

**ADOPTED REGULATION OF THE
SECRETARY OF STATE**

LCB File No. R073-11

Effective December 30, 2011

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

AUTHORITY: §§1-3, NRS 225.085.

A REGULATION relating to records; establishing provisions governing the determination of whether a record has been timely filed with the Secretary of State; adopting provisions governing the imposition of penalties for the failure to timely file a record with the Secretary of State; establishing provisions governing the circumstances under which the Secretary of State will refuse to accept a record filed with him or her; and providing other matters properly relating thereto.

Section 1. Chapter 225 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this regulation.

Sec. 2. 1. *A record authorized or required by law to be filed with the Secretary of State pursuant to title 7 of NRS which must be filed on or before a due date specified by law is filed with the Secretary of State in compliance with that due date if:*

(a) The record is received in the Office of the Secretary of State on or before the close of business of the Office of the Secretary of State on the date of the deadline.

(b) The record is submitted electronically to the Office of the Secretary of State and is received in the Office of the Secretary of State at any time on the date of the deadline.

(c) The due date prescribed by law is a Saturday, Sunday or legal holiday pursuant to NRS 236.015 and:

(1) The record is received in the Office of the Secretary of State before the close of business of the Office of the Secretary of State on the next day which is not a Saturday, Sunday or legal holiday pursuant to NRS 236.015; or

(2) If the record is submitted electronically to the Office of the Secretary of State, the record is received in the Office of the Secretary of State at any time on the next day which is not a Saturday, Sunday or legal holiday pursuant to NRS 236.015.

(d) The record was mailed to the Office of the Secretary of State by a method which guarantees delivery to a destination within a specific period, if the person mailing the record provides proof to the Secretary of State that the record was guaranteed to be delivered on or before the date of the deadline prescribed by law and the record is received in the Office of the Secretary of State not later than 3 days after the date of the deadline.

2. The date of the postmark dated by the post office on the envelope in which a record was mailed to the Office of the Secretary of State will not be considered when determining whether the record was received in the Office of the Secretary of State in compliance with a due date specified by law for that record.

Sec. 3. 1. *The Secretary of State will accept for filing any record authorized or required by law to be filed with the Secretary of State pursuant to title 7 of NRS if:*

(a) The record is received in the Office of the Secretary of State on or before any applicable due date as determined pursuant to section 2 of this regulation;

(b) All information required by law for filing the record appears legibly on the record; and

(c) The record is accompanied by all applicable fees and penalties.

2. If a record authorized or required by law to be filed with the Secretary of State pursuant to title 7 of NRS must be filed on or before a due date specified by law and is not

received in the Office of the Secretary of State on or before that due date as determined pursuant to section 2 of this regulation, the Secretary of State will:

(a) Impose any penalties and additional fees required by law.

(b) Except as otherwise provided in subsection 3, refuse to accept the record for filing unless:

(1) All information required by law for filing the record appears legibly on the record;

and

(2) The record is accompanied by the appropriate fees and penalties.

3. The Secretary of State will not refuse to accept a record for filing pursuant to paragraph (b) of subsection 2 if:

(a) The person who submitted the record has requested expedited service pursuant to paragraph (d) of subsection 2 of NRS 225.140 for the filing of the record; and

(b) Upon verbal notification from the Office of the Secretary of State of any deficiency which is a basis for a refusal to accept the record for filing, the person who submitted the record immediately corrects the deficiency. If the Office of the Secretary of State is unable to provide verbal notification of the deficiency or if the person who submitted the record does not immediately correct the deficiency, the Secretary of State will refuse to accept the record for filing and will return the record pursuant to subsection 4 to the person who submitted it.

4. If the Secretary of State refuses to accept a record for filing pursuant to paragraph (b) of subsection 2 or subsection 3, the Secretary of State will:

(a) Return the record to the person who submitted the record; and

(b) Notify in writing or by electronic means the person who submitted the record of the reason for the refusal to accept the record for filing and the applicable penalties and additional fees required by law.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB File No. R073-11**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) Chapter 225.

1) Public comments were solicited at the December 16, 2011 public workshop to solicit comments on proposed regulations and the December 23, 2011 hearing for the adoption of regulations. Copies of the proposed regulations, notices of workshop and notices of intent to act upon the regulations were sent via fax and email to persons known to have an interest in the subject of care, custody and control of documents filed with the Secretary of State. These documents were also made available on the Secretary of State website, **www.NVSOS.gov** and posted at the following locations:

- The Capitol Building, 101 North Carson Street, Carson City, Nevada 89701
- The State Library, 100 North Stewart Street, Carson City, Nevada 89701
- The Secretary of State-Reno, 500 Damonte Ranch Pkwy, Suite 657-A, Reno, Nevada 89521
- The Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada 89101
- Nevada State Legislative Building, 401 South Carson Street, Carson City, Nevada 89701

The minutes of the December 16, 2011 public workshop to solicit comments on proposed regulations and the December 23, 2011 hearing for the adoption of regulations are attached hereto and contain a summary of the brief discussion held regarding the proposed amendments. A copy of the workshop and hearing minutes may be obtained from the office of the Secretary of State, 101 N. Carson Street, Suite 3, Carson City, Nevada 89701, 775-684-5720 or via email sent to **scotta@sos.nv.gov**.

2) The number persons who:

- (a) **Attended the December 16, 2011 public workshop: 3**
- (b) **Testified at the December 16, 2011 public workshop: 1**
- (c) **Submitted to the agency written comments: 2**
- (d) **Attended the December 23, 2011 hearing for the adoption of regulations: 5**

3) Comments were solicited from affected businesses in the same manner as they were solicited from the public.

4) The permanent regulation was adopted on December 23, 2011 and included no changes to the LCB version of the proposed regulation as a result of public comment, as public comment submitted at the December 16, 2011 public workshop to solicit comments on proposed regulations were related to the agency version of the proposed regulation. The LCB version, which was the version discussed at the workshop, addressed the concerns received. There was an amendment to the LCB version of the regulation offered by the Secretary of State. That amendment replaces Section 2 of R073-11 and accurately reflects when an electronic filing is received in the office of the Secretary of State.

- 5) There is no estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public.
- 6) There is no additional cost to the agency for enforcement of this regulation.
- 7) There are no other state or government agency regulations that the proposed amendments duplicate.
- 8) The proposed regulation does not include provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.
- 9) The proposed regulation does not involve a new fee or increases an existing fee.
- 10) The proposed regulation is not 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.