

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

**LCB FILE NO. R097-23I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 10/16/2023**

## DRAFT PROPOSED REGULATION OF THE

### COMMISSIONER OF THE FINANCIAL INSTITUTIONS DIVISION (“Division”)

The following document is the initial draft regulation proposed by the Division. The Division solicited comments from the industry on the proposed regulations pursuant to NRS 233B.0608(1) to determine whether the regulations would likely impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business.

The Division considered all comments and addressed the industry’s biggest concern, which was the increase in licensing, certificates, and application fees. The Division revised the fee sections to lessen the financial burden.

The revisions and/or omissions are in the following proposed regulations.

**Purpose:** To adopt regulations under the Nevada Administrative Code to implement Senate Bill No. 276 (2023), which amends Nevada Revised Statutes Chapter 649 by adding provisions related to debt buyers.

**Authority:** NRS 649.053

**Explanation:** Material in *blue bold italics* is new language; material in ~~bold brackets~~ is to be omitted from current regulation. All comments received from the small business impact notice were considered but not all could be addressed. The matters addressed are referenced in this draft as *italics* for revised and matters in brackets ~~omitted material~~ is language to be omitted.

**Section 1.** *Chapter 649 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 31, inclusive, of this regulation.*

**Sec. 2.** *NAC 649.010 Definitions. As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 649.013 to 649. \_\_\_\_, inclusive have the meanings ascribed to them in those sections and sections 2 through 5 of Senate Bill No. 276 and sections 3 and 4 of this chapter.*

**Sec. 3.** *“Principal place of business” means the physical location where the compliance manager, officers and senior management direct the collection agency business, oversee the day-to-day operations of the collection agency, and all books and records are maintained.*

**Sec. 4.** *“Affiliate” used in this chapter and Senate Bill 276, has the meaning ascribed to it in NRS 649.375 (2)(a).*

**Sec. 5.** ~~*[NAC 649.017 “Foreign collection agency” defined. (NRS 649.053) “Foreign collection agency” means a person or entity which holds a certificate of registration pursuant to NRS 649.171.]*~~

**Sec. 6.** NAC 649.076 Examination, investigation and audit of ~~{foreign}~~ collection agencies. (NRS 649.053, ~~{649.171}~~)

1. A ~~{foreign}~~ collection agency shall allow the examination, investigation or audit of any accounts, books and records by the Commissioner of Financial Institutions at any time. The Commissioner may revoke the ~~{certificate} license~~ of a ~~{foreign}~~ collection agency that does not allow him or her to conduct an examination, investigation or audit of any accounts, books and records.

2. In addition to all fees required by this chapter and chapter 649 of NRS, a ~~{foreign}~~ collection agency shall pay the *reasonable expenses for travel, meals and lodging* ~~{for the actual costs}~~

for travel in connection with any examination, investigation or audit *made at an office or principal place of business located outside this State* conducted by the Commissioner.

**Sec. 7. NAC 649.081 Preparation and submission of trust account statements and reports of financial standing.** (NRS 649.053, 649.056, ~~649.171,~~ 649.345) Each collection agency ~~and~~ ~~{foreign collection agency}~~ shall provide to the Commissioner of Financial Institutions, annually and before renewal of its license ~~{or certificate, as applicable}~~, a copy of all trust account statements, *as applicable*, and a report of its financial standing which must be prepared by a licensed certified public accountant who is in good standing in the state where the report is prepared.

**Sec. 8. ~~{NAC 649.086—Public inspection of written instruments filed with Division of Financial Institutions. (NRS 649.053, 649.065)—Except as otherwise provided in NAC 649.310 or by specific statute, all papers, documents, reports and other written instruments filed with the Division of Financial Institutions of the Department of Business and Industry pursuant to this chapter and chapter 649 of NRS are open to public inspection unless the Commissioner of Financial Institutions determines that the information is required to be withheld to protect the public welfare or the welfare of a collection agency, foreign collection agency or manager, as applicable.}~~**

**Sec.9. NAC 649.120 Collection agencies: Fees.** (NRS 649.053, 649.295)

1. An application for licensure as a collection agency must be accompanied by a nonrefundable application fee of ~~{ \$375 } { \$500 }~~ *\$375*
2. The applicant must pay an additional application fee of ~~{ \$300 } { \$600 }~~ *\$300* for each ~~{ original }~~ license issued. ~~{, of which not more than \$150 may be refunded by the Commissioner of Financial Institutions on a prorated basis if:~~

~~—(a) The applicant withdraws his or her application before the Commissioner takes action on the application;~~

~~—(b) The Commissioner deems the application withdrawn pursuant to NRS 649.196 because the applicant did not submit all required information and fees within the time specified; or~~

~~—(c) The licensee surrenders his or her license during his or her first year of licensure.]~~

3. A collection agency shall pay *a license renewal fee of \$375* ~~[\$500]~~ ~~[the following fees:~~

~~—(a) To renew a license, \$375;~~

~~—(b) For a duplicate license or a license for a transfer of location, \$15;~~

~~—(c) For each application for a permit to operate a branch office of a licensed collection agency, \$190; and~~

~~—(d) To renew a permit to operate a branch office of a licensed collection agency, \$150.]~~

~~Sec. 10. [NAC 649.130—Branch offices: Filing and contents of application for permit to operate. (NRS 649.053, 649.167)—An application for a permit to operate a branch office must be filed with the Commissioner of Financial Institutions on a form provided by the Commissioner. The application must contain:~~

~~—1. The information required by subsection 2 of NRS 649.095 for an application for a license;~~

~~—2. The number of the account maintained pursuant to subsection 2 of NRS 649.355, and the name and address of the bank where the account is maintained; and~~

~~—3. Proof that the manager named in the application holds a current manager's certificate issued by the Commissioner of Financial Institutions.]~~

Sec. 11. ~~{NAC 649.140—Branch offices: Appointment of Commissioner of Financial Institutions as agent for service of process. (NRS 649.053, 649.167)}~~

~~—1.—The Commissioner of Financial Institutions will not issue a permit to operate a branch office for which the manager is not a resident of this State until the manager has appointed in writing the Commissioner to be his or her agent, in any action or proceeding against him or her concerning chapter 649 of NRS, upon whom all process may be served. In this writing, the manager must agree that any process against the manager which is served on the Commissioner is of the same legal validity as if it had been served on him or her and state that the appointment continues in force as long as any liability remains outstanding against him or her in this State. The appointment must contain a stipulation agreeing to venue for any proceeding concerning chapter 649 of NRS in any judicial or administrative district in this State without regard to the location of the residence of the manager or the principal place of business of the collection agency. The appointment must be acknowledged before an officer authorized to take acknowledgments of deeds and must be filed in the office of the Commissioner. A copy of the appointment which is certified by the Commissioner is sufficient evidence of the appointment and agreement.~~

~~—2.—When any process is served upon the Commissioner pursuant to this section, the Commissioner shall mail the process by certified mail to the last known address of the manager. Service is complete upon the mailing. The manner of serving process described in this subsection does not affect the validity of any other service authorized by law.~~

Sec. 12. NAC 649.151 *Compliance* Managers: Fees. (NRS 649.053, 649.205, 649.295)

1. An application for a *compliance* manager's certificate must be accompanied by:
  - (a) A nonrefundable fee of ~~[\$190] [\$500];~~ \$300; and

- (b) A nonrefundable investigation fee of ~~[\$115]~~ **\$150**
2. An applicant must pay an additional application fee of ~~[\$30]~~ ~~[\$40]~~ **\$35** for issuance of the certificate.
  3. The annual renewal fee for a *compliance* manager's certificate is ~~[\$30]~~ ~~[\$40]~~ **\$35**
  4. For each *compliance* manager's certificate that is reinstated, the holder of the certificate shall pay a fee of ~~[\$45]~~ ~~[\$60]~~ **\$50**.
  5. An applicant who does not pass the examination and wishes to reapply must pay a reexamination fee of \$100 for each subsequent examination.

**Sec. 13. ~~[NAC 649.160—Foreign collection agencies: Fees; reinstatement of expired or revoked certificate; transferability of certificate. (NRS 649.053, 649.171)]~~**

~~—1.—An application for a certificate of registration as a foreign collection agency must be accompanied by an application fee of \$500. The Commissioner of Financial Institutions may refund not more than \$300 of the fee on a prorated basis if:~~

~~—(a) The applicant withdraws his or her application before the Commissioner takes action on the application;~~

~~—(b) The Commissioner withdraws the application because the applicant did not submit all information and fees within the time specified; or~~

~~—(c) The foreign collection agency surrenders its certificate of registration during its first year of registration.~~

~~—2.—The holder of a certificate of registration as a foreign collection agency must pay a fee of \$200 to renew the certificate of registration.~~

~~—3.—A certificate of registration as a foreign collection agency must not be reinstated after it expires or has been revoked by the Commissioner.~~

~~—4.— A certificate of registration as a foreign collection agency is not transferable.~~

**Sec. 14. NAC 649.210 Responsibilities.** (NRS 649.053, 649.056, 649.305)

1. The person who holds a valid *compliance* manager's certificate and who is the designated *compliance* manager of a collection agency must have direct supervisory responsibility for employees who engage in collections in this State and must participate in the actual *oversight and compliance* ~~{management, operation and administration}~~ of the licensed agency.
2. The *compliance* manager must be available in person at the *principal place of* business ~~{address}~~ of the agency in order to perform his or her required functions and duties.

**Sec.15. NAC 649.220 Restrictions on service for multiple agencies.** (NRS 649.053, 649.056)

1. No person may serve as *compliance* manager of more than one primary collection agency at the same time.
2. No person may serve as *compliance* manager of more than one secondary collection agency at the same time.
3. *Except as otherwise provided in subsection 2 of section 30 of Senate Bill 276, ~~At~~* at the discretion of the Commissioner of Financial Institutions, upon application and his or her written approval first obtained, a *compliance* manager of a collection agency may serve as *compliance* manager of one primary collection agency and one secondary collection agency at the same time.
4. The approval may be revoked by the Commissioner at any time, if he or she finds that:
  - (a) Confusion may exist in the mind of the public in dealing with the collection agencies having common management.
  - (b) The various business functions of the collection agencies operating under common management are likely to be or are being merged or commingled, or are otherwise being

conducted, in the Commissioner's opinion, in a manner which may be deleterious or damaging to the best interests of the public or the collection agency industry.

(c) Improper or abusive collection methods are being used by either or both of the collection agencies operating under common management.

(d) Either or both of the collection agencies operating under common management are not conducting their affairs in compliance with chapter 649 of NRS or any of the regulations of the Commissioner adopted under that chapter.

(e) Insufficient time is being devoted by the manager to the affairs of one or the other collection agencies operating under common management.

**Sec. 16. NAC 649.230 Notification of change of employment. (NRS 649.053, 649.056)**

Each *compliance* manager holding a manager's certificate issued pursuant to chapter 649 of NRS shall notify the Commissioner of Financial Institutions in writing of any change of employment within 10 days after the change.

**Sec. 17. NAC 649.260 Use of fictitious names. (NRS 649.053, 649.056, 649.365)**

1. A collection agency, or its *compliance* manager, agents or employees, shall not use a fictitious name in the collection of a debt unless that name has been filed with the Commissioner of Financial Institutions on a form provided by the Commissioner.

2. A *compliance* manager, agent or employee who has filed for the use of a fictitious name shall not use that fictitious name in association with another collection agency unless the Commissioner of Financial Institutions has been notified in writing of the change in association.

~~— [ 3. The Commissioner of Financial Institutions shall, within 5 days after receiving a form or notice pursuant to this section, acknowledge its receipt. ]~~

**Sec.18. NAC 649.270 Depositories used for maintenance of certain separate accounts.** (NRS 649.053, 649.056, 649.355) Each bank or credit union in which a collection agency maintains a separate account for purposes of NRS 649.355 must be insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to ~~NRS 678.755~~ **NRS 672.755**.

**Sec. 19. NAC 649.310 Failure to file verified answer to complaint; confidentiality of complaint and certain related information.** (NRS 649.053, 649.067, 649.385)

1. If a collection agency, ~~foreign collection agency~~ or person with a *compliance* manager's certificate, or an authorized representative of that collection agency ~~foreign collection agency or manager,~~ fails to file a verified answer to a complaint within the time prescribed by the Commissioner of Financial Institutions pursuant to NRS 649.385, the collection agency, ~~foreign collection agency~~ person with a *compliance* manager's certificate, or manager is deemed to have admitted to the allegations contained in the complaint.

2. Subject to the discretion of the Commissioner and except as otherwise provided in NRS 649.067 or other specific statute, a complaint filed with the Division of Financial Institutions of the Department of Business and Industry, any documents filed with the complaint, and any report or information resulting from an investigation of a complaint are confidential.

**Sec. 20. NAC 649.320 Revocation or suspension of license: Violation of certain provisions of federal law.** (NRS 649.053, 649.395) The Commissioner of Financial Institutions will consider a violation by any collection agency, *compliance manager* or collection agent of any of the provisions of 15 U.S.C. §§ 1692b to 1692j, inclusive, as those sections existed on July 1, 1986, to be an act or omission inconsistent with the faithful discharge of the duties or obligations of a

collection agency, *compliance manager* or collection agent and grounds for the suspension or revocation of the license of the collection agency, *compliance manager* or collection agent.

**Sec. 21. NAC 649.330 Revocation or suspension of license or certificate: Violation of certain regulations or statutes; procedures.** (NRS 649.053, ~~649.171~~, 649.215, 649.395) The Commissioner of Financial Institutions may revoke or suspend the license of a collection agency ~~{the certificate of registration of a foreign collection agency}~~ or a *compliance manager*'s certificate if the collection agency, ~~{foreign collection agency}~~ or *compliance manager* violates any provision of this chapter or *chapter 649 of NRS* ~~{NRS 649.305 to 649.375, inclusive}~~, including, without limitation, a provision that imposes a fee or assessment. A revocation or suspension of a license or certificate must be made in accordance with the procedures set forth in chapter 649 of NRS.

**Sec. 22. NAC 649.340 Fine for failure to submit required report.** (NRS 649.053, 649.297) The holder of a license or a *compliance manager*'s certificate who fails to submit a report required pursuant to this chapter or chapter 649 of NRS on or before the applicable due date for the report will be fined \$10 per day until the report is properly submitted to the Commissioner of Financial Institutions.

**Sec. 23.** *For purposes of section 7 of Senate Bill 276, upon request from the Office of the Commissioner, the collection agency shall provide to the Division the signed agreement, the training program provided to the collection agent, including the dates the collection agent received the training, the dates the collection agent received direct oversight and mentoring from a supervisor, and the date the collection agent begun working from a remote location.*

**Sec. 24.** *Upon request from the Office of the Commissioner, the collection agency shall provide to the Division, its documented plan, policies and procedures for compliance with section 8 and 9 of Senate Bill 276.*

**Sec. 25.** *Upon request from the Office of the Commissioner, the collection agency shall provide to the Division, any recorded telephone calls, including the record of collection agents who are authorized to work from a remote location with the information required in section 10 subsection 4 of Senate Bill 276.*

**Sec. 26.** *The physical principal place of business of a licensee must be located in the United States and comply with NAC 649.250.*

**Sec. 27.** *A collection agent of a licensee working from a remote location must be located in the United States.*

**Sec. 28.** *For the purposes of section 26.5 subsection 4 of Senate Bill 276, the certifications must be valid and satisfactory to the Commissioner in order for the Commissioner to waive the compliance manager examination.*

**Sec. 29.** *The Commissioner may request any information or documentation deemed necessary to perform an examination or investigation of an applicant, licensee or certificate holder.*

**Sec. 30.** *For the purposes of section 6 and 49 of Senate Bill 276, the unique identifier license number and certificate numbers shall be posted on the home page of the collection agencies website or on a page that is clearly and conspicuously connected to the home page by a link that clearly reveals its contents.*

**Sec. 31. 1.** *For the purposes of section 18 subsection 4 of Senate Bill 276:*

- (a) Subject to subsection (b) of this section, a licensed debt buyer may share a single license with affiliated debt buyers, if those affiliates are passive debt buyers and do not employ persons to collect claims.*
- (b) A licensee must receive prior approval from the Division to add any such affiliate to its license.*
- (c) A licensee must submit a listing of its affiliated companies with the annual report of conditions due on April 15th, and at any time requested by the Commissioner.*
- (d) A licensee sharing its license with an affiliate is responsible and liable for the actions of its affiliate if those affiliates violate any provision of this chapter or chapter NRS 649, during that time that the licensee is affiliated with any such affiliate.*
- (e) A licensee must promptly request the Division remove an affiliated company from its license.*