

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

LCB File No. R036-20

September 14, 2020

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

AUTHORITY: §§1-11, 13-16 and 21-25, NRS 604C.200; §§12 and 17, NRS 604C.200 and 604C.540; §18, NRS 604C.200, 604C.610, 604C.630 and 658.101; §19, NRS 604C.200 and 604C.620; §20, NRS 604C.200 and 658.098.

A REGULATION relating to financial services; interpreting the term “promptly,” as used in existing law; authorizing a consumer to have more than one consumer litigation funding contract per legal claim; providing that only one document preparation fee be paid per legal claim, regardless of the number of consumer litigation funding contracts taken on the legal claim; requiring the consumer litigation funding company to forward certain notices received from the consumer to the attorney or law firm representing the consumer; requiring the attorney retained by the consumer and the consumer litigation funding company to sign certain acknowledgements; prohibiting a consumer litigation funding company from collecting proceeds from a consumer in certain situations; prohibiting consumer litigation funding companies from participating in false, misleading or deceptive advertising; setting forth the process for how a consumer litigation funding contract is approved by the Commissioner of Financial Institutions; authorizing a consumer litigation funding company to communicate through electronic mail with a consumer; requiring certain documents written in a language other than English to be translated into English; requiring a consumer litigation funding company with offices or other places of business within this State to make its books and records available to the Commissioner or his or her representative; establishing certain fees; requiring a licensee to prominently display his or her license at each location he or she conducts business; requiring the licensee to give notice to the Commissioner upon certain changes in management; requiring certain persons involved with a business entity that applies for a license to engage in the business of a consumer litigation funding company to satisfy certain requirements; prohibiting a person from engaging in the business of a consumer litigation funding company without a license; establishing the renewal, suspension, reinstatement and revocation process for a license; establishing the hourly fee paid by a licensee to the Commissioner for supervision, examinations and audits; establishing the assessment for costs related to audits and examinations; providing for the assessment to cover the costs of legal services provided by the Attorney General to the Commissioner and the Division of Financial Institutions of the Department of Business and Industry; requiring certain reports to satisfy certain requirements; providing that certain information is confidential; requiring a licensee to

answer certain complaints within a certain period of time; requiring a licensee to notify certain persons that they have a right to file a written complaint with the Commissioner; authorizing the Commissioner to require a licensee to deliver an audited financial statement prepared by a certified public accountant in certain situations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) governs transactions in which a person provides not more than \$500,000 to a consumer with a pending legal claim in this State in exchange for the right to receive a portion of the proceeds of a settlement, judgment, award or verdict obtained as a result of the legal claim of the consumer; and (2) designates this type of transaction a "consumer litigation funding transaction" (Chapter 604C of NRS, NRS 604C.100) Existing law authorizes the Commissioner of Financial Institutions to adopt regulations for the administration and enforcement of existing law. (NRS 604C.200)

Sections 2-10 of this regulation relate to business practices involving consumer litigation funding contracts. Existing law requires a consumer litigation funding contract to contain certain disclosures, which are material terms of the contract, including a disclosure within the body of the contract which says "a copy of the executed contract must be promptly delivered to the attorney for the consumer." (NRS 604C.360) If a consumer cancels a consumer litigation funding contract, existing law requires the consumer litigation funding company to promptly forward notice of the cancellation to the attorney or law firm retained by the consumer in the legal claim of the consumer. (NRS 604C.380) **Section 2** of this regulation interprets "promptly" to mean that the action must occur within 1 business day.

Existing law defines "consumer litigation funding transaction" to mean a nonrecourse transaction in which a consumer litigation funding company provides up to \$500,000 of consumer litigation funding to a consumer. (NRS 604C.100) **Section 3** of this regulation authorizes a consumer to seek more than one consumer litigation funding contract per legal claim with the total amount of consumer litigation funding provided to a consumer not exceeding \$500,000. Existing law defines "document preparation fee" to mean a one-time fee per legal claim, not to exceed \$500, assessed for services related to the preparation of a consumer litigation funding contract. (NRS 604C.110) **Section 3** provides that a consumer may pay only one document preparation fee per legal claim, regardless of the number of consumer litigation funding contracts taken on the legal claim.

Existing law requires a consumer to notify the consumer litigation funding company if the consumer decides to cancel the consumer litigation funding contract within a certain period of time. (NRS 604C.350, 604C.360) Existing law additionally requires a consumer and the attorney of the consumer to notify the consumer litigation funding company of the outcome of the legal claim. (NRS 604C.360) **Section 4** of this regulation requires the consumer litigation funding company to notify the attorney or law firm who represents the consumer that the notices were received.

Existing law requires a consumer litigation funding contract to include an acknowledgement, signed by the consumer, that the consumer was fully informed and aware of

the charges and fees and the full cost of the consumer litigation funding transaction at the time the contract was executed. (NRS 604C.370) **Section 5** of this regulation requires the attorney retained by the consumer and the litigation funding company to also sign the acknowledgement.

Existing law requires a consumer litigation funding contract to provide a disclosure that the funded amount and agreed upon charges shall be paid only from the proceeds of the legal claim and shall be paid only to the extent that there are available proceeds from the legal claim. Existing law provides that a consumer will not owe anything to the consumer litigation funding company if there are no proceeds. (NRS 604C.360) Accordingly, **section 6** of this regulation prohibits a consumer litigation funding company from collecting: (1) anything if there are no proceeds from the legal claim; and (2) any amount above available proceeds from the legal claim.

Existing law prohibits a consumer litigation funding company from intentionally advertising materially false or misleading information regarding the products or services it offers. (NRS 604C.300) **Section 7** of this regulation clarifies that materially false or misleading information includes false or deceptive statements, results or testimonials. **Section 7** additionally prohibits advertising that: (1) may tend to confuse the identity of the company with another consumer litigation funding company; or (2) states or implies that the amount owed on an existing consumer litigation funding contract will be paid off or reduced if transferred. **Section 7** further provides that the Commissioner may require all consumer litigation funding companies to submit proposed advertising for approval before dissemination.

Existing law prohibits a consumer litigation funding company from using any form of consumer litigation funding contract in this State unless the contract has been filed with the Commissioner as prescribed by the Commissioner. (NRS 604C.300) **Section 8** of this regulation sets forth: (1) when a consumer litigation funding company is required to submit a consumer litigation funding contract to the Commissioner for his or her approval; (2) the requirements with which the contract must comply; and (3) when the contract is deemed approved by the Commissioner.

Existing law requires a consumer litigation funding contract to contain a provision advising the consumer of his or her right to cancel the contract. To cancel a contract, the consumer may mail a notice of cancellation to the consumer litigation funding company. (NRS 604C.350, 604C.360) **Section 9** of this regulation provides that, except for when the consumer is mailing such a notice of cancellation, the consumer litigation funding company may communicate through electronic mail with the consumer once the consumer litigation funding contract is entered into if the consumer consents in writing.

Section 10 of this regulation requires a licensee who uses a form or consumer litigation funding contract written in a language other than English to have the document translated into English and to maintain a copy of the document and its English translation. **Section 10** sets forth the qualifications that must be met when translating the document.

Sections 11-25 of this regulation relate to the licensing of consumer litigation funding companies.

Existing law requires each consumer litigation funding company that operates an office or other place of business outside of this State which is licensed pursuant to existing law to make available the books, accounts, papers, records and files of the office or place of business to the Commissioner or a representative of the Commissioner. (NRS 604C.600) **Section 11** of this regulation establishes a similar requirement for consumer litigation funding companies that operate offices or other places of businesses within this State.

Existing law requires the Commissioner to consider an application for a license to engage in the business of a consumer litigation funding company to be withdrawn if the Commissioner does not receive all the required information and fees within the required period of time. (NRS 604C.500) Existing law requires an application to be accompanied by: (1) a nonrefundable fee of not more than \$1,000 for the application and the survey; (2) any additional expenses incurred in the process of investigation as the Commissioner deems necessary; and (3) a fee of not less than \$200 and not more than \$1,000. Existing law requires the Commissioner to adopt regulations establishing the amounts of the fees. (NRS 604C.540) **Section 12** of this regulation establishes the fees in the following amounts: (1) a nonrefundable fee of \$1,000 for the application and survey; (2) a nonrefundable investigation fee of \$50 per individual owner, partner, officer, director and manager of the entity applying to become a consumer litigation funding company; and (3) an initial licensing fee of \$1,000. **Section 12** additionally provides that if the application is withdrawn or denied, the Commissioner will refund the initial licensing fee of \$1,000 to the applicant.

Existing law requires an applicant for a license to engage in the business of a consumer litigation funding company to include in the application the address of each location at which the applicant proposes to do business under the license. (NRS 604C.500) If the Commissioner approves an application for a license, existing law requires the Commissioner to issue and deliver a license to the applicant. (NRS 604C.560) **Section 13** of this regulation provides that upon granting an application for a license, the Commissioner will issue and deliver a license to the licensee for each location proposed by the licensee in his or her application. **Section 13** also requires the licensee to prominently display the license at each location.

Existing law requires a licensee who wishes to change the address of an office or other place of business for which he or she has a license to give written notice of the proposed change to the Commissioner at least 10 days before changing the address. Existing law requires the Commissioner, upon receipt of the proposed change of address, to provide written approval of the change and the date of the approval. (NRS 604C.570) **Section 14** of this regulation requires a licensee who wishes to change the name of the licensee or change an officer, director or manager or member who acts in a managerial capacity for the licensee to, at least 10 days before making such a change, give written notice of the proposed change to the Commissioner who, upon receipt of the proposed change, will provide written approval of the change and the date of the approval.

Existing law requires the application of a business for a license to engage in the business of a consumer litigation funding company to include the name and address of each partner, officer, director, manager or member who acts in a managerial capacity and registered agent of the business entity. (NRS 604C.500) Existing law also requires each applicant to satisfy certain additional requirements. (NRS 604C.510) **Section 15** of this regulation requires each partner,

officer, director, manager or member who acts in a managerial capacity and registered agent of a business entity that is applying for a license to satisfy these additional requirements and provides that the Commissioner will not issue a license if the additional requirements are not satisfied.

Existing law provides how a person can apply for and receive a license to engage in the business of a consumer litigation funding company. (NRS 604C.500-604C.580) **Section 16** of this regulation provides that a person shall not engage in the business of a consumer litigation funding company unless: (1) the person has the applicable license; and (2) the location of the business complies with any applicable planning and zoning ordinances.

Existing law authorizes the Commissioner to suspend or revoke a license if the licensee has failed to pay the annual license fee. (NRS 604C.830) **Section 17** of this regulation provides that a license expires January 31 and that a licensee may renew his or her license on or before January 31 by: (1) submitting a renewal application; and (2) paying a renewal fee of \$1,000. **Section 17** provides that if the licensee fails to renew his or her license on or before January 31, the Commissioner will deem the license to be suspended. **Section 17** further provides that a licensee may reinstate his or her license within 10 business days after the license is suspended by: (1) notifying the Commissioner of his or her intent to reinstate the license; (2) submitting a renewal application; and (3) submitting the \$1,000 renewal fee. If a licensee fails to reinstate his or her license, the Commissioner will deem the license to be revoked.

Existing law requires the Commissioner to make an examination of the place of business of each licensee and of the transactions, books, papers and records that pertain to the business of the consumer litigation funding company. Existing law also requires the Commissioner to establish by regulation fees for the examination and to assess and collect from each licensee the reasonable costs of auditing the books and records. (NRS 604C.610, 658.101, 604C.630) **Section 18** of this regulation establishes an hourly fee of \$75 for the supervision, examination, audit or investigation of a licensee or for a related hearing. **Section 18** also establishes that the fee must be paid within 30 days after the date on which the bill is received, provides for a penalty payment if the fee is not paid by the licensee within the 30 days and further provides that failure of a licensee to pay the fee constitutes grounds for revocation of the licensee's license.

Existing law requires each licensee to pay the assessment levied by the Commissioner as a result of employing a certified public account to review and conduct independent audits and examinations of the licensee. (NRS 604C.620, 658.055) **Section 19** of this regulation requires each licensee to pay to the Division of Financial Institutions of the Department of Business and Industry an annual assessment of \$300 to cover costs related to the employment of a certified public account and the performance of such audits and examinations.

Existing law requires the Commissioner, on a quarterly or other regular basis, to collect an assessment from consumer litigation funding companies to recover the costs of legal services provided by the Attorney General to the Commissioner and to the Division. (NRS 658.098) **Section 20** of this regulation requires each licensee to pay the assessment within 30 days after the date on which the licensee receives the bill. **Section 20** imposes a charge of 10 percent of the assessment on any licensee who fails to pay the assessment within the 30 days and further provides that failure of a licensee to pay the fee constitutes grounds for revocation of the licensee's license.

Existing law requires a licensee to submit a report to the Commissioner containing certain information regarding the business of the licensee. Existing law further requires the Commissioner to make the information contained in the report available to the public upon request in a way which maintains the confidentiality of each company and consumer. (NRS 604C.640) **Section 21** of this regulation requires the report to be filed with the Commissioner with the renewal application required by **section 17** and additionally requires the report to contain certain information relating to each consumer with whom the licensee did business. **Section 22** of this regulation provides that an application for a license, any financial records of an applicant, any financial records or other documents submitted pursuant to an audit, examination or investigation and any report of examination are confidential and may only be disclosed to certain entities.

Existing law authorizes a consumer, an attorney for a consumer or any other person who believes that any provision governing consumer litigation funding has been violated to file a complaint with the Commissioner. Existing law authorizes the Commissioner to investigate and conduct hearings concerning the complaint. (NRS 604C.820) **Section 23** of this regulation requires the Commissioner to send a copy of the complaint and, if the Commissioner intends to hold a hearing, a notice of the date set for the hearing, to the licensee named in the complaint. **Section 23** authorizes the Commissioner to require the licensee to submit a verified answer within 10 business days of such notification and provides that a licensee's failure to respond shall be deemed to be an admittance to the allegations contained in the complaint. **Section 24** of this regulation requires the licensee to post on its website, at the physical location where it conducts business and in the consumer litigation funding contract a notice that alerts persons that they have a right to file a written complaint to the Commissioner.

Existing law requires each licensee to keep and use in his or her business such books and accounting records as are used with sound and accepted accounting practices. (NRS 604C.600) Existing law sets forth examination and audit practices to ensure that such records are in compliance with existing law. (NRS 604C.610-604C.640) **Section 25** of this regulation authorizes the Commissioner to require the licensee to deliver an audited financial statement prepared by a certified public accountant within a certain period of time if the Commissioner finds that the licensee's records are not maintained according to existing law.

Section 1. Chapter 604C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 25, inclusive, of this regulation.

Sec. 2. *As used in NRS 604C.360 and 604C.380, the Commissioner interprets "promptly" to mean that the delivery of the contract or the forwarding of the notice of the cancellation, as applicable, must occur not later than 1 business day after the contract is executed or cancelled, as applicable.*

Sec. 3. 1. *A consumer may seek more than one consumer litigation funding contract per legal claim. The total amount of consumer litigation funding provided by a consumer litigation company to a consumer must not exceed \$500,000 per legal claim, regardless of the number of consumer litigation funding contracts taken on the legal claim.*

2. *If the consumer seeks more than one consumer litigation funding contract:*

(a) *With a different consumer litigation funding company than the company from which he or she obtained the original consumer litigation funding contract, the different consumer litigation funding company must comply with paragraph (e) of subsection 1 of NRS 604C.300; and*

(b) *The consumer litigation funding company with which the consumer seeks additional consumer litigation funding contracts must make the disclosure pursuant to paragraph (f) of subsection 1 of NRS 604C.350.*

3. *Pursuant to NRS 604C.110:*

(a) *A consumer may pay only one document preparation fee per legal claim, regardless of the number of consumer litigation funding contracts taken on the legal claim; and*

(b) *A consumer litigation funding company shall not charge a document preparation fee if the consumer has previously paid a document preparation fee with regard to the legal claim.*

4. *Pursuant to NRS 604C.310, the amount to be paid to a company under a consumer litigation funding contract must not exceed the funded amount plus charges not to exceed a rate of 40 percent annually. If, pursuant to subsection 1 of NRS 604C.360, the payment schedule in a consumer litigation funding contract contains multiple 180-day periods in 1 year, the charges for the consumer litigation funding contract for each 180-day period must not exceed a cumulative rate of 40 percent annually.*

Sec. 4. *If a consumer mails a notice of cancellation to the consumer litigation funding company pursuant to subparagraph (2) of paragraph (c) of subsection 1 of NRS 604C.350 and subsection 2 of NRS 604C.360 or if a consumer notifies the consumer litigation funding company as described in subsection 3 of NRS 604C.360, the consumer litigation funding company shall forward such notices to the attorney or law firm retained by the consumer in the legal claim of the consumer not later than 1 business day after receipt of the notice.*

Sec. 5. *The acknowledgement described in paragraph (g) of subsection 3 of NRS 604C.370 must be signed by the consumer, the attorney retained by the consumer in the legal claim and the consumer litigation funding company at the same time.*

Sec. 6. *As set forth in a consumer litigation funding contract pursuant to subsection 4 of NRS 604C.360, a consumer litigation funding company shall not collect:*

- 1. Anything if there are no proceeds from the legal claim; and*
- 2. Any amount above the available proceeds from the legal claim if the funded amount and agreed upon charges exceed the proceeds from the legal claim.*

Sec. 7. *1. Intentionally advertising materially false or misleading information pursuant to paragraph (c) of subsection 1 of NRS 604C.300 includes, without limitation, advertising by use of false or deceptive statements, results or testimonials.*

- 2. A consumer litigation funding company shall not advertise in any manner that:
(a) May tend to confuse the identity of the company with any other consumer litigation funding company; or
(b) States or implies that a consumer litigation funding contract of a prospective consumer with another company will be paid off or that the charges or fees for the consumer litigation*

funding contract will be reduced if the consumer litigation funding contract is transferred to the consumer litigation funding company which is advertising.

3. No unethical advertising by consumer litigation funding companies will be permitted and the Commissioner reserves the right to require all consumer litigation funding companies to submit proposed advertising for approval before its dissemination through the press, or by radio, television or the Internet.

Sec. 8. 1. To file a consumer litigation funding contract with the Commissioner pursuant to subsection 5 of NRS 604C.300, a consumer litigation funding company must submit the contract to the Commissioner for approval:

(a) When the applicant submits his or her application to obtain a license to engage in the business of a consumer litigation funding company;

(b) When a consumer litigation funding company makes any changes to the consumer litigation funding contract;

(c) If requested by the Commissioner or his or her authorized representative when making an examination pursuant to NRS 604C.610;

(d) If requested by the Commissioner when the licensee submits the report required by NRS 604C. 640; and

(e) At the request of the Commissioner or his or her authorized representative.

2. The consumer litigation funding contract filed pursuant to subsection 1 is a template and must comply with NRS 604C.300 to 604C.400, inclusive, except that the provisions concerning the details of individual consumer litigation funding transactions, including, without limitation, signatures, initials and the amount of the consumer litigation funding transaction, may be left blank. Any required details left blank must be filled in when the

consumer litigation funding contract is used to establish a consumer litigation funding transaction.

3. A consumer litigation funding contract filed:

(a) Pursuant to paragraph (a) of subsection 1 is deemed approved by the Commissioner when the Commissioner issues and delivers a license to the applicant pursuant to NRS 604C.560;

(b) Pursuant to paragraph (b) of subsection 1 is deemed approved by the Commissioner 30 days after the consumer litigation funding company files the changes to the consumer litigation funding contract with the Commissioner unless the Commissioner notifies the consumer litigation funding company in writing that the changes are not approved or need to be amended; and

(c) Pursuant to paragraph (c), (d) or (e) of subsection 1 is deemed approved by the Commissioner upon the filing of the consumer litigation funding contract with the Commissioner. Such approval may be revoked by the Commissioner not later than 30 days after:

(1) Such filing if the consumer litigation funding contract fails to conform to the requirements of subsection 2; or

(2) An investigation or examination made at the office or place of business of the consumer litigation funding company if the consumer litigation funding company fails to comply with the provisions of this chapter and chapter 604C of NRS.

Sec. 9. Except as otherwise provided in paragraph (c) of subsection 1 of NRS 604C.350 and subsection 2 of NRS 604C.360, once a consumer litigation funding contract is entered into between a consumer and a consumer litigation funding company, the consumer litigation

funding company may communicate with the consumer through electronic mail if the consumer consents in writing in the consumer litigation funding contract to such communication through electronic mail.

Sec. 10. *1. A licensee that uses a form or a consumer litigation funding contract written in a language other than English shall have the document translated into English and shall maintain a copy of the document with its English translation.*

2. A document translated pursuant to this section must be:

(a) Translated by an interpreter who is:

(1) Certified by the Court Administrator in accordance with the provisions of NRS 1.510 and regulations adopted pursuant thereto; or

(2) Approved in writing by the Division of Financial Institutions of the Department of Business and Industry.

(b) Accompanied by a certificate issued by the interpreter. The certificate must:

(1) Declare that the translated document is a true and complete translation of the document written in a language other than English;

(2) Identify the document written in a language other than English and its English translation;

(3) Include the date of the translation; and

(4) Include the name, address, telephone number and electronic mail address, if any, of the interpreter.

3. The Commissioner may require a licensee to provide a translation of any nonstandard document that is written in a language other than English.

4. The Commissioner may assess a licensee for all costs incurred by the Commissioner to verify the licensee's compliance with this section.

Sec. 11. Each licensee who operates an office or other place of business within this State that is licensed pursuant to chapter 604C of NRS shall make available at the office or place of business within this State the books, accounts, papers, records and files of the office or place of business to the Commissioner or a representative of the Commissioner.

Sec. 12. 1. An application submitted to the Commissioner pursuant to NRS 604C.500 must be accompanied by:

(a) A nonrefundable fee of \$1,000 for the application and survey;

(b) A nonrefundable investigation fee of \$50 for investigating each individual owner, partner, officer, director and manager or member who acts in a managerial capacity of the business entity applying to be a licensee; and

(c) An initial licensing fee of \$1,000.

2. If the Commissioner considers an application withdrawn pursuant to subsection 3 of NRS 604C.500 and the initial licensing fee set forth in paragraph (c) of subsection 1 has been submitted to the Commissioner or if the Commissioner does not grant an application pursuant to NRS 604C.560, the Commissioner shall refund the fee paid pursuant to paragraph (c) of subsection 1 to the applicant not later than 30 days after the withdrawal or denial.

Sec. 13. Upon entering an order granting an application pursuant to NRS 604C.560, the Commissioner will issue and deliver a license to the licensee for each location proposed pursuant to paragraph (d) of subsection 1 of NRS 604C.500. The licensee shall prominently display the license at each location where the licensee proposed to do business pursuant to paragraph (d) of subsection 1 of NRS 604C.500.

Sec. 14. 1. *A licensee who wishes to change the name of the licensee or change an officer, director or manager or member who acts in a managerial capacity of the licensee must, not later than 10 days before making the change, give written notice of the proposed change to the Commissioner.*

2. Upon receipt of the proposed change pursuant to subsection 1, the Commissioner will provide written approval of the change and the date of the approval.

Sec. 15. 1. *A partner, officer, director, manager or member who acts in a managerial capacity and registered agent of the business entity, if applicable, must satisfy the requirements of NRS 604C.510 at the time a business entity applies for a license pursuant to paragraph (b) of subsection 1 of NRS 604C.500.*

2. If the provisions of subsection 1 are not satisfied, the Commissioner will not issue a license to the business entity pursuant to NRS 604C.560.

Sec. 16. *A person shall not engage in the business of a consumer litigation funding company unless:*

- 1. The person has been issued a license pursuant to NRS 604C.560; and*
- 2. The location of each office of the business complies with the provisions of any applicable planning and zoning ordinances.*

Sec. 17. 1. *A license issued pursuant to NRS 604C.560 expires January 31 of the year following its issuance and expires on January 31 of each year thereafter.*

2. On or before January 31 of each year, a licensee may renew his or her license upon the approval of the Commissioner if:

(a) The licensee files an application showing that the licensee conforms with the requirements for an initial application as set forth in this chapter and chapter 604C of NRS; and

(b) The licensee pays a fee of \$1,000 for the renewal of the license.

3. If a licensee fails to renew his or her license pursuant to subsection 2 on or before January 31 of each year, the Commissioner will deem the license to be suspended. A licensee shall not engage in the business of a consumer litigation funding company if his or her license is suspended.

4. The Commissioner may reinstate a license that is suspended pursuant to subsection 3 if the licensee whose license is suspended, within 10 business days after his or her license is suspended:

(a) Notifies the Commissioner of his or her intent to reinstate the license;

(b) Submits an application pursuant to paragraph (a) of subsection 2; and

(c) Submits the fee pursuant to paragraph (b) of subsection 2.

5. If a licensee fails to reinstate his or her license pursuant to subsection 4, the Commissioner will deem the license to be revoked. A licensee whose license is revoked shall apply for and obtain a new license pursuant to this chapter and chapter 604C of NRS before he or she may engage in the business of a consumer litigation funding company.

6. It is the responsibility of the licensee to renew a license issued pursuant to this chapter and chapter 604C of NRS on or before January 31 of each year. A lack of notice from the Commissioner to any person concerning the expiration of a license or the need to renew a license is not justification or excuse for failure to renew a license on or before January 31 and

does not constitute grounds for a waiver of any of the requirements of this chapter or chapter 604C of NRS.

Sec. 18. 1. *The Commissioner will charge and collect a fee of \$75 per hour from each licensee for any supervision, examination, audit, investigation or hearing conducted pursuant to chapter 604C of NRS.*

2. The Commissioner will bill each licensee upon completion of the activity for the fee established in subsection 1. The fee must be paid within 30 days after the date on which the bill is received. In addition to any other fee allowed by this chapter or chapter 604C of NRS, and 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 licensee to pay the fee required in subsection 1 as provided in this section constitutes grounds for revocation of his or her license.

Sec. 19. 1. *Except as otherwise provided in NAC 658.030, each licensee shall pay to the Division of Financial Institutions of the Department of Business and Industry an annual assessment of \$300 to cover costs related to the employment of a certified public accountant and the performance of audits and examinations conducted by the Division.*

2. The Division shall bill each licensee for the assessment, which must be paid within 30 days after the date on which the bill is received.

3. In addition to any other fee allowed by this chapter or chapter 604C of NRS, a charge of 10 percent of the assessment will be imposed on any licensee whose assessment is received by the Division after the date on which the assessment is due.

Sec. 20. 1. *Each licensee shall pay to the Division of Financial Institutions of the Department of Business and Industry the assessment to cover the costs of legal services provided by the Attorney General to the Commissioner and the Division which is imposed pursuant to NRS 659.098.*

2. The Division shall bill each licensee for the assessment described in subsection 1. The licensee shall pay the assessment within 30 days after the date on which the licensee receives the bill.

3. A charge of 10 percent of the assessment described in subsection 1 will be imposed on any licensee if payment for an assessment described in subsection 1 is received by the Division after the date on which the assessment is due.

4. Failure to pay the assessment described in subsection 1 constitutes grounds for the revocation of the license of the licensee.

Sec. 21. *The report due on or before January 31 pursuant to NRS 604C.640 must:*

1. Be filed:

(a) With the Commissioner with the application for renewal required pursuant to section 17 of this regulation; and

(b) On a form prescribed by the Commissioner; and

2. In addition to the number of consumer litigation funding transactions in which the company engaged in this State for the immediately preceding year pursuant to paragraph (a) of subsection 1 of NRS 604C.640, contain for each consumer litigation funding transaction:

(a) The name of the consumer;

(b) The funded amount for each consumer; and

(c) A detail of all charges and the document preparation fee charged to each consumer.

Sec. 22. Except as otherwise provided in subsection 3 of NRS 604C.640, an application for a license and financial records, if any, submitted by an applicant pursuant to the provisions of this chapter and chapter 604C of NRS, financial records or other documents submitted by a licensee pursuant to an audit, examination or investigation conducted by the Commissioner and any report of examination made by the Commissioner are confidential and may be disclosed only to an authorized employee of the Division of Financial Institutions of the Department of Business and Industry or an agency of this State, any other state or Federal Government that is investigating the activities of an applicant or a licensee or a court upon a court order.

Sec. 23. 1. Upon the receipt of a complaint filed pursuant to NRS 604C.820, the Commissioner shall send a copy of the complaint to the licensee named in the complaint.

2. The Commissioner may require the accused licensee or authorized representative of the licensee to file a verified answer to the complaint within 10 business days after sending the copy of the complaint pursuant to subsection 1. The Commissioner may, for good cause shown, extend the time to file a verified answer for a period not to exceed 60 days.

3. If the licensee, or an authorized representative of the licensee, fails to file a verified answer within the time prescribed by the Commissioner pursuant to subsection 2, the licensee is deemed to have admitted to the allegations contained in the complaint.

4. Subject to the discretion of the Commissioner and except as otherwise provided in section 22 of this regulation, a complaint filed with the Commissioner, any documents filed with the complaint and any report or information resulting from an investigation of a complaint are confidential.

Sec. 24. 1. For the purpose of NRS 604C.820, a licensee shall post the notice set forth in subsection 2. The following conditions apply to the notice:

(a) If printed, the notice shall be printed in at least 16-point bold type or font with all upper-case letters being printed in at least 18-point type or font.

(b) If handwritten or displayed digitally or by other electronic means, the notice must be in characters that are equivalent in legibility and size to the type and font required for a printed notice.

(c) If the licensee uses a language other than English for the consumer litigation funding contract, the notice must be posted in English and also in the language other than English.

2. The following notice shall be posted on the Internet website of the licensee, at the physical location where the licensee conducts business and within the body of the consumer litigation funding contract. The notice shall be in substantially the following form:

**NOTICE OF RIGHT TO FILE A WRITTEN COMPLAINT TO THE
COMMISSIONER OF FINANCIAL INSTITUTIONS**

You may file a written complaint with the Commissioner of Financial Institutions by submitting a signed complaint to the Office of the Commissioner. The form required to file a complaint can be found on the following Internet website for Financial Institutions: www.fid.ny.gov. You can also request the form by calling the following toll-free telephone number: 1 (866) 858-8951.

Sec. 25. 1. If the Commissioner finds that a licensee's records are not maintained pursuant to NRS 604C.600 to 604C.640, inclusive, the Commissioner may require the licensee

to deliver an audited financial statement prepared from his or her records by a certified public accountant who holds a certificate to engage in the practice of public accounting in this State.

2. The statement required pursuant to subsection 1 must be submitted within 60 days after the Commissioner requests the statement. The Commissioner may grant a reasonable extension for the submission if the extension is requested before the statement is due.