

**ADOPTED REGULATION OF
THE STATE BOARD OF FINANCE**

LCB File No. R069-09

Effective October 27, 2009

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

AUTHORITY: §1, NRS 355.178.

A REGULATION relating to local governmental finances; establishing prerequisites for the granting by the State Board of Finance of authorization for certain local governments to lend securities from their investment portfolios; and providing other matters properly relating thereto.

Section 1. Chapter 355 of NAC is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Finance will not authorize the governing body of a city or consolidated municipality whose population is 25,000 or more but less than 150,000 to lend securities from its investment portfolio pursuant to NRS 355.178 unless the city or consolidated municipality:

(a) Has adopted a written policy for investment which:

(1) Sets forth the procedures to be used for such lending; and

(2) Has been approved by the State Board of Finance; and

(b) Uses an agent to manage such lending who meets the requirements of subsections 2 and 3.

2. If all securities received as collateral from the borrower and investments of cash received as collateral from the borrower are limited to instruments issued by the Federal

Government and its agencies and to repurchase agreements and money market accounts based upon such instruments, and those instruments, agreements and accounts will mature no later than the contractual return date of the loaned securities, the agent must:

(a) Be:

(1) Registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940, 15 U.S.C. §§ 80b-1 et seq., as amended; or

(2) A bank or trust company which is organized and either operating or licensed to operate in the United States in accordance with federal law or the law of any state;

(b) Be chosen by the city or consolidated municipality through a formal process of competitive selection;

(c) Enter into a binding contract with the city or consolidated municipality which obligates the agent to abide by the terms of the written policy described in paragraph (a) of subsection 1; and

(d) Agree with the city or consolidated municipality to exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the investment of their money, considering the probable income as well as the probable safety of their capital.

3. If any securities received as collateral from the borrower or investments of cash received as collateral from the borrower are not limited to the instruments, agreements and accounts described in subsection 2, the agent must:

(a) Meet all the requirements set forth in subsection 2;

(b) Be operating a securities lending program which has been in operation for at least 5 years; and

(c) Have at least five clients participating in its securities lending program, at least one of whom is a public institution whose portfolio has a book value of not less than \$100,000,000.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R069-09**

The State Board of Finance adopted regulations which pertain to chapter 355 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 355.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Copies of the proposed regulations, notices of workshops and notices of intent to act upon the regulation were sent by U.S. mail, fax and email to persons who could be subject to the proposed regulations or could have an interest in securities lending programs. In addition, the proposed regulations and all notices of workshops and notices of intent to act on the regulation were sent directly to all county clerks/treasurers, were placed on the State Treasurer's website – nevadatreasurer.gov, sent to all county libraries in Nevada for posting and posted at the following locations:

- Nevada State Capitol Building, 101 North Carson Street, Carson City, Nevada
- Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada
- Legislative Building 401 South Carson Street, Carson City Nevada
- State Library, 100 Steward Street, Carson City, Nevada
- State Treasurer's Office, Suite 4600, Grant Sawyer Building, 555 E. Washington, Las Vegas, Nevada

A workshop was held on August 26, 2009. The minutes of the workshop are attached which contain a summary of the discussion held. No comments were offered requiring amendments to the proposed regulations. Thereafter, on September 5, 2009, the Board of Finance issued a Notice of Intent to Act Upon a Regulation.

Three comments, two in support and one neutral, were received. A copy of the summary of the public response to the proposed regulations may be obtained from the Office of the State Treasurer, 101 N. Carson Street, Suite 4, Carson City, NV 89701 or by email mwine@nevadatreasurer.gov.

2. A statement indicating the number of persons who attended each meeting or workshop, testified at each hearing, and submitted written statements regarding the proposed regulations:

One person outside the employment of the State Treasurer's Office attended the workshop held on August 26, 2009. This person voiced their support of the proposed regulation. One written statement in support of the proposed regulation was also received in advance of the workshop.

No one outside the employment of the State Treasurer's Office attended the hearing held on October 7, 2009. One written statement which was neutral to the proposed was also received in advance of the hearing.

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Since this proposed regulation had no impact on businesses, no comments were solicited.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reason for adopting the regulation without change.

No changes to the regulations were proposed at the workshop or hearing.

5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

- a. Both adverse and beneficial effects; and**
- b. Both immediate and long-term effects.**

- a. Since this proposed regulation does not regulate businesses, it has no adverse or beneficial effect on businesses. However, since it does regulate certain governmental entities it may have an impact to the public as constituents of that governmental entity. It is the intention of this regulation to provide safeguards over securities lending programs administered by the governmental entity which would, in turn, protect the financial assets of the entities.
- b. It is the intention of these proposed regulations to protect the financial assets of the governmental entities; there is no distinction between the immediate and long-term effects.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the agency for enforcement of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or governmental agency regulations that the proposed amendments duplicate.

- 8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

Not applicable.

- 9. If the regulations provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

Not applicable.

- 10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business; or directly restrict the formation, operation or expansion of a small business? What method did the agency use in determining the impact of the regulation on a small business?**

Since the regulation is aimed at certain governmental entities, the Board of Finance has determined that the proposed regulation does not impose a direct and significant economic burden upon a small business or restrict the formation, operation or expansion of a small business. In making this determination the Board considered the fact that the proposed amendment only applies to activity by local and state government and imposes no direct requirements on any private business.