

**ADOPTED REGULATION OF THE EMPLOYMENT SECURITY**

**DIVISION OF THE DEPARTMENT OF EMPLOYMENT,**

**TRAINING AND REHABILITATION**

**LCB File No. R084-14**

Effective October 24, 2014

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

AUTHORITY: §§1-4, NRS 612.607.

A REGULATION relating to unemployment compensation; providing for the repayment of unexpended money from certain grants disbursed to nonprofit private entities for the purpose of making loans for certain start-up businesses of veterans and senior citizens; revising provisions relating to the conditions for the approval of certain loans for such start-up businesses; revising provisions relating to interest paid on certain loans for such start-up businesses; revising conditions under which a nonprofit private entity may be entitled to reimbursement for the costs of administering such loans; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to establish a program to provide grants of money to a nonprofit private entity to make loans to veterans and senior citizens to start small businesses. (NRS 612.607)

Existing regulations set forth guidelines for the application for, and awarding of, grants to nonprofit private entities for the purpose of making loans for certain start-up businesses of veterans and senior citizens. (NAC 612.677) **Section 1** of this regulation provides that the Administrator may require a nonprofit private entity to repay money from such a grant that has not been expended in compliance with the terms of the grant.

Existing regulations set forth certain conditions for the approval of such a small business start-up loan by a nonprofit private entity. (NAC 612.679) **Section 2** of this regulation revises the conditions by increasing the amount of a loan which may be approved and by revising the prohibitions against the approval of a loan to an applicant who has a specified relationship with the person who is responsible for approving the loan on behalf of the nonprofit private entity.

Existing regulations establish guidelines for the repayment of such a small business start-up loan and interest accruing thereon. (NAC 612.683) **Section 3** of this regulation revises the

calculation for the accrual of that interest and authorizes the Administrator to require a nonprofit private entity to use a portion of such interest to make additional loans under certain circumstances.

Existing regulations provide that a nonprofit private entity may be entitled to reimbursement for the administrative costs of administering a loan under certain circumstances. (NAC 612.685) **Section 4** of this regulation revises the terms of this entitlement to include the condition that interest received by the nonprofit private entity be insufficient to pay the administrative costs of administering a loan.

**Section 1.** NAC 612.677 is hereby amended to read as follows:

612.677 1. A nonprofit private entity that applies for a grant pursuant to the program must do so in the manner prescribed by the Administrator. The Administrator:

(a) Shall, at a minimum, require the submission of the financial statements of the nonprofit private entity for the 3 years immediately preceding the date of the application; and

(b) May require the nonprofit private entity to demonstrate, to the satisfaction of the Administrator, fiduciary responsibility, principles of accounting practices and fiscal mechanisms consistent with safeguarding public funds and the public interest.

2. Any grant which is awarded to a nonprofit private entity is subject to audit and review by the Division.

*3. The Administrator may require a nonprofit private entity to repay any grant money that has not been expended in compliance with the terms under which the grant was awarded.*

**Sec. 2.** NAC 612.679 is hereby amended to read as follows:

612.679 1. A nonprofit private entity which administers the disbursement of money received as a grant pursuant to the program may approve an individual loan of up to ~~[\$5,000]~~ *\$15,000* to a start-up business without the approval of the Administrator. The Administrator may waive the loan limit prescribed in this subsection for a loan not exceeding ~~[\$10,000.]~~ *\$20,000.*

2. A loan may not be made to:

(a) An applicant for a loan by the person responsible for approving the loan on behalf of the nonprofit private entity if the person approving the loan has a dating relationship with the applicant or ~~is a relative of the applicant within the third degree of consanguinity or affinity;~~

~~—(b) A start-up business owned wholly or in part by any person who is an employee of the nonprofit private entity or under a contract of service to the nonprofit private entity; or~~

~~—(c) :~~

*(1) Is the spouse or domestic partner of the applicant;*

*(2) Is a member of the household of the applicant;*

*(3) Is related to the applicant, or to the spouse or domestic partner of the applicant, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;*

*(4) Employs the applicant, the spouse or domestic partner of the applicant or a member of the household of the applicant;*

*(5) Has a substantial and continuing business relationship with the applicant; or*

*(6) Has any other commitment, interest or relationship with the applicant that is substantially similar to a commitment, interest or relationship described in subparagraphs (1) to (5), inclusive; or*

*(b)* A start-up business which has not complied with the provisions of chapter 76 of NRS or which fails to demonstrate compliance with applicable requirements governing contributions or industrial insurance pursuant to the provisions of chapter 612 or 616C of NRS.

3. An applicant for a loan pursuant to this section must submit to the nonprofit private entity a business plan which clearly identifies and explains the intended use of the loan in the manner prescribed by the nonprofit private entity.

4. An applicant for a loan may not have more than one loan which is obtained pursuant to this section and which is in repayment, except that a borrower who has repaid such a loan pursuant to NAC 612.683 may apply for another loan for the purposes of expanding the business if the business still qualifies as a start-up business.

5. Any legally organized business entity which receives a loan from a nonprofit private entity pursuant to this section:

(a) May use the money for business-related costs, including, without limitation, costs associated with the start-up of the business and licensing and permitting; and

(b) May not, in any manner, use any portion of the money for expenses commonly considered personal in nature.

6. As used in this section ~~3,~~ **“dating”** :

**(a) “Dating” relationship** has the meaning ascribed to it in NAC 284.0533.

**(b) “Domestic partner”** has the meaning ascribed to it in NRS 281A.085.

**(c) “Domestic partnership”** has the meaning ascribed to it in NRS 281A.086.

**(d) “Household”** has the meaning ascribed to it in NRS 281A.100.

**Sec. 3.** NAC 612.683 is hereby amended to read as follows:

612.683 1. Except as otherwise provided in subsection ~~3,~~ **4**, both principal and interest on a loan made under the program must be repaid to the nonprofit private entity not later than 4 years after the date on which the loan is made. The nonprofit private entity administering the loan must establish a payment schedule and agreement with the borrower. The schedule and agreement must provide that:

(a) The first year of repayment of a loan is free from interest. ~~3,~~

(b) ~~{A}~~ *From the beginning of the second year of repayment of a loan, a loan which is not repaid in full by the end of the first year is subject to ~~{an interest rate of 5}~~ a maximum rate of interest not higher than the maximum rate of interest set forth in this paragraph on the outstanding balance of the loan until the loan is paid in full. For the purposes of this paragraph, the maximum rate of interest is a rate of interest equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the beginning of the second year of repayment of the loan, plus 2.25 percent simple interest per annum ~~{; and}~~, with the amount of this maximum rate of interest adjusted accordingly on each January 1 and July 1 thereafter until the loan is paid in full.*

(c) The failure of the borrower to repay the principal and interest on the loan may result in collection proceedings to the extent allowable under the applicable laws and regulations of this State.

2. ~~{Any}~~ *Except as otherwise provided in subsection 3, any* interest earned by the nonprofit private entity pursuant to subsection 1:

(a) Must be deposited in a separate account established and maintained by the nonprofit private entity for the purpose of administering loans; and

(b) Must not be commingled with any other money.

3. *If the Administrator determines that a nonprofit private entity has earned and collected interest in excess of the amount of money which is necessary for the purpose of administering loans, the Administrator may require that the amount of the excess be used to issue additional loans.*

4. The Administrator may forgive the outstanding balance of a loan if:

(a) The Administrator determines that the loan was not secured either in whole or in part by fraud or misrepresentation of the borrower;

(b) The borrower demonstrates an inability to repay the loan; and

(c) The recovery of the loan would be against equity and good conscience, as determined by the Administrator.

**Sec. 4.** NAC 612.685 is hereby amended to read as follows:

612.685 1. ~~1A~~ *If the amount of interest collected by a nonprofit private entity is insufficient for the purpose of administering loans pursuant to subsection 2 of NAC 612.683, the nonprofit private entity may be entitled to reimbursement for administrative costs incurred as a result of administering a loan under the program, but any such reimbursement must not exceed 10 percent of the total amount of all grants awarded to the nonprofit private entity for the purposes of making loans under the program.*

2. A claim for reimbursement pursuant to subsection 1 must be made:

(a) In accordance with generally accepted accounting principles; and

(b) On a form prescribed by the Administrator.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
NRS 233B.066  
LCB FILE R084-14**

The following statement is submitted for adopted amendments to Nevada Administrative code (NAC) Chapter 612.

**1. A clear and concise explanation of the need for the adopted regulation.**

The amendment to the regulation pertaining to NAC 612, pursuant to Nevada Revised Statute (NRS) 612.607 in order to provide clarification to the following: the requirements of conditions for approval of loans, the maximum loan amounts, how interest is charged, and the reimbursement of administrative costs.

**2. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

In compliance with NRS 233B.0603, a Employment Security Council meeting was held on May 27, 2014 and a Small Business Workshop was held on Tuesday, July 15, 2014 at 10:00 a.m., the Live meetings were held at the Legislative Building, 400 S. Carson Street, Room 3137, Carson City, Nevada 89701 and Video conferenced to the Grant Sawyer Building, 555 E. Washington Ave, Room 4406, Las Vegas, Nevada 89101. The purpose of the Employment Security Council Meeting and workshop was to review, discuss, and solicit comment on a proposed regulation pertaining to Nevada Revised Statute (NRS) 612.607, in order to provide clarification to the following: the requirements of conditions for approval of loans, the maximum loan amounts, how interest is charged, and the reimbursement of administrative costs.

Notice of the Employment Security Council meeting was sent on May 9, 2014 requesting comments by May 19, 2014 and the Workshop notice was sent on June 19, 2014 requesting comments by July 7, 2014 by U.S. mail, to all individuals and employers on the Employment Security Division mailing list. Notice was posted at the principal office of the Employment Security Division in Carson City, as well as numerous offices of the Employment Security Division throughout the state. In addition, the notice was submitted to the Legislative Counsel Bureau, the Nevada State Library, and all main county libraries in the state. The meeting was also noticed in three newspapers, the Reno Gazette Journal, the Nevada Appeal and the Las Vegas Review Journal. These documents were also made available at the website of the Department of Employment, Training and Rehabilitation (DETR) <http://www.nvdetr.org/index.htm> (DETR home page), <http://www.nvdetr.org/publicmeetings.htm> (DETR Public Meetings page), [http://www.nvdetr.org/public\\_notices.htm](http://www.nvdetr.org/public_notices.htm) (DETR Public Notices page), <https://notice.nv.gov/> and at the Nevada Legislature website at <http://www.leg.state.nv.us/App/Notice/A/>.

**Posting locations:**

Nevada State Library & Archives, 100 North Stewart Street, Carson City, NV 89701  
Legislative Building, 401 South Carson Street, Carson City, NV 89701  
Grant Sawyer State Building, 555 E. Washington Ave., Las Vegas, NV 89101  
Legislative Counsel Bureau Web Site  
Department of Employment, Training and Rehabilitation Web Site  
All County Libraries in Nevada  
Employment Security Division, State Administrative Office, 500 East Third Street,  
Carson City, NV 89713  
Employment Security Division Southern Administrative Office, 2800 E. St. Louis Ave,  
Las Vegas, NV 89104  
Unemployment Insurance Contributions, 1320 South Curry Street, Carson City, NV  
89710  
Reno Field Audit Office, 1325 Corporate Blvd, Suite B, Reno, NV 89502  
Las Vegas Field Audit Office, 2800 E. St. Louis Ave, Las Vegas, NV 89104  
Reno Appeals Office, 1325 Corporate Blvd, Suite C, Reno, NV 89502  
Las Vegas Appeals Office, 2800 E. St. Louis Ave, Las Vegas, NV 89104  
Reno Casual Labor Office, 420 Galletti Way, Sparks, NV 89431  
Las Vegas Casual Labor Office, 1001 North A Street, Las Vegas, NV 89106  
Nevada JobConnect-Carson City, 1929 North Carson Street, Carson City, NV 89701  
Nevada JobConnect-Elko, 172 Sixth Street, Elko, NV 89801  
Nevada JobConnect-Ely, 1500 Avenue F, Suite 1, Ely, NV 89301  
Nevada JobConnect-Fallon, 121 Industrial Way, Fallon, NV 89406  
Nevada JobConnect-Henderson, 119 Water Street, Henderson, NV 89015  
Nevada JobConnect-Las Vegas, 3405 South Maryland Parkway, Las Vegas, NV 89169  
Nevada JobConnect-North Las Vegas, 2827 Las Vegas Boulevard North, Las Vegas, NV  
89030  
Nevada JobConnect-Reno Town Mall, 4001 South Virginia Street, Suite H-1, Reno, NV  
89502  
Nevada JobConnect-Sparks, 1675 E. Prater Way, Suite 103 Sparks, NV 89434  
Nevada JobConnect-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445

A copy of the proposed regulation was posted to the DETR website and provided at the meeting. During the Employment Security Council Meeting and Workshop, DETR staff members reviewed Career Enhancement Program (CEP) Veterans and Senior Citizens Small Business Loan Program regulation. Staff also reviewed the determination of Impact to Small Businesses per NRS 233B.0608 pursuant to Subsection 3. There were no written comments received and there were no public comments during the Employment Security Council meeting or workshop.

On July 10, 2014, the Division issued an Agenda and a Notice of Intent to Act Upon the Regulation. The Notice and Agenda were sent by U.S. mail, to all individuals and employers on the Employment Security Division mailing list. The Notice and Agenda were posted at the principal office of the Employment Security Division in Carson City, as well as numerous offices of the Employment Security Division throughout the state. In addition, the notice was submitted to the Legislative Counsel Bureau, the Nevada State



Library, and all main county libraries in the state, including all locations in the workshop notification list above. The meeting was also noticed in three newspapers, the Reno Gazette Journal, the Nevada Appeal and the Las Vegas Review Journal. These documents were also made available at the website of the Department of Employment, Training and Rehabilitation (DETR) <http://www.nvdetr.org/index.htm> (DETR home page), <http://www.nvdetr.org/publicmeetings.htm> (DETR Public Meetings page), [http://www.nvdetr.org/public\\_notices.htm](http://www.nvdetr.org/public_notices.htm) (DETR Public Notices page), <https://notice.nv.gov/> and at the Nevada Legislature website at <http://www.leg.state.nv.us/App/Notice/A/>.

The final draft of the regulation was drafted by LCB on July 10, 2014. On July 10, 2014, the Division posted the revised language to the DETR website and posted the revised language to the Nevada Legislature website. A copy of the revised regulation was available to the public at the hearing. During the Hearing, DETR staff members reviewed the amended regulation to the Career Enhancement Program (CEP) Veterans and Senior Citizens Small Business Loan Program, provided an explanation of the Regulation.

In compliance with NRS 233B, a Hearing for the adoption of the regulation was held on Tuesday, August 12, 2014 at 10:00 a.m., the Live meeting was held at Legislative Building, 401 South Carson Street, Room 3138, Carson City, Nevada, 89701 and Video conferenced to the Grant Sawyer Building, 555 East Washington Ave., Room 4406, Las Vegas, Nevada, 89101. The purpose of the hearing was to receive comments from all interest persons regarding the adoption of the regulation pertaining to Chapter 612 of the Nevada Administrative Code. There were no written or public comments received during the hearing.

The Division is in the process of having the audio recording of the Hearing meeting transcribed and the transcript will be posted to the DETR website as soon as it is available.

**3. The number of persons who:**

**a. Attended at each meeting:**

**Employment Security Council**

May 27, 2014: Carson City: 16; Las Vegas: 4

**Small Business Workshop:**

July 15, 2014: Carson City: 7; Las Vegas: 1

**Hearing:**

August 12, 2014: Carson City: 5; Las Vegas: 2

**b. Testified at each meeting:**

**Employment Security Council**

May 27, 2014: Carson City: 0; Las Vegas: 0

**Small Business Workshop:**

July 15, 2014: Carson City: 0; Las Vegas: 0

**Hearing:**

August 12, 2014: Carson City: 0; Las Vegas: 0

**c. Submitted to the agency written comments:**

**Employment Security Council:** No written comments were submitted

**Small Business Workshop:** No written comments were submitted.

**Hearing:** No written comments were submitted

**4. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in response to question #2.

**5. If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

No written or public comments were received

**6. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

**a. Both adverse and beneficial effects; and**

**b. Both immediate and long-term effects.**

**Effect on Businesses Affected by Regulation**

The proposed regulation will only regulate a nonprofit lender who chooses to participate in the CEP loan program. The regulation only places additional burdens on any such lenders with respect to the grants received for this loan program, and does not restrict any business practices outside of the loan program. The regulation does provide for reimbursement of administrative costs both through interest collected on loans issued and provides for up to 10% of the grants made to the lender to be used for reimbursement of administrative expenses. Therefore, no adverse effects on the business being regulated are expected, in the short term or long term. A nonprofit lender participating in the program will have access to additional funds which may be used to issue loans to qualified borrowers; potentially increasing the amount of business that lender is able to participate in. This would be a potential benefit to the lender.

**Effect on the Public**

Under this regulation, there are two paths by which the public is affected. First, the effect of the loans being made in assisting the formation of new businesses. The potential beneficial impact here is to the owners of any business that may take advantage of these loans, which would provide an interest-free loan for the first year of borrowing, which is a cheaper cost of capital than may otherwise be available. If such a business has employees, the cheaper cost of capital may allow for additional employment

opportunities. Such effects may be limited by the size of the loans, and the size of the grants made under this regulation.

Second, the effect of the money being pulled out of other CEP programs in order to make these loans. To the extent that grants made under this program reduce the funding available to other CEP programs, which have a direct effect on helping individuals within the state find employment, those programs may be able to help fewer jobseekers than they would be otherwise able to do. However, this depends upon whether the grants made under this program deplete the available CEP resources, or simply draw upon otherwise unspent reserves. The regulation does not force the Administrator to issue grants of a particular size, allowing the Administrator to balance the funding needs of the various CEP programs, so the potential adverse effect on other CEP programs is expected to be negligible.

**7. The estimated cost to the agency for enforcement of the adopted regulation.**

Based on the expectation that proposals will be requested for one statewide program, with a total grant award greater than \$100,000, the total expected cost to administer and enforce the regulation is approximately \$6,500 per year. Costs would be higher if more than one grantee were needed to provide services statewide.

**8. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The proposed regulation does not overlap or duplicate any regulations of other state or local government agencies.

**9. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

The proposed regulation is not required pursuant to federal law, nor is there a federal regulation that regulates the same activity.

**10. If the regulation establishes a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This regulation does not impose any new fees or change any existing fees.

**11. Is the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

The proposed regulation imposes no additional fees on any businesses, as it draws from the existing funds of the Career Enhancement Program. No change to the existing 0.05% CEP contribution rate is included in this regulation, or expected if this regulation is approved as drafted. The only potential impact is indirect, if grants made under this program should reduce the funds available for other programs under CEP, and small businesses are participating in those programs. But this is an indirect effect, and not likely to be significant to any small business.

This regulation has no negative effect on the formation of a small business. If approved, the only potential effect is to provide an additional source of funds to senior citizens or veterans who are trying to start a business, which could assist in the formation of a small business. This regulation does not restrict the operation or expansion of any small business.

An analysis of the text of the regulation, the source of the funds used for the CEP program, and a summary of other programs funded under CEP as presented at the Employment Security Council meeting on May 27, 2014 were used in determining the impact of the regulation on a small business.