

**PROPOSED REGULATION OF THE DIRECTOR OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R089-19

December 5, 2019

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

AUTHORITY: §§1-7, 9, 12 and 15, section 30 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.210); §§8, 10 and 11, section 12 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.400) and section 30 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.210); §§13 and 14, section 22 Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3990 (NRS 657A.500) and section 30 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.210).

A REGULATION relating to the Regulatory Experimentation Program for Product Innovation; establishing conditions for participation in the Program; requiring the location maintained by each participant to satisfy certain conditions; requiring participants to collect certain consumer information; requiring participants to submit certain reports; requiring participants to retain business documents; establishing the process by which complaints related to Program will be resolved; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Director of the Department of Business and Industry to establish and administer the Regulatory Experimentation Program for Product Innovation. (Section 11 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.200)) Existing law also authorizes the Director to adopt such regulations he or she deems necessary to administer the Program. (Section 30 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.210))

Sections 2-6 of this regulation define terms related to the Program.

Section 7 of this regulation provides that any authority, duties and responsibilities assigned to the Director related to the Program may be delegated to a designee employed by the

Department. **Section 7** similarly provides that any authority, duties or responsibilities related to the Program assigned to the Department may be exercised or performed by the Director.

Section 8 of this regulation requires each applicant for participation in the Program to consent in writing to: (1) the applicability of the laws of this State and personal jurisdiction of the courts of this State regarding all matters associated with the program and testing; (2) credit, criminal and background checks; and (3) certain requirements imposed by the Director as a condition or restriction on participation in the Program.

Existing law requires each application to participate in the Program submitted to the Director to be accompanied by a nonrefundable fee of not more than \$1,000. (Section 12 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.400)) **Section 8** of this regulation requires each applicant to submit a nonrefundable application fee of \$500.

Section 9 of this regulation requires each participant to possess each license, registration and permit required by this State or by a local government as a condition to conducting business under the Program. **Section 10** of this regulation requires each participant to maintain with the Director the physical or virtual address of the participant and, if the participant is not a natural person, the address of each officer, director or other principal of the applicant.

Existing law requires each participant to establish and maintain a physical or virtual location that is reasonably accessible to the Director, from which testing will occur and all records are maintained. (Section 12 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.400)) **Section 11** of this regulation requires that such a location be accessible by the Director from within this State and once established, may not be relocated without the prior approval of the Director. **Section 11** also prohibits a participant from engaging in testing where another business operates without prior approval from the Director and requires a participant to allow the Director to access and review any documents maintained at the physical or virtual location of the participant.

Section 12 of this regulation requires each participant to collect and record certain consumer information.

Existing law authorizes the Director to establish by regulation periodic reporting requirements for participants in the Program. (Section 22 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3990 (NRS 657A.500)) **Section 13** of this regulation requires each participant to submit periodic reports as required by the Director.

Existing law requires participants to retain all records and data produced in the ordinary course of business relating to a financial product or service tested in the Program for not less than 2 years after the end of the prescribed period of testing or for such longer period as the Director requires. (Section 22 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at

page 3990 (NRS 657A.500)) **Section 14** of this regulation requires each participant to retain all records and data produced in the ordinary course of business related to the test for not less than 6 years. **Section 14** also requires each participant to submit any records and data to the Director upon request.

Existing law requires the Director to establish and maintain a toll-free telephone number and Internet website through which a consumer may submit a complaint relating to any financial product or service provided by a participant. (Section 21 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3990 (NRS 657A.600)) **Section 15** of this regulation requires the Director to provide to the Bureau of Consumer Protection in the Office of the Attorney General a copy of any complaint received through the toll-free telephone number or Internet website and establishes how the Director will resolve complaints.

Section 1. Chapter 657A 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 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Department” means the Department of Business and Industry.*

Sec. 4. *“Director” means the Director of the Department.*

Sec. 5. *“Document” means any electronic, written, printed or recorded material or information of any kind inscribed on a tangible medium or stored in an electronic format that is retrievable in perceivable form, including, without limitation, records, data, communications and audio and video recordings. The term includes originals and copies of documents that have been altered, including, without limitation, copies of documents that have been amended by adding notes, underlining or attachments.*

Sec. 6. *“Program” means the Regulatory Experimentation Program for Product Innovation established and administered by the Director pursuant to sections 2 to 31,*

inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993, inclusive (NRS 657A.100 to 657A.530, inclusive).

Sec. 7. 1. *Any authority granted to the Director and any duty or responsibility assigned to the Director by any provision of this chapter or sections 2 to 31, inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993, inclusive (NRS 657A.100 to 657A.530, inclusive), may be exercised or performed by any employee of the Department who is designated by the Director for that purpose.*

2. *Any authority granted to the Department and any duty or responsibility assigned to the Department by any provision of this chapter or sections 2 to 31, inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993, inclusive (NRS 657A.100 to 657A.530), may be exercised or performed by the Director.*

Sec. 8. 1. *Before the Director will approve a financial product or service for participation in the Program, the applicant must consent in writing to:*

(a) The applicability of the laws of this State and the exercise of personal jurisdiction by the courts of this State over all matters related to the Program and the test of the financial product or service;

(b) The review or investigation of the credit history, criminal history and background of the applicant, if the applicant is a natural person and, if the applicant is not a natural person, each officer, director or other principal of the applicant; and

(c) Comply with any requirements imposed by the Director pursuant to section 15 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3988 (NRS 657A.430), section 20 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3989 (NRS

657A.330) or section 26.3 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.620).

2. Each application must be accompanied by a nonrefundable application fee of \$500.

Sec. 9. Except as otherwise provided in sections 2 to 31, inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993 inclusive (NRS 657A.100 to 657A.530, inclusive), each participant must possess each license, registration and permit required by this State or by a local governmental entity as a condition to conducting business under the Program.

Sec. 10. Each participant shall maintain with the Director:

1. The current physical or virtual location of the participant established and maintained by the participant during the test of a financial product or service pursuant to section 12 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.400); and

2. If the participant is not a natural person, the current address of each officer, director or other principal of the participant.

Sec. 11. 1. The physical or virtual location established and maintained by a participant during the test of a financial product or service pursuant to section 12 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3986 (NRS 657A.400):

(a) Must be accessible to the Director from within this State; and

(b) May not be relocated without prior approval from the Director.

2. A participant shall not engage in testing within any office, suite, room or business location in which any other business is solicited or engaged, or in association or conjunction with any other business, without prior approval from the Director.

3. Each participant shall allow the Director to access and review any document maintained at the physical or virtual location of the participant pursuant to sections 2 to 31, inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993, inclusive (NRS 657A.100 to 657A.530, inclusive).

Sec. 12. *Each participant shall collect and record data for each consumer that purchases a financial product or service offered through the Program during the test of the financial product or service including, without limitation:*

- 1. The name of and contact information for the consumer;*
- 2. A description of the financial product or service; and*
- 3. Any other relevant information regarding the transaction.*

Sec. 13. *1. Each participant shall submit periodic reports to the Director on the status of the test of a financial product or service, as required by the Director. The Director will consider the type of financial product or service being tested when determining the frequency of the required reports.*

2. Each report must be in the form prescribed by the Director and include any documents related to the test requested by the Director.

3. The Director may request additional documents related to the test at any time. A participant must submit all documents requested pursuant to this section to the Director.

Sec. 14. *1. Each participant must retain all records and data produced in the ordinary course of business related to the testing of a financial product or service for not less than 6 years after the end of the test.*

2. Each participant must submit any records or data retained pursuant to this section to the Director upon request.

Sec. 15. 1. *The Director, in consultation with the applicable regulator, may resolve any complaint received relating to a financial product or service provided by a participant:*

(a) By informal discussion and resolution between the consumer and the participant identified in the complaint;

(b) By referring the complaint to the Commissioner of Consumer Affairs of the Department;

(c) By requesting the Attorney General bring an action in any court of competent jurisdiction;

(d) Pursuant to any provisions agreed to by the participant pursuant to section 15 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3988 (NRS 657A.430), section 20 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3989 (NRS 657A.330) or section 26.3 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.620); or

(e) Any combination of the actions described in paragraphs (a) to (d), inclusive.

2. The Director shall provide to the Bureau of Consumer Protection in the Office of the Attorney General a copy of any complaint submitted through the toll-free telephone number or Internet website established and maintained by the Director pursuant to section 21 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3990 (NRS 657A.600).

3. Nothing in this section limits the authority of the Director to remove a participant from the Program or order the participant to exit the Program pursuant to section 26.3 of Senate

Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.620) or section 27 of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at page 3992 (NRS 657A.610), or take any other action authorized by sections 2 to 31, inclusive, of Senate Bill No. 161, chapter 611, Statutes of Nevada 2019, at pages 3985 to 3993, inclusive (NRS 657A.100 to 657A.530, inclusive).