

**PROPOSED REGULATION OF
THE SECRETARY OF STATE**

LCB File No. R080-11

STATE BUSINESS LICENSES

Chapter 76 of NAC is hereby amended by adding thereto a new section to read as follows:

NAC 76 Definitions. (NRS 76.010) As used in NAC 76.020 – 76.040 inclusive, unless the context otherwise requires, the words and terms defined in NAC 76.752 to 76.758, inclusive, have the meanings ascribed to them in those sections.

NAC 76 “Average annual wage” defined. (NRS 76.020) “Average annual wage” means the average annual wage for a calendar year as computed pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

NAC 76 “Business” defined. (NRS 76.020) “Business” has the meaning ascribed to it in NRS 76.020.

NAC 76 “Federal tax year” defined. “Federal tax year” means any period of 12 months for which a person is required to report income, tax deductions and tax credits pursuant to the provisions of the Internal Revenue Code and any regulations adopted pursuant thereto.

NAC 76 “State business license” defined. (NRS 76.030) “State business license” means the business license required by NRS 76.100.

NAC 76 A business whose primary purpose is to create or produce motion pictures defined. (NRS 76.020)

1. For the purposes of NRS 76.02, the term a business whose primary purpose is to create or produce motion pictures means an artificial or natural person pursuant to NRS 231.127 1(a) and registered with the Division of Motion Picture pursuant to NRS 231.128 1(a).

*Applicability of exemption from licensing; requirement to obtain license.
The exemption for a motion picture business applies to only those persons whose creation or production of motion pictures occur in Nevada and provides a registration number issued by the Nevada Film office annually on a form prescribed by the Secretary of State.*

NAC 76 Governmental Entity defined (NRS 76.020)

1. For the purposes of NRS 76.020, a governmental entity is an incorporated or unincorporated agency or instrumentality of the United States government or any state government; a corporation wholly owned by the United States government; or county, city, district, or other political subdivision of a state.

a) A governmental entity may create or form an artificial person pursuant to NRS Title 7 for which an exemption to the annual state business license may be granted at the time that the annual list of officers is filed.

NAC 76 Applicability of exemption from licensing; requirement to obtain license. (NRS 680B.020)

1. The exemption for a person pursuant to NRS 680B.020 applies to only those persons any person whose business activities are regulated through a license or certificate of authority granted by the Nevada Division of Insurance pursuant to NRS Title 57.

2. A person seeking the exemption must provide a license number issued by the Nevada Division of Insurance office annually on a form prescribed by the Secretary of State.

NAC 76.760 "Person who operates a business from his home" defined. (NRS 76.020,) For the purposes of NRS 76.020 the term "person who operates a business from his home" means a natural person who individually operates or a married couple who jointly operate a business from a personal residence within the state of Nevada if:

1. No part of the personal residence is held open to the general public for use in furtherance of that business including provisions pursuant to NRS 77.390, NRS 14.020-.030 inclusive; and

2. No real property is owned, leased, rented or licensed by the natural person or the married couple for use in furtherance of that business, other than the personal residence and any real property owned, leased, rented or licensed for the sole purpose of:

(a) Maintaining a post office box;

(b) Posting a business license in accordance with the requirements of a municipal or county ordinance; or

(c) Periodically exhibiting or selling goods or services at a temporary or seasonal fair, market, show or exhibition.

NAC 76. Home-based businesses: Applicability of exemption from licensing; requirement to obtain license.

1. The exemption for a home-based business does not apply to a person who operates a business from his home during a federal tax year in which:

(a) He or she at any time failed to qualify as a person who operates a business from his home, as that term is interpreted pursuant to NAC 76.760 ; or

(b) His or her net earnings from that business were greater than 66 2/3 percent of the average annual wage for the most recent calendar year ending before the last day of that federal tax year.

2. Except as otherwise provided in 2, a person described in subsection 1 shall obtain a state business license for that business not later than 180 days after the last day of a federal tax year in which the exemption for a home-based business does not apply to him.

3. As used in this section:

(a) "Exemption for a home-based business" means the provisions of paragraph (c) of subsection 2 of NRS 76.020.

(b) "Federal tax year" means a federal tax year ending on or after December 31, 2010.

NAC 76 Home-based businesses: Liability for annual fee.

1. If a person who operates a business from his home is required to obtain a state business license as a result of his net earnings from that business, his liability for each annual fee required by NRS 76.130 depends upon the net earnings of the person from that business for the most recent federal tax year ending before the date on which that fee would otherwise become due. The person is not liable for that fee if he establishes to the reasonable satisfaction of the Secretary of State that those net earnings were less than 66 2/3 percent of the average annual wage for the most recent calendar year ending before the date on which that fee would otherwise become due.

2. For the purposes of this section, the Secretary of State, on a form prescribed by the office, will request the natural person to provide annually the net earnings reported on the federal income tax return filed with the Internal Revenue Service for a business which a person operates from his home for the preceding year as satisfactory evidence of the net earnings of the person from the business.

NAC 76.772 Exemption of certain persons from requirement to obtain license for activity conducted in furtherance of business. (NRS 76.090, 76.765, 76.780)

1. If a person, other than a natural person, has a state business license for the conduct of a business by that person, no natural person is required to obtain a state business license for any activity conducted in furtherance of that business solely because any income, tax deductions or tax credits attributable to that activity may be reported to the Internal Revenue Service as income or loss from a partnership, S corporation, estate, trust or real estate mortgage investment conduit on a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form.

2. If a partnership or limited-liability company has a state business license for the conduct of a business by that person, no partner or member thereof is required to obtain a state business license for any activity conducted in furtherance of that business solely because any income, tax deductions or tax credits attributable to that activity may be reported to the Internal Revenue Service as income or loss from:

(a) A sole proprietorship on a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form; or

(b) A farm on a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form.

3. For the purposes of this section:

(a) "Limited-liability company" means a person organized pursuant to chapter 86 of NRS or the equivalent laws of another jurisdiction.

(b) "Partnership" means any association of two or more persons described in NRS 87.060, regardless of whether that association reports to the Internal Revenue Service partnership income, tax deductions or tax credits on Form 1065, U.S. Return of Partnership Income, or its equivalent or successor form.