credit union by the Commissioner shall be deemed a license.

6. As used in this section, "Commissioner" means the Commissioner of Financial Institutions.

Sec. 7. A vehicle dealer or financial institution that wishes to participate in the program must:

- 1. Submit an application to the Department on a form provided by the Department; and*
- 2. Provide any additional information the Department may require to evaluate the application.*

Sec. 8. The Department will choose the vehicle dealers and financial institutions that may participate in the program from among the eligible dealers and institutions that submit applications.

Sec. 9. Before a vehicle dealer or financial institution may participate in the program, the dealer or institution must enter into a contract with the Department. The contract must set forth the procedures for issuing and renewing a certificate of registration for a motor vehicle.

Sec. 10. 1. Except as otherwise provided in subsection 3, before a vehicle dealer or financial institution that is chosen to participate in the program may issue or renew a certificate of registration for a motor vehicle, the dealer or institution must obtain and file

with the Department a good and sufficient bond in an amount not less than \$10,000. Each bond must:

(a) Have a corporate surety thereon that is licensed to do business in this state;

(b) Be approved as to form by the Attorney General; and

(c) Be subject to the condition that the vehicle dealer or financial institution conduct business without fraud or fraudulent representation and without violating any of the provisions of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS.

2. A bond filed with the Department pursuant to subsection 1 must provide that any person, including the Department, injured by an action of the vehicle dealer or financial institution, or an employee or agent of the dealer or institution, in violation of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS may bring an action on the bond.

3. In lieu of filing a bond, a vehicle dealer or financial institution may place on deposit with the Department an amount not less than \$10,000 in the form of:

(a) Cash;

(b) A bond issued by the United States or this state; or

(c) A savings certificate.

4. A deposit placed with the Department pursuant to subsection 3 must be:

(a) Subject to the condition that the vehicle dealer or financial institution conduct business without fraud or fraudulent representation and without violating any of the provisions of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS; and

(b) Available for withdrawal only upon the order of the Department.

5. The undertaking in the bond or deposit must include, without limitation, any fraud or fraudulent act or representation, or any violation of any provision of chapter 482 or 598 of NRS, by any owner, principal, employee or agent of the vehicle dealer or financial institution.

6. The Department will require an increase in the amount of the bond or deposit if the Department determines that an increase is necessary and in the public interest. The increase in the amount of the bond or deposit must not exceed twice the amount of the original bond or deposit.

Sec. 11. 1. If a person injured by an action of a vehicle dealer or financial institution chosen to participate in the program, or by an employee or agent of the dealer or institution, in violation of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS applies to the Director for compensation, the Director shall, after notice and opportunity for a hearing and for good cause shown, determine the amount of compensation and the person to whom it is to be paid and:

(a) If the application is for compensation from a bond, direct the surety to make the payment to the injured person.

(b) If the application is for compensation from a deposit, disburse money from the deposit to the injured person.

2. A deposit which is made with the Department pursuant to section 10 of this regulation may be:

(a) Released by the Director upon receipt by the Department of a statement that:

(1) Is signed by a person under whose name the deposit is made;

(2) Is acknowledged before any person authorized to take acknowledgments in this state;

(3) Requests the Director to release the deposit, or a specified portion thereof; and

(4) Sets forth the purpose for which the release of the deposit is requested.

(b) Refunded by the Director:

(1) One year after the date on which the participation of the vehicle dealer or financial institution in the program terminates, if the Director determines that there are no outstanding claims against the deposit; or

(2) Pursuant to an order of a court of competent jurisdiction.

Sec. 12 1. *The Department will suspend or revoke the authority of a vehicle dealer or financial institution to participate in the program if:*

(a) The amount of the bond filed or the deposit made is reduced to an amount that is less than the amount required by the Department pursuant to section 10 of this regulation;

(b) There is an outstanding judgment resulting from the sale, transfer of interest or registration of a motor vehicle for which the vehicle dealer or financial institution is liable;

(c) The vehicle dealer violates any provision of NRS 482.352; or

(d) The Department determines that suspension or revocation is in the best interests of the public.

2. *A vehicle dealer or financial institution whose participation in the program is suspended pursuant to subsection 1 will be reinstated if the dealer or institution:*

(a) Files an additional bond pursuant to section 10 of this regulation;

(b) Restores the deposit to its original amount;

(c) Satisfies the outstanding judgment for which he is liable; or

(d) Takes any other action required by the Department.

3. A vehicle dealer or financial institution whose participation in the program is revoked pursuant to subsection 1 will not be reinstated for 1 year after the date of revocation.

Sec. 13. *A vehicle dealer or financial institution that participates in the program:*

1. Shall:

(a) Maintain the records relating to the program for a period of not less than 3 years.

(b) Authorize the Department or any person designated by the Department to conduct audits of the records relating to the program:

(1) Within 3 months after the vehicle dealer or financial institution begins issuing and renewing certificates of registration;

(2) At least once every 12 months after the completion of the initial audit; and

(3) At any other time requested by the Department.

(c) Establish and maintain a separate account in a financial institution in this state to hold the money collected for the issuance and renewal of certificates of registration until it is paid to the Department. The money in the account must not be used to pay any expenses of the vehicle dealer or financial institution participating in the program.

(d) Pay to the Department, at an office designated by the Department, the amount of money collected for the issuance and renewal of certificates of registration:

(1) Not less than once each week; or

(2) If \$10,000 or more is collected by the vehicle dealer or financial institution in a day, not later than the end of the next business day.

(e) Maintain and restrict access to a secure area on the premises of the vehicle dealer or financial institution for the storage of documents, forms and other supplies provided by the Department for the program.

2. Shall not:

(a) Issue or renew a certificate of registration for a motor vehicle:

(1) For which an exemption from the governmental services tax set forth in NRS 371.103 or 371.104 is claimed; or

(2) That includes a change of name.

(b) Employ a person to issue or renew a certificate of registration for a motor vehicle who has not completed a course of training provided by the Department and received a certificate of completion for the course from the Department.

(c) Use or authorize an employee to use false, deceptive or misleading advertising in connection with the purchase, financing or registration of a motor vehicle.

Sec. 14. The Department may terminate the participation of a vehicle dealer or financial institution in the program. The grounds for termination include, without limitation:

1. The failure of the vehicle dealer or financial institution to engage in the business of a dealer or institution;

2. The failure of the vehicle dealer or financial institution to comply with the applicable provisions of this chapter, chapter 598 of NAC or chapter 482 or 598 of NRS;

3. The failure of the vehicle dealer or financial institution to maintain the bond or deposit required by section 10 of this regulation; and

4. A violation of any provision of the contract required by section 9 of this regulation.

Sec. 15. 1. The Department will maintain specifications for the electronic submission of a document by a vehicle dealer or financial institution that participates in the program. A request for a copy of the specifications may be submitted in writing to:

Department of Motor Vehicles

Management Services and Programs Division

Vehicle Programs Section

555 Wright Way

Carson City, NV 89711

2. *As used in this section, “document” has the meaning ascribed to it in NRS 482.292.*