

LCB File No. R140-08

PROPOSED REGULATION OF THE COMMISSIONER OF FINANCIAL INSTITUTIONS

Explanation: Material in ***bold italics*** is new material; material lined out within ~~**bold brackets**~~ is material to be omitted.

Purpose: To adopt regulations under chapter 677 of the Nevada Administrative Code relating to thrifts by establishing the amount of certain fees; providing for certain definitions and policies; and providing other matters properly relating thereto.

General Authority: NRS 677.160, 677.360.

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Sec. 1. Chapter 677 of the NAC is hereby amended by adding thereto the provisions set forth as sections 2 through 4, inclusive, of this regulation.

Sec. 2. NAC 677.131 is amended as follows:

NAC 677.131 Fees: Application for authority to engage in business; issuance of license.
(NRS 677.160, 677.380)

1. An original application submitted pursuant to NRS 677.160 must be accompanied by:
 - (a) A fee of ~~[\$1,500]~~ ***\$2,000*** for the principal office; and
 - (b) A fee of ~~[\$225]~~ ***\$300*** for each branch office.
2. Upon approval of the license and before issuance, the applicant shall pay:
 - (a) A fee of ~~[\$750]~~ ***\$1,000*** for the principal office; and
 - (b) A fee of ~~[\$150]~~ ***\$200*** for each branch office.

Sec. 3. NAC 677.135 is hereby amended as follows:

NAC 677.135 Fees: Renewal of license; reinstatement of expired license. (NRS 677.360, 677.380)

1. A licensee shall pay annually to the Division of Financial Institutions of the Department of Business and Industry a fee of ~~[\$750]~~ **\$1,000** for the renewal of his license.

2. If the Commissioner of Financial Institutions reinstates an expired license, the licensee shall pay a reinstatement fee of ~~[\$300]~~ **\$400** in addition to the renewal fee prescribed in subsection 1.

Sec. 4. Confidentiality of Financial Records, Applications and Examinations. (NRS 677.380; 677.430)

The application and financial records submitted by a person pursuant to the provision of this chapter, any financial records or other documents submitted by a licensee pursuant to an audit or examination conducted by the Division and any report of examination by the Division are confidential and may be disclosed only to:

- 1. The Division;*
- 2. An authorized employee of the Division who needs the records for purposes relating to the administration of this chapter; or*
- 3. A person or governmental entity that is authorized to obtain the records pursuant to an order issued by a court of competent jurisdiction.*

Sec. 5. Contested Hearings. (NRS 677.380)

1. The Commissioner may issue an order to cease and desist and/or to pay an administrative fine upon a person pursuant to this chapter. The Commissioner shall:

- a. Provide a copy of the order by certified mail to the person;*
- b. Provide the person notification that he has 30 days to request an administrative hearing, and if no written application for a hearing is received by the Division, the order shall become final.*

Sec. 6. Order: Amendment; continuance; withdrawal. (NRS 677.380)

1. If a person engages in an activity in violation of the provisions of this chapter of NRS, the Commissioner may issue an order to the person directing the person to cease and desist from engaging in the activity.

2. The order to cease and desist must be in writing and must state that, in the opinion of the Commissioner, the person has engaged in an activity:

(a) For which the person has not received a license or certificate of exemption as required by this chapter; or

(b) In a manner that violates the provisions of this chapter or any applicable law.

3. A person who receives an order to cease and desist pursuant to this section shall not engage in any activity governed by this chapter after he receives the order unless the order is suspended or rescinded.

4. The order imposing the administrative fine or restricting the practices of the licensee may be amended at any time before and during the hearing.

5. *The hearing officer assigned to the matter may grant a continuance if the amendment materially alters the facts or the legal issues related to the order or a respondent demonstrates an inability to prepare for the case in a timely manner.*

6. *An order may be withdrawn at any time before the hearing begins.*

2. *If a timely application for a hearing is received by the Division, a presiding hearing officer shall conduct a contested hearing.*

7. *Each party may request that the presiding hearing officer issue a subpoena to compel the attendance of witnesses. The party making the request shall be responsible for paying mileage for the witness.*

8. *The petitioner has the burden of proof in a contested case.*

9. *The decision of the presiding hearing shall be final for the purposes of judicial review.*

Sec. 7. *The hearing officer is not bound by strict rules of procedure and evidence. (NRS 677.380)*

1. *The hearing officer will not be bound by strict rules of procedure or the Nevada Rules of Evidence in the conduct of its proceedings.*

2. *A record of the charges and a record of all evidence produced will be filed in the office of the Financial Institutions Division.*

3. *A hearing held pursuant to the provisions of this chapter, will be conducted pursuant to the provisions of chapter 233B of NRS.*

Sec. 8. *Hearing officer: Duties; authority. (NRS 677.380)*

1. *The hearing officer may:*

(a) *Conduct hearings;*

(b) *Question witnesses;*

(c) *Make rulings on motions and objections; and*

(d) *Submit findings of fact or conclusions of law at the conclusion of the case.*

2. *The findings of fact and conclusions of law issued by the hearing officer is the final decision for purposes of judicial review.*

Sec. 9. *Failure to appear. (NRS 677.380)* *If a party fails to appear at a hearing scheduled by the hearing officer and a continuance has not been requested or granted, upon an offer of proof by the other party that the absent party was given proper notice and upon a determination by the Board that proper notice was given, the hearing officer may proceed to consider the case without the participation of the absent party and may dispose of the matter on the basis of the evidence before it. If the respondent fails to appear at the hearing or fails to reply to the notice, the charges specified in the complaint may be considered as true.*

Sec. 10. *Examination of witnesses. (NRS 677.380)*

1. *A party may call any other party or witness as an adverse witness. The party may question such a witness as if conducting a cross-examination.*

2. *Any party who is surprised by the testimony of a witness, called in good faith as a witness on his behalf, may question the witness as if conducting a cross-examination.*