

**LCB File No. R137-08**

**PROPOSED REGULATION OF THE  
COMMISSIONER OF FINANCIAL INSTITUTIONS**

**Explanation:** Material in ***bold italics*** is new material; material lined out within ~~**bold brackets**~~ is material to be omitted.

**Purpose:** To adopt regulations under chapter 671 of the Nevada Administrative Code relating to issuers of instruments for transmission or payment of money establishing the amount of certain fees; providing for certain definitions and policies; and providing other matters properly relating thereto.

**General Authority:** NRS 671.050, 671.070, 671.090.

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**Sec. 1.** Chapter 671 of the NAC is hereby amended by adding thereto the provisions set forth as sections 2 through 7, inclusive, of this regulation.

**Sec. 2.** NAC 671.010 is hereby amended as follows:

**NAC 671.010 Fee for supervision and related activities: Amount; collection; failure to pay.** (NRS 658.101, 671.030, 671.120)

1. The Commissioner of Financial Institutions will charge and collect a fee of ~~[\$30]~~ ***\$100*** per hour from each money order company for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 671 of NRS.

2. The Commissioner will bill each money order company upon the completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date the bill is received. Except as otherwise provided in this subsection, any payment received after that date must include a penalty of 10 percent of the fee plus an additional 1 percent of the fee for each month, or portion of a month, that the fee is not paid. The Commissioner may waive the penalty for good cause.

3. Failure of a money order company to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of its license.

4. For the purposes of this section, “money order company” means any person licensed pursuant to chapter 671 of NRS.

**Sec. 3.** NAC 671.020 is hereby amended as follows:

**NAC 671.020 Fees: Application for license.** (NRS 671.030, 671.050) An application for a license submitted pursuant to NRS 671.050 must be accompanied by:

1. A nonrefundable fee of ~~[\$375]~~ \$500; and
2. A fee of ~~[\$300]~~ \$400, prorated by the Commissioner of Financial Institutions.

**Sec. 4.** NAC 671.030 is hereby amended as follows:

**NAC 671.030 Fees: Renewal of license; reinstatement of expired license.** (NRS 671.030, 671.070)

1. A licensee shall pay annually to the Division of Financial Institutions of the Department of Business and Industry a fee of ~~[\$300]~~ \$400 for the renewal of his license.

2. If the Commissioner of Financial Institutions reinstates an expired license, the licensee shall pay a reinstatement fee of ~~[\$300]~~ \$400 in addition to the renewal fee prescribed in subsection 1.

**Sec. 5.** NAC 671.040 is hereby amended as follows:

**NAC 671.040 Fees: Application and license for agent of licensee.** (NRS 671.030, 671.090) An agent who must be licensed pursuant to NRS 671.090 shall pay to the Division of Financial Institutions of the Department of Business and Industry:

1. An application fee of ~~[\$250]~~ \$500; and
2. A license fee of ~~[\$250]~~ \$500.

**Sec. 6.** NAC 671.100 is hereby amended as follows:

**NAC 671.100 Complaints: Failure to respond in a timely manner; confidentially.** (NRS 671.030)

1. If a licensee, or an authorized representative of that licensee, fails to respond to the Commissioner of Financial Institutions within 20 business days after receipt of a written notice that a complaint has been filed against the licensee, the licensee is deemed to have admitted to the allegations contained in the complaint.

2. Subject to the discretion of the Commissioner of Financial Institutions and except as otherwise provided by specific statute, a complaint filed with the Division of Financial Institutions of the Department of Business and Industry, any documents filed with the complaint, and any report or information resulting from an investigation of the complaint are confidential.

**Sec. 7. Confidentiality of Application, Financial Records and Reports. (NRS 671.030, 671.120)**  
*The application and financial records submitted by a person pursuant to the provision of this chapter, any financial records or other documents submitted by a licensee pursuant to an audit or examination conducted by the Division and any report of examination by the Division are confidential and may be disclosed only to:*

- 1. The Division;*
- 2. An authorized employee of the Division who needs the records for purposes relating to the administration of this chapter; or*
- 3. A person or governmental entity that is authorized to obtain the records pursuant to an order issued by a court of competent jurisdiction.*

**Sec. 8. Maintenance of Segregated Accounts. (NRS 671.150)**

*1. Every licensee shall at all times maintain a separate account in a bank or credit union in which must be deposited all money collected. Except as otherwise provided in regulations adopted by the Commissioner pursuant to NRS 671.150, the account must be maintained in a bank or credit union with a presence in this State and bear some title sufficient to distinguish it from the licensee's personal or general checking account and to designate it as a trust account, such as "customer's trust fund account." The trust account must at all times contain sufficient money to pay all money due or owing to all customers, and no disbursement may be made from the account except to customers or to pay costs advanced for those customers, except that a licensee may periodically withdraw from the account such money as may accrue to the licensee from funds deposited or from adjustments resulting from costs advanced and payments made directly to customers.*

*2. Every licensee maintaining a separate custodial or trust account shall keep a record of all money deposited in the account, which must indicate clearly the date and from whom the money was received, the date deposited, the dates of withdrawals and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. The money must be remitted respectively entitled thereto within 3 days following the receipt of such funds. The records and money are subject to inspection by the Commissioner or his authorized representative. The records must be maintained at the premises at which the licensee is authorized to conduct business.*

*3. The licensee shall reconcile the segregated trust account on a monthly basis.*

*4. If the Commissioner finds that a licensee's records are not maintained pursuant to subsections 2 and 3, he may require the licensee to deliver an audited financial statement prepared from his records by a certified public accountant who is in good standing in the state where the report is prepared and who holds a certificate to engage in the practice of public accounting. The statement must be submitted within 60 days after the Commissioner requests it. The Commissioner may grant a reasonable extension for the submission of the financial statement if an extension is requested before the statement is due.*

**Sec. 18. Contested Hearings. (NRS 671.030)**

- 1. The Commissioner may issue an order to cease and desist and/or to pay an administrative fine upon a person pursuant to this chapter. The Commissioner shall:*
  - a. Provide a copy of the order by certified mail to the person;*
  - b. Provide the person notification that he has 30 days to request an administrative hearing, and if no written application for a hearing is received by the Division, the order shall become final.*

**Sec. 19. Order: Amendment; continuance; withdrawal. (NRS 671.030 and 671.170)**

- 1. If a person engages in an activity in violation of the provisions of this chapter of NRS, the Commissioner may issue an order to the person directing the person to cease and desist from engaging in the activity.*
- 2. The order to cease and desist must be in writing and must state that, in the opinion of the Commissioner, the person has engaged in an activity:*
  - (a) For which the person has not received a license or certificate of exemption as required by this chapter; or*
  - (b) In a manner that violates the provisions of this chapter or any applicable law.*
- 3. A person who receives an order to cease and desist pursuant to this section shall not engage in any activity governed by this chapter after he receives the order unless the order is suspended or rescinded.*
- 4. The order imposing the administrative fine or restricting the practices of the licensee may be amended at any time before and during the hearing.*
- 5. The hearing officer assigned to the matter may grant a continuance if the amendment materially alters the facts or the legal issues related to the order or a respondent demonstrates an inability to prepare for the case in a timely manner.*
- 6. An order may be withdrawn at any time before the hearing begins.*
- 2. If a timely application for a hearing is received by the Division, a presiding hearing officer shall conduct a contested hearing.*
- 7. Each party may request that the presiding hearing officer issue a subpoena to compel the attendance of witnesses. The party making the request shall be responsible for paying mileage for the witness.*
- 8. The petitioner has the burden of proof in a contested case.*
- 9. The decision of the presiding hearing shall be final for the purposes of judicial review.*

**Sec. 20. The hearing officer is not bound by strict rules of procedure and evidence. (NRS 671.030)**

- 1. The hearing officer will not be bound by strict rules of procedure or the Nevada Rules of Evidence in the conduct of its proceedings.*
- 2. A record of the charges and a record of all evidence produced will be filed in the office of the Financial Institutions Division.*
- 3. A hearing held pursuant to the provisions of this chapter, will be conducted pursuant to the provisions of chapter 233B of NRS.*

**Sec. 21. *Hearing officer: Duties; authority. (NRS 671.030)***

***1. The hearing officer may:***

- (a) Conduct hearings;***
- (b) Question witnesses;***
- (c) Make rulings on motions and objections; and***
- (d) Submit findings of fact or conclusions of law at the conclusion of the case.***

***2. The findings of fact and conclusions of law issued by the hearing officer is the final decision for purposes of judicial review.***

**Sec. 22. *Failure to appear. (NRS 671.030)*** *If a party fails to appear at a hearing scheduled by the hearing officer and a continuance has not been requested or granted, upon an offer of proof by the other party that the absent party was given proper notice and upon a determination by the Board that proper notice was given, the hearing officer may proceed to consider the case without the participation of the absent party and may dispose of the matter on the basis of the evidence before it. If the respondent fails to appear at the hearing or fails to reply to the notice, the charges specified in the complaint may be considered as true.*

**Sec. 23. *Examination of witnesses. (NRS 671.030)***

***1. A party may call any other party or witness as an adverse witness. The party may question such a witness as if conducting a cross-examination.***

***2. Any party who is surprised by the testimony of a witness, called in good faith as a witness on his behalf, may question the witness as if conducting a cross-examination.***