

**ADOPTED REGULATION OF THE
SECRETARY OF STATE**

LCB File No. R079-13

Effective December 23, 2013

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

AUTHORITY: §§1-5, NRS 77.320 and 77.430, as amended by sections 8 and 9 of Senate Bill No. 60, chapter 221, Statutes of Nevada 2013, at pages 835 and 838; §6, NRS 77.280, 77.320 and 77.430, as amended by sections 7.6, 8 and 9 of Senate Bill No. 60, chapter 221, Statutes of Nevada 2013, at pages 834, 835 and 838; §§7 and 8, NRS 77.430, as amended by section 9 of Senate Bill No. 60, chapter 221, Statutes of Nevada 2013, at page 838.

A REGULATION relating to registered agents; adopting provisions governing commercial registered agents and commercial registered agent registration statements; revising provisions governing written material produced by or at the direction of registered agents; and providing other matters properly relating thereto.

Section 1. Chapter 77 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this regulation.

Sec. 2. 1. *Before an individual or a domestic or foreign entity may serve as the registered agent of 10 or more domestic or foreign entities, the individual or domestic or foreign entity must file with the Secretary of State the commercial registered agent registration statement required pursuant to NRS 77.320, as amended by section 8 of Senate Bill No. 60, chapter 221, Statutes of Nevada 2013, at page 835.*

2. If an individual or a domestic or foreign entity reasonably believes that the individual or domestic or foreign entity will serve as the registered agent of 10 or more domestic or foreign entities, the individual or domestic or foreign entity may elect to file with the Secretary of State the commercial registered agent registration statement required pursuant to NRS

77.320, as amended by section 8 of Senate Bill No. 60, chapter 221, Statutes of Nevada 2013, at page 835.

Sec. 3. 1. Upon notice that an individual or a domestic or foreign entity is allegedly serving as the registered agent of 10 or more domestic or foreign entities without being registered as a commercial registered agent, the Secretary of State will provide to the individual or domestic or foreign entity written notice of the alleged violation and 14 business days to register as a commercial registered agent.

2. If an individual or a domestic or foreign entity does not register as a commercial registered agent within 14 business days pursuant to subsection 1, the Secretary of State may apply to a district court of competent jurisdiction to enjoin the individual or domestic or foreign entity from serving as a registered agent pursuant to the provisions of NRS 77.430, as amended by section 9 of Senate Bill No. 60, chapter 221, Statutes of Nevada 2013, at page 838.

Sec. 4. 1. In addition to the information required to be stated in a commercial registered agent registration statement pursuant to NRS 77.320, as amended by section 8 of Senate Bill No. 60, chapter 221, Statutes of Nevada 2013, at page 835, a commercial registered agent registration statement must state the legal name of each affiliated registered agent.

2. As used in this section:

(a) "Affiliated registered agent" means a registered agent who is controlled by the same owners or other principals as those with control over the commercial registered agent who is filing the commercial registered agent registration statement.

(b) "Legal name" includes, without limitation:

(1) The name of a business organized pursuant to title 7 of NRS as it is filed with the Secretary of State;

(2) The name of a business not required to be organized pursuant to title 7 of NRS or the name of an individual as it appears on the state business license issued to the business or individual;

(3) Any fictitious name by which an affiliated registered agent conducts business in this State; and

(4) Any website or domain name by which an affiliated registered agent conducts business in this State or through which an affiliated registered agent offers services in this State.

Sec. 5. 1. *The address and telephone number of an individual who has the authority to act on behalf of a commercial registered agent as it is stated in a commercial registered agent registration statement pursuant to NRS 77.320, as amended by section 8 of Senate Bill No. 60, chapter 221, Statutes of Nevada 2013, at page 835, must be the address and telephone number where the individual can be contacted during normal working hours.*

2. As used in this section, “individual” means any natural person who has the authority to act on behalf of a commercial registered agent in the day-to-day operations of the commercial registered agent.

Sec. 6. *Within 30 days of a change in any information required to be stated in a commercial registered agent registration statement pursuant to NRS 77.320, as amended by section 8 of Senate Bill No. 60, chapter 221, Statutes of Nevada 2013, at page 835, a commercial registered agent shall:*

- 1. File a statement of change with the Secretary of State; and*
- 2. Pay the fee required for a statement of change pursuant to NRS 77.280, as amended by section 7.6 of Senate Bill No. 60, chapter 221, Statutes of Nevada 2013, at page 834.*

Sec. 7. Section 6 of LCB File No. R067-11 is hereby amended to read as follows:

Sec. 6. *1.* A registered agent or other person who holds himself or herself out as being willing to serve as the registered agent of an entity shall not produce or direct the production of any correspondence, publication, website or other written material, whether in printed or electronic form, which:

~~1-1~~ *(a)* Is intended to deceive or defraud the public or promote an illegal activity.

~~2-1~~ *(b)* Contains false or misleading statements concerning the requirements for filing documents with the Secretary of State pursuant to title 7 of NRS, including, without limitation, a statement which falsely implies or states that a fee, action or filing is necessary.

~~3-1~~ *(c)* Except as otherwise provided in this ~~subsection,~~ *paragraph*, solicits the hiring of the registered agent or other person as the registered agent of an entity and contains the image of the Great Seal of the State of Nevada. This ~~subsection~~ *paragraph* does not prohibit a registered agent or any other person who holds himself or herself out as being willing to serve as the registered agent of an entity from producing or directing the production of the official forms and correspondence which are prepared by the Secretary of State and which accompany correspondence from the registered agent or person to a represented entity.

~~4-Changes~~

(d) Except as otherwise provided in subsection 2, changes the registered agent of an entity. ~~unless~~

2. Notwithstanding the provisions of paragraph (d) of subsection 1, a registered agent or other person who holds himself or herself out as being willing to serve as the

registered agent of an entity may produce or direct the production of any correspondence, publication or other written material, whether in printed or electronic form, which changes the registered agent of an entity if the correspondence, publication ~~[website]~~ or other written material prominently displays ~~[a-written]~~ the following statement ~~[disclosing that effect.]~~ :

This is a solicitation to change your registered agent.

3. The statement required pursuant to subsection 2 must be placed on a separate line at the top of the correspondence, publication or other written material in at least 14-point bold font or, if the text of the main body of the correspondence, publication or other written material is larger than 12-point font, in a bold font at least 2 points larger than the text of the main body of the correspondence, publication or other printed material.

Sec. 8. Section 8 of LCB File No. R067-11 is hereby amended to read as follows:

Sec. 8. 1. Except as otherwise provided in subsection ~~[2,]~~ 4, a registered agent or other person who holds himself or herself out as willing to serve as the registered agent of an entity in Nevada shall not produce or direct the production of any correspondence, publication, website or other written material, whether in printed or electronic form, which ~~[mentions the State of Nevada by name and]~~ *appears to be affiliated with, endorsed by, sponsored by or otherwise an official notice from the Secretary of State or another public agency in this State.*

2. A registered agent or other person who actively solicits an entity in Nevada that the registered agent or other person does not represent, with the intent to serve as the registered agent of that entity, shall not produce or direct the production of any correspondence, publication, website or other written material, whether in printed or electronic form, in which the registered agent or other person advertises its willingness to act as the registered agent of an entity in Nevada in exchange for a fee or other compensation unless the correspondence, publication, website or other written material prominently displays the following statement:

This is a third-party solicitation and is NOT official correspondence from the Office of the Nevada Secretary of State. You are under no legal obligation to respond to this correspondence.

~~12-1~~ *3. The statement required pursuant to subsection 2 must be placed on a separate line at the top of the correspondence, publication, website or other written material in at least 14-point bold font or, if the text of the main body of the correspondence, publication, website or other written material is larger than 12-point font, in a bold font at least 2 points larger than the text of the main body of the correspondence, publication, website or other printed material.*

4. The provisions of ~~subsection 1~~ this section do not apply to any communication between a registered agent and an entity for which the registered agent is serving as registered agent.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS - NRS 233B.066
Informational Statement
LCB File Nos. R068-13, R077-13, R078-13, R079-13, R080-13 & R081-13
Regulations Relating to Commercial Recordings

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapters 68, 77, 78, 79, 80, 81, 86, 87, 87A, 88, 88A, 89 and 598.

- 1) **R068-13**: Adopting provisions relating to filing a Charitable Solicitation Registration Statement for certain Chapter 82 entities and adopting certain requirements for solicitation disclosures. This regulation is necessary to further define certain terms and to clarify the contents of and the financial information required in the Charitable Registration Information Statement.
- 2) **R077-13**: Adopting provisions governing the process by which an individual or entity may register a willingness to serve as a registered agent for an entity; governing the publication and updating of the list of such individuals and entities by the Secretary of State and other matters properly relating thereto. This regulation is necessary to place the regulation in the proper chapter of NAC relating to NRS Chapter 77 requirement. It adopts the same provisions as in current (now repealed) NAC Chapter 77 and adopts the provisions relating to the removal and reinstatement of a registered agent from the list under certain circumstances.
- 3) **R078-13**: Adopting provision relating to the selection of an alternative due date for filing certain required lists with the Secretary of State. This regulation provides the requirements for an entity to select an alternate due date pursuant to 78.150, 80.110, 82.523, 86.263, 86.5461, 87.510, 87.541, 87A.290, 87A.560, 88.395, 88.591, 88A.600, 88A.732 and 89.250 as amended by SB 60 of the 2013 session of the Nevada Legislature.
- 4) **R079-13**: Adopting provisions governing commercial registered agents and commercial registered agent registration statements; revising provisions governing written materials produced by or at the direction of registered agents. This regulation provides the requirements for the Commercial Registered Agent Registration Statement required pursuant to NRS Chapter 77 and clarifies the requirements therein. It also provides additional guidance for solicitations made to Nevada and Nevada qualified entities by registered agents.
- 5) **R080-13**: Revising provisions relating to the institution of proceedings against certain persons conducting business in Nevada for the recovery of certain fines. This regulation is necessary to use the same wording regarding the referral of matters to the district attorney or Attorney General as in Title 7 as amended by SB 60 of the 2013 session of the Nevada Legislature.
- 6) **R081-13**: Adopting provisions relating to the procedures for the imposition of penalties on persons who conduct business in Nevada and willfully fail or neglect to obtain or renew a state business license; requiring a person claiming exemption from the state business license to annually submit a claim for said exemption that contains certain required information. This Regulation is necessary to clarify provisions in NRS Chapter 76 relating to those conducting business in Nevada and adopts similar provisions in to NAC Chapter 76 as is currently in regulation for business entities filed in the Office of the Secretary of State.

2) Public comments were solicited at the November 20, 2013 public workshop to solicit comments on proposed regulations and the December 3, 2013 hearing for the adoption of regulations. Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulations were sent via fax and email to persons known to have an interest in the subjects pertaining to registration requirements for entities which solicit or intend to solicit charitable contributions; commercial resident agent registration requirements, resident agent requirements; alternative due dates for filing certain required lists and procedures for imposing penalties on persons conducting business in the state who willfully fail or neglect to maintain a state business license. These documents were provided to the main libraries in each county. These documents were also made available on the Secretary of State website, www.NVSOS.gov and posted at the following locations:

- The Capitol Building, 101 North Carson Street, Carson City, Nevada 89701
- The State Library, 100 North Stewart Street, Carson City, Nevada 89701
- The Secretary of State-Reno, 500 Damonte Ranch Pkwy, Suite 657-A, Reno, Nevada 89521
- The Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada 89101
- Nevada State Legislative Building, 401 South Carson Street, Carson City, Nevada 89701

The minutes of the November 20, 2013 public workshop to solicit comments on proposed regulations and the December 3, 2013 hearing for the adoption of regulations are attached hereto and contain a summary of the brief discussion held regarding the proposed amendments. A copy of the workshop and hearing minutes may be obtained from the office of the Secretary of State, 101 N. Carson Street, Suite 3, Carson City, Nevada 89701, 775-684-5720 or via email sent to scotta@sos.nv.gov.

3) The number of persons who:

- (a) **Attended the November 20, 2013 public workshop: 11**
- (b) **Testified at the November 20, 2013 public workshop: 3**
- (c) **Submitted to the agency written comments: 1**
- (d) **Attended the December 3, 2013 hearing for the adoption of regulations: 2**
- (e) **Testified at the December 3, 2013 hearing for the adoption of regulations: 1**
- (f) **Submitted to the Agency written comments: 1**

4) **For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing:**

- (a) **Name; Matthew Taylor - Both workshop and hearing**
- (b) **Telephone number; 775-888-4070**
- (c) **Business address; 311 N. Third Street, Carson City, NV 89703**
- (d) **Business telephone number; 775-888-4070**
- (e) **Electronic mail address; mtaylor@nvbiz.com**
- (f) **Name of entity or organization represented Nevada Registered Agents' Association**

- (a) **Name; Phil Johncock**
- (b) **Telephone number; 702-486-1266**
- (c) **Business address; 639 Isbell Court, Suite 460, Reno, NV 89509**
- (d) **Business telephone number; 702-486-1266**
- (e) **Electronic mail address; UNK**
- (f) **Name of entity or organization represented; Alliance for Nevada Nonprofits**

- (a) **Name; Andrew Platt**
- (b) **Telephone number; 702-433-9696**
- (c) **Business address; 1349 W. Galleria Drive, Suite 200, Henderson, NV 89014**
- (d) **Business telephone number; 702-433-9696**
- (e) **Electronic mail address; aplatt@woodserickson.com**
- (f) **Name of entity or organization represented: Woods Erickson**

5) Comments were solicited from affected businesses in the same manner as they were solicited from the public. In addition discussions were had with the Registered Agents Association, Business Law Section of the State Bar of Nevada and representatives from Alliance for Nevada Nonprofits (ANN) and other nonprofit organizations.

6) The permanent regulations were adopted on December 3, 2013 and included changes suggested at the November 20, 2013 public workshop to solicit comments on proposed regulations. There were no changes made as a result of the public workshop to regulations R077-13, R080-13 and R081-13 as no changes were suggested. Amendments were made as a result of the public workshop to regulations R078-013 and R079-13. These amendments did not substantively change the regulations as proposed and are included in the regulations transmitted to the Legislative Counsel Bureau. R068-13 had amendments offered at the hearing. The regulations are adopted without these amendments as they had been submitted to the Legislative Counsel Bureau for review and had not been returned by the adoption hearing. The amendments to R068-13 will be scheduled for future workshop and hearing.

7) There is no estimated economic effect of the adopted regulation on the businesses which it is to regulate or on the public.

8) There is no additional cost to the agency for enforcement of this regulation.

9) There are no other state or government agency regulations that the regulation overlaps or duplicates.

10) The proposed regulation does not include provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

11) The proposed regulation does not involve a new fee or increases an existing fee.