

Chapter 231A of NAC

ADOPTED TEMPORARY REGULATION OF THE DIRECTOR OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY

LCB File No. T001-15

(Filed with the Secretary of State on February 2, 2015)

December 29, 2014

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

AUTHORITY: §1 NRS 231A.150.

A TEMPORARY REGULATION revising provisions of the Nevada New Markets Jobs Act to facilitate the creation of a Qualified Low-Income Community Investment by allowing a capital, equity investment or loan to be made directly or indirectly to a Qualified Low-Income Community Business and providing other matters properly relating thereto.

- Section 1.** *1. For the purposes of NRS 231A.140, a capital or equity investment or loan may be made directly or indirectly to a qualified active low-income community business through one or more special purpose entities.*
- 2. A special purpose entity may not pay any fees in connection with any activity associated with the qualified low-income community investment.*
- 3. For the purposes of this section, a “special purpose entity” means an entity created solely for the purpose to make or otherwise facilitate a qualified low-income community investment in a qualified active low-income community business.*
- Sec. 2.** *This regulation applies retroactively to a qualified low-income community investment made on or before the effective date of this regulation.*

**INFORMATION STATEMENT FOR ADOPTION OF TEMPORARY REGULATION
FOR NRS 231A – NEW MARKETS JOB ACT**

1. A clear and concise explanation of the need for the adopted temporary regulation.

The adopted temporary regulations promulgated under NRS 231A facilitates and helps meet the critical need for access to capital for low-income Nevada businesses by providing them the ability to get below market rate loans. This temporary regulation delineates the administrative requirements of NRS 231A New Markets Job Act. It allows the capital or equity investment or loan to be made indirectly to a qualified active low-income community business through one or more special purpose entities.

2. 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 temporary regulation, notices of workshop and notices of intent to act upon the regulations were sent by U.S. mail and email to persons who were known to have an interest in the subject of the New Markets Job Act as well as any persons who had specifically requested such notice. These documents were also made available at the website of the Department of Business and Industry, www.business.nv.gov, Nevada Public Notice Website, Administrative Regulations Notices –Meetings and Workshops website, and mailed to all county libraries in Nevada and posted at the following locations:

- Nevada State Library & Archives, 100 North Stewart Street, Carson City, NV 89701
- Legislative Building, 401 South Carson Street, Carson City, NV 89701
- Grant Sawyer State Building, 555 East Washington Avenue, Las Vegas, NV 89101
- Department of Administration, 209 East Musser Street, Room 200, Carson City, Nevada 89701-4298
- Department of Business & Industry, 555 East Washington Avenue, Suite 4900, Las Vegas, NV. 89101
- Department of Business & Industry, 1830 College Pkwy, Suite 100, Carson City, NV. 89706

A workshop was held pursuant to NRS 233B.061 on December 15, 2014 and the minutes of that meeting, attached hereto, contain a summary of the discussion held regarding the proposed regulations. On or about November 24, 2014, the Director of the Department of Business and Industry issued a Notice of Intent to Act Upon a Regulation that incorporated the proposed temporary regulations reviewed by the parties attending the December 15th workshop.

A public hearing was held on December 29, 2014. At that hearing, comments were given on the proposed temporary regulations but no concerns were raised. The minutes of that meeting, attached hereto, contain a summary of that hearing. Additional copies of this summary of the public response to the adopted temporary regulation may be obtained from the Department of Business and Industry, 555 East Washington Avenue, Suite 4900, Las Vegas, NV 89101 or telephone Kent Steadman at (702) 486-3755 or email at ksteadman@business.nv.gov.

3. The number of persons who:

(a) Attended each hearing: December 15, 2014: 22; December 29, 2014: 12

(b) Testified at each hearing: December 15, 2014: 8; December 29, 2014: 7

(c) Submitted to the agency written comments: Attached written comments were received from Ballard-Spahr and Eclipse Theater.

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to the agency conducting the hearing: Name, Telephone number, Business address, Business telephone number, Electronic mail address, Name of entity or organization represented:

| Name | Company | Email | Address | Phone Number |
|-------------------------|--|--|---|---------------------|
| Doug Bystry | Clearinghouse CDFI | dbysty@clearinghousecdfi.com | 23861 El Toro Road, Suite 401, Lake Forrest, CA 92630 | 949-859-3600 |
| Brian Maddox | Clearinghouse CDFI | brianm@clearinghousecdfi.com | 2300 W Sahara Ave., Las Vegas, NV 89102 | 702-522-2283 |
| Steven LeBlanc | Stonehenge Capital Company, LLC | sleblanc@stonehengecapital.com | 191 W. Nationwide Boulevard, Suite 600, Columbus, OH 43215 | 614-545-7246 |
| Phil Stoeckinger | City of Las Vegas | pstoeckinger@lasvegasnevada.gov | City Hall, 495 S Main St., 6th Floor, Las Vegas, NV 89101 | 702-229-1845 |
| Robert Anderson | Snell & Wilmer | rcanderson@swlaw.com | 3883 Howard Hughes Parkway Suite 1100, Las Vegas, NV 89169 | 702-784-5386 |

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|------------------------------|------------------------------|---------------------------------|---|---------------------|
| Nic Steele | Eclipse | nic@eclipsetheaters.com | 11700 W. Charleston Blvd. #170-124, Las Vegas, NV 89135 | 347-927-7174 |
| Janpeg Avignon-Steele | Eclipse | nic@eclipsetheaters.com | 11700 W. Charleston Blvd. #170-124, Las Vegas, NV 89135 | 404-664-6882 |
| Eric Bordenave | City of Las Vegas | ebordenave@lasvegasnevada.gov | City Hall, 495 S Main St., 6th Floor, Las Vegas, NV 89101 | 702-229-6551 |
| Chris Gibson | Twain Financial | Chris.Gibson@twainfinancial.com | 1324 Washington Ave, Suite 200, St. Louis, MO 63103 | 314-300-4171 |
| Tracey Gunn | USBCDE | tracey.gunn@usbank.com | 1307 Washington Ave. Suite 300, St. Louis, MO 63103 | 314-335-2617 |
| Sharon Chamberlain | Northern Nevada HOPES | sharon@nnhopes.org | 467 Ralston Street, Reno, NV 89503 | 775-348-2895 |
| David Altman | Northern Nevada HOPES | daltman@iprgroup.net | 1745 South Shore Blvd, Lake Oswego, Oregon 97034 | 504-569-7904 |
| Robert C. Kim | Ballard-Spahr | KimR@ballardspahr.com | 100 North City Parkway, Suite 1740, Las Vegas, NV 89106 | 702-868-7512 |

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|-------------------------|--|---------------------------------|---|---------------------|
| Jay Harrison | Clearinghouse CDFI | jayh@clearinghousecdfi.com | 23861 El Toro Road, Suite 401, Lake Forrest, CA 92630 | 949-528-3069 |
| Lynelle Hashway | Washoe Tribe | Lynelle.Hashway.washoetribe.us | 919 US Highway 395, Gardnerville, NV 89410 | 775-265-8600 |
| Lorne Malkiewich | R&R Partners | lorne.malkiewich@rrpartners.com | 615 Riverside Drive Reno, NV 89503 | 775-291-7031 |
| Greg Weyland | Washoe Tribe | greg.weyland@washoetribe.us | 919 US Highway 395, Gardnerville, NV 89410 | 775-265-8600 |
| Neil Mortimer | Washoe Tribe | neil.mortimer@washoetribe.us | 919 US Highway 395, Gardnerville, NV 89410 | 775-265-4191 |
| Colleen Platt | Attorney Generals Office | cplatt@ag.nv.gov | 100 N. Carson Street Carson City, NV 89701 | 775-684-1222 |
| Bruce Breslow | Dept of Business & Industry | Breslow@business.nv.gov | 1830 College Pkwy Ste. 100, Carson City, NV 89706 | 775-684-2987 |
| Terry Reynolds | Dept of Business & Industry | TReynolds@business.nv.gov | 1830 College Pkwy Ste. 100, Carson City, NV 89706 | 775-684-2995 |
| Kent Steadman | Dept of Business & Industry | ksteadman@business.nv.gov | 555 E. Washington Ave., Ste. 4900, Las Vegas, NV 89101 | 702-486-3755 |

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| Carrie Foley | Dept of Business & Industry | CFooley@business.nv.gov | 555 E. Washington Ave., Ste. 4900, Las Vegas, NV 89101 | 702-486-2750 |
| Linda Gooley | Dept of Business & Industry | lgooley@business.nv.gov | 555 E. Washington Ave., Ste. 4900, Las Vegas, NV 89101 | 702-486-5320 |
| Cris Carmona | Dept of Business & Industry | ccarmona@business.nv.gov | 555 E. Washington Ave., Ste. 4900, Las Vegas, NV 89101 | 702-486-5326 |

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

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained as instructed in the response to question #1.

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

These temporary regulations promulgated under NRS 231A facilitate and help meet the critical need for access to capital for businesses in Low-Income Areas by providing them the ability to get below-market rate loans.

7. 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.

1. The estimated economic effect of the regulation on the businesses, which it is to regulate:
 - a. Adverse effect:
 - i. Immediate effect - No adverse effect due to the promulgation of this temporary regulation.
 - ii. Long-term effect - No adverse effect due to the promulgation of this temporary regulation.
 - b. Beneficial effect:
 - i. Immediate effect – Qualified Active Low-Income Community Businesses will be able to below market rate loans. These loans will help them expand their business.

- ii. Long-term effect – Qualified Active Low-Income Community Businesses will have below market rate loans to provide operating capital to grow and expand their businesses. They will be able to hire more employees.
- 2. The estimated economic effect of the regulation on the public:
 - a. Adverse effect:
 - i. Immediate effect - No adverse effect due to the promulgation of this temporary regulation.
 - ii. Long-term effect - No adverse effect due to the promulgation of this temporary regulation.
 - b. Beneficial effect:
 - i. Immediate effect – The public may become aware of low-interest loans for businesses in low-income areas and notice businesses are investing new operating capital to expand and grow.
 - ii. Long-term effect – With Qualified Active Low-Income Community Businesses having below market rate loans to help them grow and expand, the public will likely notice businesses are growing and more people are working. Other states with New Markets Tax Credit programs report seven to eight thousand new jobs were created and the states receive three to four dollars in taxes for every New Market Tax Credit tax dollar invested.

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

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

9. A description of any regulations of other state or government agencies of 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 government agency regulations that the proposed amendments duplicate.

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

N/A

11. If the regulation 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.

N/A