

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

LCB File No. R097-20

August 21, 2020

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

AUTHORITY: §§1-4, NRS 233B.040, 598B.090 and 598B.135.

A REGULATION relating to equal opportunity for credit; interpreting the phrase “no credit history” for the purposes of certain statutory provisions; clarifying the applicability of certain statutory provisions; clarifying the rights and responsibilities provided in certain statutory provisions; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law prohibits discrimination on the basis of marital status with respect to any aspect of a credit transaction. (NRS 598B.100) Existing law also provides that, for certain applicants for credit who have no credit history, it is discrimination on the basis of marital status for a creditor to fail to comply with a request of an applicant to have the applicant’s credit history deemed to be the same as the credit history of the applicant’s spouse or former spouse as established during the marriage. (NRS 598B.135) These provisions regarding applicants with no credit history, codified as NRS 598B.135, were enacted during the 2019 Legislative Session as section 3 of Senate Bill No. 311 and are similar to a requirement in federal regulations. (12 C.F.R. § 1002.6(b)(6)(iii))

Section 2 of this regulation interprets the phrase “no credit history” for the purposes of NRS 598B.135. **Section 3** of this regulation clarifies the circumstances under which NRS 598B.135 does not apply to a creditor. **Section 4** of this regulation clarifies the scope of the rights of applicants and responsibilities of creditors as provided in NRS 598B.135.

Section 1. Chapter 598B of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *As used in NRS 598B.135, the Commissioner of Financial Institutions will interpret the phrase “no credit history” to mean that the credit report of the applicant does not contain any information concerning any credit transaction.*

Sec. 3. *The provisions of NRS 598B.135 do not apply to a creditor with regard to an application for credit if:*

- 1. The creditor cannot comply with NRS 598B.135 without violating federal law.*
- 2. The creditor cannot legally obtain the credit history of the spouse or former spouse of the applicant as needed to comply with NRS 598B.135.*
- 3. The credit history of the spouse or former spouse of the applicant which is needed to comply with NRS 598B.135 is not available to the creditor for any reason beyond the control of the creditor, including, without limitation, when the necessary credit history is no longer retained by a credit reporting agency.*

Sec. 4. *Except as otherwise provided in section 3 of this regulation, the Commissioner will interpret NRS 598B.135 so that the rights of applicants and the responsibilities of creditors for the purposes of NRS 598B.135 shall be deemed to be coextensive with the respective rights and responsibilities under 12 C.F.R. § 1002.6(b)(6)(iii).*