

**ADOPTED REGULATION OF THE
SECRETARY OF STATE**

LCB File No. R136-13

Effective March 28, 2014

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

AUTHORITY: §§1 and 8, NRS 240A.250; §2, NRS 240A.030 and 240A.250; §3, NRS 240A.160, 240A.170 and 240A.250; §4, NRS 240A.100 and 240A.250; §5, NRS 240A.250 and 240A.270; §6, NRS 240A.110 and 240A.250; §7, NRS 240A.120 and 240A.250; §9, NRS 240A.150 and 240A.250.

A REGULATION relating to document preparation services; clarifying certain requirements relating to the display of certain information in the place of business of a document preparation service; providing for the application for registration and renewal of registration; providing for the release of certain bonds when a person ceases to do business or be registered as a document preparation service; providing for the manner of making a complaint about a document preparation service; prescribing certain requirements relating to advertising; and providing other matters properly relating thereto.

Section 1. Chapter 240A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *As used in NRS 240A.030:*

- 1. “Employee” does not include independent contractors or persons rendering professional services to an employer on a fee, retainer or contract basis.*
- 2. “Nonprofit organization which qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c)” means a nonprofit organization that:*
 - (a) Is incorporated as a nonprofit corporation pursuant to chapter 81 or 82 of NRS; and*

(b) Has received a determination letter from the Internal Revenue Service indicating that the organization is exempt from taxation pursuant to section 501(c) of the Internal Revenue Code.

Sec. 3. As used in NRS 240A.160 and 240A.170, “display conspicuously” means to place the required document in an area of a place of business that is readily accessible to the public and where the document is visible and may be read easily by members of the public.

Sec. 4. 1. A person who wishes to engage in the business of a document preparation service must file an application for registration on a form prescribed by the Secretary of State.

2. The application must include, without limitation:

(a) The legal name of the applicant;

(b) The date of birth of the applicant;

(c) A statement regarding whether the applicant is a citizen or legal resident of the United States;

(d) If the applicant is a legal resident of the United States:

(1) The alien registration number assigned to the applicant by the United States Citizenship and Immigration Services of the Department of Homeland Security; and

(2) The name listed on the Permanent Resident Card issued to the applicant by the United States Citizenship and Immigration Services of the Department of Homeland Security, if different than the name provided pursuant to paragraph (a);

(e) The social security number of the applicant;

(f) Each physical street address at which the applicant and the employer of the applicant, if applicable, intend to engage in the business of a document preparation service;

(g) The mailing address at which the applicant prefers to receive correspondence from the Secretary of State;

(h) The primary telephone number and electronic mail address of the applicant and any alternative telephone number or electronic mail address that the applicant prefers to use to correspond with the Secretary of State;

(i) The address of any Internet website used by the applicant or the employer of the applicant to market or solicit the document preparation service;

(j) Each name, including any fictitious name, under which the document preparation service operates;

(k) If the document preparation service operates under a fictitious name, proof that the business has complied with the provisions of chapter 602 of NRS;

(l) The number of the state business license of the applicant or the employer of the applicant, as applicable, issued pursuant to NRS 76.100 and the date of expiration of the license;

(m) A statement regarding whether the applicant is licensed to practice law in any jurisdiction and, if so, each jurisdiction in which the applicant is licensed to practice law;

(n) A statement regarding whether the applicant is disqualified from registering as a document preparation service pursuant to subsection 2 of NRS 240A.100;

(o) A statement concerning the payment of child support pursuant to NRS 240A.130;

(p) Affirmation that the applicant understands the obligations and responsibilities of a document preparation service and will comply with applicable provisions of law and be subject to penalties prescribed by law for any violation thereof; and

(q) The signature of the applicant.

3. *The application filed pursuant to subsection 1 must be accompanied by:*

(a) *The bond required pursuant to NRS 240A.120;*

(b) *Written verification, on a form prescribed by the Secretary of State, stating that the fingerprints of the applicant were taken and directly forwarded electronically or by other means to the Central Repository for Nevada Records of Criminal History and that the applicant has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the applicant's background; and*

(c) *Written authorization for the Secretary of State to receive the report from the Central Repository regarding the criminal history of the applicant provided pursuant to paragraph (b).*

4. *If the applicant files a cash bond to comply with the requirements of NRS 240A.120, the applicant must appear in person at the Office of the Secretary of State and submit the bond with a form prescribed by the Secretary of State.*

5. *The Secretary of State may request any additional information deemed necessary to determine whether an applicant satisfies the requirements for registration as a document preparation service.*

6. *The Secretary of State may reject any application for registration submitted pursuant to this section if the applicant:*

(a) *Fails to provide any information requested pursuant to this section; or*

(b) *Does not comply with any other requirement of this chapter or chapter 240A of NRS.*

Sec. 5. 1. *If any of the information provided in an application for a certificate of registration as a document preparation service filed pursuant to section 4 of this regulation*

changes, the registrant must notify the Secretary of State not later than 30 days after the change by submitting a form prescribed by the Secretary of State.

2. If a registrant fails to notify the Secretary of State of any change of information as required pursuant to subsection 1, the Secretary of State may suspend the certificate of registration of the registrant. The Secretary of State may reinstate such a suspended certificate if the registrant corrects the information by submitting the form prescribed pursuant to subsection 1.

Sec. 6. 1. *To renew a certificate of registration as a document preparation service, a registrant must submit an application to renew the certificate at least 30 days before the date of expiration of the certificate. No extensions will be allowed.*

2. The application must include, without limitation:

(a) The legal name of the registrant;

(b) The number and date of expiration of the certificate of registration of the registrant;

(c) An affirmation that all information submitted by the registrant pursuant to sections 4 and 5 of this regulation on file with the Secretary of State at the time the renewal application is submitted is current and accurate or any correction to this information;

(d) The date of expiration of the state business license issued pursuant to NRS 76.100 under which the document preparation service is operating at the time the renewal application is submitted; and

(e) A statement concerning the payment of child support included pursuant to NRS 240A.130.

3. The Secretary of State may request any additional information deemed necessary to determine whether the registrant satisfies the requirements for renewal.

4. The Secretary of State may reject any application to renew a certificate submitted pursuant to this section if the registrant:

- (a) Fails to provide any information requested pursuant to subsection 2; or*
- (b) Does not comply with any other requirement of this chapter or chapter 240A of NRS.*

5. A registrant who fails to renew his or her certificate pursuant to this section is not authorized to engage in the business of a document preparation service after the expiration of the certificate. A person who engages in the business of a document preparation service after the expiration of the certificate is in violation of NRS 240A.100 and is subject to the penalties prescribed by NRS 240A.290.

Sec. 7. 1. *A person who files a cash bond with the Secretary of State pursuant to NRS 240A.120 may request the return of the bond not sooner than 3 years after:*

- (a) The date the person has ceased to do business as a document preparation service; or*
- (b) The date of the expiration or revocation of the certificate of registration.*

2. A person requesting the return of a bond must submit the request in writing or on a form prescribed by the Secretary of State. Such a request must include, if known, any identifying number for the filing of the bond and the date on which the bond was filed.

Sec. 8. 1. *A person may make a complaint with the Secretary of State about a document preparation service by calling the toll-free telephone number established pursuant to NRS 240A.250 or submitting a form for that purpose which is made available on the Internet website of the Secretary of State. The form may be submitted in person, electronically or by mail.*

- 2. A complaint made pursuant to subsection 1 must include, to the extent practicable:*
 - (a) The name of the document preparation service;*

- (b) The physical street address at which the document preparation service operates;*
- (c) The number of the certificate of registration of the document preparation service;*
- (d) The reason for the complaint and any statutory provision the document preparation service is alleged to have violated;*
- (e) A copy of each document relevant to the complaint; and*
- (f) Any other information deemed relevant by the person who makes the complaint.*

3. Not later than 15 business days after a complaint is made pursuant to this section, the Secretary of State will notify the document preparation service that a complaint has been made against the document preparation service. The notice must be sent by certified mail and shall be deemed to have been received by the document preparation service 3 days after the notice is mailed. The notice must include, without limitation:

- (a) A description of each allegation contained in the complaint;*
- (b) Any statutory provision which the document preparation service is alleged to have violated;*
- (c) An explanation of any disciplinary action that may be taken against the document preparation service if the complaint is verified;*
- (d) Instructions on the manner in which the document preparation service may respond to the complaint; and*
- (e) A statement that the document preparation service must respond to the complaint not later than 15 days after receiving the notice.*

4. A document preparation service against whom a complaint has been made must respond to the complaint not later than 15 days after receiving the notice described in subsection 3.

5. *After receiving the response submitted by the document preparation service or the expiration of the 15-day period for submitting a response pursuant to subsection 4, the Secretary of State will determine whether a violation has likely occurred and, if he or she determines that a violation has likely occurred, may conduct an investigation pursuant to NRS 240A.260. If the Secretary of State determines that a violation:*

(a) Has not occurred, he or she will notify the document preparation service and the person who submitted the complaint of this determination and the reasons for the determination.

(b) Has likely occurred, he or she will notify the document preparation service and the person who submitted the complaint that:

(1) An investigation may be conducted pursuant to NRS 240A.260; and

(2) If, after such an investigation, the Secretary of State determines that a violation has occurred, the Secretary of State may take any action authorized pursuant to subsection 2 of NRS 240A.260.

Sec. 9. 1. *The statement required to be included pursuant to NRS 240A.150 in an advertisement for the services of a registrant which the registrant disseminates or causes to be disseminated in printed form or any other visual form must:*

(a) Be included in any printed material, social media account, television broadcast, Internet website or other electronic media which contains a promotion or advertisement of the document preparation services or related services provided by the registrant;

(b) Be sufficiently large as to be read easily;

(c) Be printed in a color that allows the statement to be clearly legible, including, without limitation, black or blue on a white background; and

(d) Contain the number of the certificate of registration issued to the registrant.

2. The statement required to be included pursuant to NRS 240A.150 in an advertisement for the services of a registrant which the registrant disseminates or causes to be disseminated in purely verbal form without any visual component must:

(a) Be clearly articulated; and

(b) Provide the name of the registrant and the number of the certificate of registration issued to the registrant.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS - NRS 233B.066
Informational Statement
LCB File No. R136-13
Regulations Relating to Document Preparation Services

The following statement is submitted for a new chapter in the Nevada Administrative Code (NAC) Chapter 240A.

(a) The purpose of this regulation is to specify the form/requirements for filing a registration, amendment or renewal as a document preparation service pursuant to NRS 240A.100; to establish requirements for advertisement of services for a document preparation service pursuant to NRS 240A.250; and establish procedures related to the filing of a complaint against a document preparation service and the notification provided to a document preparation service against whom a complaint has been filed.

The regulation to be considered is the second revised version dated February 3, 2014 which was posted with the Notice of Intent to Adopt a Regulation and on LCBs website in the Nevada Register.

(b) Public comments were solicited at the January 14, 2014 public workshop to solicit comments on proposed regulations and the March 6, 2014 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 of document preparation services and the conduct of persons engaging in a document preparation service. It should be noted that proposed language as it appears in R136-13 reflects the originally proposed regulation as well as changes made to the regulation based on comments received from interested parties during the public workshop on January 14, 2014. The 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, the Legislative Counsel Bureau website 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

(c) The number of persons who:

- (a) Attended the January 14, 2014 public workshop: **7**
- (b) Testified at the January 14, 2014 public workshop: **2** (Both members of the public also provided written testimony which is included in the minutes of the workshop.)
- (c) Submitted to the agency written comments: **2**
- (d) Attended the March 6, 2014 for the adoption of regulations: **2**
- (e) Testified at the March 6, 2014 hearing for the adoption of regulations: **0**
- (f) Submitted to the Agency written comments: **0**

(d) 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: Sophia Medina**
- (b) Telephone number: 702-386-1453**
- (c) Business address: 725 E. Charleston Blvd. Las Vegas, NV 89104**
- (d) Business Telephone: 702-386-1453**
- (e) Electronic mail address: smedian@lacs.nv.gov**
- (f) Name of entity or organization represented: Legal Aid Center of Southern NV**

- (a) Name: Jon Eric Garde**
- (b) Telephone number: 702-898-9540**
- (c) Business address: 4455 S. Pecos Rd. Suite B, Las Vegas, NV 89121**
- (d) Business Telephone: 702-898-9540**
- (e) Electronic mail address: 4justice@jeglaw.com**
- (f) Name of entity or organization represented: JEGLAW, Ltd.**

(e) Comments were solicited from affected businesses in the same manner as they were solicited from the public. In addition discussions were had with representatives from community groups, the legal community including the State Bar of Nevada.

The minutes of the January 14, 2014 public workshop to solicit comments on proposed regulations and the March 6, 2014 hearing for the adoption of regulations are attached hereto and contain a summary of the proposed regulation and 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 nlamboley@sos.nv.gov.

(f) The permanent regulations were adopted on March 6, 2014. There were changes made as a result of the public workshop on regulation R136-13. These changes were submitted to LCB and a second revised proposed regulation was prepared and posted for adoption.

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

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

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

(j) 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.

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