

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
Informational Statement
LCB FILE NO. R098-23
(Governor Lombardo's Executive Order)**

The following statement is submitted for adoption of regulations pertaining to Nevada Administrative Code ("NAC") Chapters 628B, 657, 662, 672, 676A, 677 and 678.

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

The regulation is required as a result of Governor Lombardo's Executive Order 2023-003.

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

Copies of the proposed regulation, notice of workshop, small business impact statement, and notice of intent to act upon the regulation were emailed to the Division licensees, Division's rulemaking contact list, persons who were known to have an interest in the regulation as well as any person who had specifically requested such notice. These documents were also made available on the Financial Institutions Division's website at <http://fid.nv.gov/> on the Nevada Public Notice website at <https://notice.nv.gov/gov> and on the Nevada Legislature website: <https://www.leg.state.nv.us/App/Notice/A/>; posted at the Division's principal office in Las Vegas; and provided to the Nevada State Library & Archives.

On September 7, 2023, via email, the Division notified 102 individuals, this included its licensees and persons on the Division's rulemaking contact list concerning the proposed regulation, provided a copy of the proposed regulation, and solicited written comments concerning whether it would impose a direct and significant economic burden upon a small business that is subject to NRS 628B, 662, 672, 676A, 677 and 678, or directly restrict the formation operation, or expansion of a small business that is subject to these chapters.

In response to the September 7, 2023 solicitation, the Division's record reflects receipt of ten (10) small business impact surveys. One (1) with comments, four (4) responded N/A, and five (5) with over 150 employees. Attached summary of comments received from the small business impact survey are attached hereto as "Exhibit A."

On October 16, 2023, the Division issued and posted a notice of the workshop, and sent via email, to 102 individuals, this included its licensees and persons on the rulemaking contact list. The workshop was held on November 2, 2023, in-person at the Nevada State Business Center in Las Vegas with videoconference and teleconference via Webex. Minutes of the workshop are attached hereto as "Exhibit B." The minutes reflect receipt of both verbal and written comments.

The Legislative Counsel Bureau (LCB) posted its draft of proposed regulation R098-23 on December 15, 2023. On December 22, 2023, the Division issued and posted a notice of intent to act upon regulation based upon LCB draft proposed regulation R098-23, along with a notice of public meeting and solicited further written comments on the proposed regulation. On the same day, the Division sent via email to 102 individuals, this included its licensees and persons on the rulemaking contact list. The adoption hearing was held on January 24, 2024, in-person at the Nevada State Business Center in Las Vegas with videoconference and teleconference via Webex. Minutes of the hearing are attached hereto as “Exhibit C”. The minutes reflect receipt of both verbal and written comments.

3. The number of persons who:

Attendees that signed in at the November 2, 2023 workshop: 1

Testified at the workshop: 0

Submitted written comments: 0

Attendees that signed in at the January 24, 2024 hearing: 2

Testified at the hearing: 0

Submitted written comments: 0

4. A list of names and contact information, including telephone number, business address, business telephone number, electronic mail address, and name of entity or organization represented, for each person identified in #3, above, as provided to the agency.

Attended the November 2, 2023, workshop:

Name	Company or Organization	Email/Phone #
Sam Anastassatos		sanastassatos@yahoo.com

Attended the January 24, 2024, hearing:

Name	Company or Organization	Email/Phone #
Roger Mellies	Valley Bank	rmellies@valleybanknv.com
Samantha Barnes	Carrara Nevada	samantha@carraranv.com

5. 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.

Comments were solicited from affected businesses in the same manner as they were solicited from the public (see item 2 above). A summary of responses can be found in the minutes to the workshops and the hearing (Exhibits B, and C) and small business impact

statement (Exhibit A). Copies of these materials can be obtained by contacting Mary Young, Financial Institutions Division at fidmaster@fid.state.nv.us or mmyoung@fid.state.nv.us or 702-486-4120 or by visiting the Division website: www.fid.nv.gov

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.

The initial agency draft regulation, after considering comments from the small business impact survey, was submitted to LCB on October 16, 2023 (see “Exhibit D”). LCB completed its review and provided its draft regulation dated December 21, 2023.

At the conclusion of the noticed public hearing on January 25, 2024, the permanent regulation was adopted in the form proposed and reflected in the LCB Draft of Proposed Regulation R097-23 dated December 15, 2023.

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.

(a) Both adverse and beneficial effects.

Adverse effects. The concern is removing NAC 628B.100 will open up the industry to unexperienced foreign investors all over the world and non-Nevada residents to operate in Nevada. That the proposed change would increase licensing fees to the industry.

Anyone applying for licensure under Chapter 628B will still have to follow the statutory requirements, including but not limited to, having a guardian who is a permanent resident of Nevada at the licensed location, the expertise to operate as a private professional guardian, and the court appointing a protected person to the licensed entity. The Division does not foresee any increase in fees for the Division, applicants or licensees.

Beneficial effects. One comment from industry stated removing NAC 628B.100 allows for outside foreign investors to purchase and take over any established existing private professional guardianship established business.

(b) Both immediate and long-term effects.

The concern is removing NAC 628B.100 will open up the industry to unexperienced foreign investors all over the world and non-Nevada residents to operate in Nevada. That the proposed change would increase licensing fees to the industry.

Anyone applying for licensure under Chapter 628B will still have to follow the statutory requirements, including but not limited to, having a guardian who is a permanent resident of Nevada at the licensed location, the expertise to operate as a private professional

guardian, and the court appointing a protected person to the licensed entity. The Division does not foresee any increase in fees for the Division, applicants or licensees.

One comment from industry stated removing NAC 628B.100 allows for outside foreign investors to purchase and take over any established existing private professional guardianship established business.

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

The Division does not anticipate any cost for enforcement of the proposed regulation since the regulation was merely repealing or revising certain obsolete or duplicate provisions and did not impact the meaning of the regulation.

9. 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.

To the best of the Division's knowledge, there are no other state or government agency regulations known by the Division that the proposed regulation overlaps or duplicates.

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

To the best of the Division's knowledge, the adopted regulation does not include provisions which are known to be more stringent than a federal regulation which regulates the same activity.

11. If the regulation provides a new fee or increase an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The proposed regulation does not establishment new fees.

Enclosed:

Exhibit A – Small Business Impact Statement

Exhibit B – Minutes of November 2, 2023 Workshop on R098-23

Exhibit C – Minutes of January 24, 2024 Adoption Hearing on R098-23

Exhibit D – Initial Draft of Proposed Regulation Submitted to LCB on October 16, 2023

“EXHIBIT A”

**SMALL BUSINESS IMPACT STATEMENT FOR PROPOSED REGULATIONS
BY THE FINANCIAL INSTITUTIONS DIVISION (Division)
TO GOVERNOR LOMBARDO’S EXECUTIVE ORDER 2023-003
September 19, 2023**

1. Small Business Impact Statement pursuant to NRS 233B.0609:

(a) A description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(I) Solicitation of affected small businesses.

The Division sought comments in accordance with NRS 233B.0608 for the purpose of considering whether as a result of the proposed regulations, there may be a direct and significant economic burden upon small business (defined as fewer than 150 employees) or if the regulations will directly restrict the formation, operation or expansion of a small business seeking to engage in or who desire to engage in the business of money transmission, to ensure that there is established in this state an adequate, efficient and competitive service available to the general public.

The Division composed the solicitation list from current licensees under Nevada Revised Statutes chapter 628B, 662, 676A, 677 and 678, and all known interested parties. In turn, the Division solicited comments on the proposed regulations for Governor Lombardo’s Executive Order 2023-003 (E.O. 2023-003) from the above lists by emailing a notice and questionnaire. Additionally, a copy of the full text of the proposed regulations was emailed and posted to the Division’s website. The solicited comments were used to formulate this Small Business Impact Statement.

(II) Summary of responses.

See attached spreadsheet.

(III) Obtain a copy of the summary.

This Small Business Impact Statement was posted on the NFID website dated October 16, 2023, along with a Notice of Workshop for November 2, 2023. Interested persons may also obtain a copy of the Small Business Impact Statement by contacting the:

**Office of the Commissioner
Financial Institutions Division
3300 W. Sahara Avenue, Suite 250
Las Vegas, NV 89102
Email: FIDMaster@fid.state.nv.us
Telephone: (702) 486-4120
Website: <http://fid.nv.gov>**

(b) The manner in which the analysis was conducted.

Pursuant to NRS 233B.0608(1), the Division made a concerted effort to determine whether the proposed regulations are 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. For this effort, the Division sent a copy of the draft regulations and a Small Business Impact Questionnaire to all known interested parties for review and invited written comment regarding the impact to the entities, NFID took all comments submitted into consideration.

Following review of the written comment from the industry, the Division has determined that the proposed regulation is unlikely to impose a direct and significant economic burden upon a small business; result in any direct or indirect adverse effects on small business; or directly restrict the formation, operation, or expansion of a small business.

(c) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate including, without limitation:

(1) Both Adverse and Beneficial effects:

(I) ADVERSE EFFECTS:

From the five industries the proposed regulation will impact, the Division received comments from one licensee. The concern is removing NAC 628B.100 will open up the industry to unexperienced foreign investors all over the world and non-Nevada residents to operate in Nevada. That the proposed change would increase licensing fees to the industry.

Anyone applying for licensure under Chapter 628B will still have to follow the statutory requirements, including but not limited to, having a guardian who is a permanent resident of Nevada at the licensed location, the expertise to operate as a private professional guardian, and the court appointing a protected person to the licensed entity. The Division does not foresee any increase in fees for the Division, applicants or licensees.

During the review of its regulations, it was decided section NAC 628.100 was not needed because statute provides clear requirements for licensure, and it removed the requirement for an individual to be a United States citizen. The removal of the United States citizenship requirement is consistent with updating current statutes and regulations in this State to remove such requirement.

(II) BENEFICIAL EFFECTS:

From the five industries the proposed regulation will impact, the Division received comments from one licensee. The concern is removing NAC 628B.100. The proposed change allows for outside foreign investors to purchase and take over any established existing private professional guardianship established business.

The license is not transferable. The foreign investors would need a licensee to agree to sell the company, and the approval of the Division and any applicable court of jurisdiction.

(2) Both Direct and Indirect effects:

(I) DIRECT EFFECTS:

From the five industries the proposed regulation will impact, the Division received comments from one licensee. The concern is removing NAC 628B.100 will open up the industry to unexperienced foreign investors all over the world and non-Nevada residents to operate in Nevada. That the proposed change would increase licensing fees to the industry.

Anyone applying for licensure under Chapter 628B will still have to follow the statutory requirements, including but not limited to, having a guardian who is a permanent resident of Nevada at the licensed location, the expertise to operate as a private professional guardian, and the court appointing a protected person to the licensed entity. The Division does not foresee any increase in fees for the Division, applicants or licensees.

During the review of its regulations, it was decided section NAC 628.100 was not needed because statute provides clear requirements for licensure, and it removed the requirement for an individual to be a United States citizen. The removal of the United States citizenship requirement is consistent with updating current statutes and regulations in this State to remove such requirement.

(II) INDIRECT EFFECTS:

From the five industries the proposed regulation will impact, the Division received comments from one licensee. The concern is removing NAC 628B.100. The proposed change allows for outside foreign investors to purchase and take over any established existing private professional guardianship established business.

The license is not transferable. The foreign investors would need a licensee to agree to sell the company, and the approval of the Division and any applicable court of jurisdiction.

(d) A description of the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

The Division sent out 102 small business questionnaires to all known interested parties. It received a total of ten (10) responses to the solicitation. One (1) small business provided comment, four (4) responded with N/A or no impact, and five (5) responded with no comment because they were over the small business threshold of 150 employees. The Division has considered and analyzed the one submitted comment and addressed those comment in the attached summary of response spreadsheet.

(e) The estimated cost to the agency for enforcement of the proposed regulation.

There is no cost associated with revising and/or removing these regulations. The Division does not foresee the need for any additional funding or budget increase.

(f) If the proposed 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.

No fees are being proposed.

(g) If the proposed regulation includes provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

To the Division's knowledge, the proposed regulations do not duplicate any existing federal, state, or local standards regulating the same activity.

(h) The reasons for the conclusions of the agency regarding the impact of the regulation on small businesses.

This is a result of Governor Lombardo's Executive Order 2023-003, for the Division to conduct a comprehensive review of its regulations. The changes made to the regulations does not impose an economy burden to small business.

To the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this Small Business Impact Statement was prepared properly and accurate.

The image shows a blue ink signature of Sandy O'Laughlin written over a circular seal. The seal features the text 'OFFICE OF THE COMMISSIONER' at the top and 'STATE OF NEVADA' at the bottom, with a central emblem.

Sandy O'Laughlin
Commissioner
Financial Institutions Division
State of Nevada, Department of Business and Industry

<u>EO 2023-003- Governor's Executive Order- Direct or Indirect Impact Item from Small Businesses</u>	<u>Number/ and %</u>	<u>Direct or Indirect</u>	<u>Adverse or Beneficial</u>	<u>NFID Answer/Mitigation</u>
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<p>Comment regarding Section 1, NAC 628B.100. The proposed regulation would allow any individual residing anywhere in the world to own a specialized and state specific industry and potentially serve as a guardian for the most vulnerable Nevada residents and we don't know the full economic impact the opening of this door will have on the industry in Nevada.</p>	<p>1 (100.00%)</p>	<p>Direct</p>	<p>Adverse</p>	<p>Anyone applying for licensure under Chapter 628B will still have to follow the statutory requirements, including but not limited to, having a guardian who is a permanent resident of Nevada at the licensed location. NRS 628B.520.</p> <p>During the review of its regulations, it was decided section NAC 628.100 was not needed because statute provides clear requirements for licensure, and it removed the requirement for an individual to be a United States citizen. The removal of the United States citizenship requirement is consistent with updating current statutes and regulations in this State to remove such requirement.</p>
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<p>Comment regarding Section 1, NAC 628B.100. The proposed change allows for outside foreign investors to purchase and take over any established existing private professional guardianship established business.</p>	<p>1 (100.00%)</p>	<p>Direct</p>	<p>Beneficial</p>	<p>The license is not transferable. The foreign investors would need a licensee to agree to sell the company, and the approval of the Division and any applicable court of jurisdiction.</p>

<p>Comment regarding Section 1, NAC 628B.100. The proposed change would likely increase pass-through expenses (licensing fees) to Private Professional Guardians due to increased state costs to complete license application approvals (financial status, solvency, bankruptcy-potentially international applicants) and ensuring that these license applicants comply with NAC 628B.120 and allows for outside investors with little or no knowledge or expertise in professional guardianship setting Nevada Guardians back in time and diluting our hard work establishing a fiduciary status and professional relationships.</p>	<p>1 (100.00%)</p>	<p>Indirect</p>	<p>Adverse</p>	<p>The Division does not anticipate any increase in time or expenses for the Division, applicants, or licensees.</p> <p>Anyone applying for licensure under NRS Chapter 628B will still have to follow the statutory requirements, including but not limited to, the need to have experience and the courts appointing protected persons to a licensed entity.</p>
<p>Comment regarding Section 1, NAC 628B.100. The proposed change allows for outside foreign investors, including those residing in foreign countries.</p>	<p>1 (100.00%)</p>	<p>Indirect</p>	<p>Beneficial</p>	<p>The license is not transferable. The foreign investors would need a licensee to agree to sell the company, and the approval of the Division and any applicable court of jurisdiction.</p>

SBI Response Summary:

Total Known Interested Parties Solicited: 102

Total Responded with Comments: 1
Total Responded with N/A: 4
Total Responded with over 150 Employees (outside the small business threshold): 5
Total Comments Impacting the SBI % (Total Known Interested Parties Solicited - N/A - over 150 Employees=): 93

% Responded/Total Solicited (10/102): 9.8%
% Responded with Comments/Total Comments Impacting SBI (1/93): 1.08%

STATE OF NEVADA



JOE LOMBARDO
Governor

DEPARTMENT OF BUSINESS AND INDUSTRY

DR. KRISTOPHER SANCHEZ
Director

FINANCIAL INSTITUTIONS DIVISION

SANDY O'LAUGHLIN
Commissioner

**Minutes of Workshop to Solicit Comments on Proposed
Regulations Governor Lombardo's Executive Order 2023-003**

Date: Thursday, November 2, 2023

Time: 3:00 p.m.

Locations:

Physical in-person location:

Nevada State Business Center, Nevada Room, 4th Floor

3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The workshop to consider regulations on NRS 628B, 662, 672, 676A, 677 and 678 was called to order Thursday, November 2nd at 3:01 p.m. The purpose of the workshop was to receive input with respect to the proposed regulations, as described by the Notice of Workshop dated and posted on October 16, 2023.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin

Deputy Commissioner Mary Young

Senior Deputy Attorney General Louis Csoka

Examiner Jennifer Ramsay

Administrative Assistant Devan Owens

Agenda Item 2. Comments by General Public:

There were no comments during this general public comment period.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

A summary of each section of the proposed regulations was read during the workshop.

Regulation Comments per Section:

Section 1. There were no comments received on section 1.

Sections 2 through 7. There were no comments received on sections 2 through 7.

Sections 8 through 11. There were no comments received on sections 8 through 11.

Sections 12 through 15. There were no comments received on sections 12 through 15.

Sections 16 through 42. There were no comments received on sections 16 through 42.

Agenda Item 4. Public Comments:

There were no comments during this general public comment period.

Agenda Item 5. Close Workshop (Adjournment):

The workshop pertaining to Governor Lombardo's Executive Order 2023-003, chapters 628B, 662, 672, 676A, 677 and 678 of the Nevada Administrative Code was closed and adjourned on November 2, 2023, at 3:07 p.m.

To review and/or listen to comments in their entirety, please refer audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](https://www.nv.gov/proposed-regulations)



**DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION**

**Minutes of Adoption Hearing to Solicit Comments on
Proposed Regulations Governor Lombardo's Executive Order 2023-003**

Date: Wednesday, January 24, 2024

Time: 10:00 a.m.

Locations:

Physical in-person location:

Nevada State Business Center, Nevada Room, 4th Floor
3300 W. Sahara Avenue, Las Vegas, Nevada 89102

Virtual location:

Webex meeting- videoconference and teleconference

Agenda Item 1. Call to Order:

The hearing to consider Governor Lombardo's Executive Order 2023-003 regulations on NRS 628B, 662, 672, 676A, 677 and 678 was called to order Wednesday, January 24, 2024, at 10:01 a.m. The purpose of the adoption hearing was to receive input with respect to the proposed regulations, as described by the Notice of Intent to Act Upon a Regulation and Hearing Agenda dated and posted on December 22, 2023.

Financial Institutions Division Staff Present at the Hearing:

Commissioner Sandy O'Laughlin
Deputy Commissioner Mary Young
Senior Deputy Attorney General Louis Csoka
Examiner Jennifer Ramsay
Administrative Assistant Devan Owens

Agenda Item 2. Comments by General Public:

There were no comments during this general public comment period.

Agenda Item 3. Presentation and Discussion of Proposed Regulation:

Each section of the proposed regulation being adopted today was read into the record.

Sections 1 through 7. There were no comments received on Sections 1 through 7.

Sections 8 through 13. There were no comments received on Sections 8 through 13.

Sections 14 through 19. There were no comments received on Sections 14 through 19.

Agenda Item 4. Adoption of Proposed Regulation:

The Financial Institutions Division hereby adopts regulation R098-23, which pertains to chapters 628B, 657, 662, 676A, 677 and 678 of the Nevada Administrative Code, as described in the Legislative Counsel Bureau draft dated December 15, 2023.

Agenda Item 5. Public Comments:

There were no comments during this general public comment period.

Agenda Item 6. Close Workshop (Adjournment):

The adoption hearing for R098-23 pertaining to chapters 628B, 657, 662, 676A, 677 and 678 of the Nevada Administrative Code was closed and adjourned on January 24, 2024, at 10:19am

To review and/or listen to comments in their entirety, please refer to the attached written comments and/or the audio recording. The recording can be found at: [Proposed Regulations \(nv.gov\)](https://www.fid.nv.gov)

**DRAFT PROPOSED REGULATION OF THE COMMISSIONER OF
THE FINANCIAL INSTITUTIONS DIVISION**

LCB File No. ____ - ____

August 30, 2023

Purpose: To adopt regulations under the Nevada Administrative Code to revise provisions of chapters 628B, 662, 672, 676A, 677, and 678, pursuant to the Governor's Executive Order 2023-003.

Authority: Executive Order 2023-003

Explanation: Material in *blue bold italics* is new language; material in ~~[bold brackets]~~ is to be omitted from current regulation.

Section 1. *Chapter 628B of NAC is hereby amended by removing section 628B.100 of NAC 628B.*

~~[NAC 628B.100—Submission by applicant of proof of citizenship or lawful entitlement to work in United States and residency; exception. (NRS 628B.210)—Each natural person who applies for the issuance of a license to engage in the business of a private professional guardian pursuant to chapter 628B of NRS shall submit proof satisfactory to the Commissioner that he or she is:~~

- ~~1. A citizen of the United States or lawfully entitled to remain and work in the United States; and~~
- ~~2. A resident of this State, unless the applicant, if a nonresident, has obtained the prior approval of the Commissioner to apply for the issuance of a license to engage in the business of a private professional guardian.]~~

Sec. 2. *Chapter 662 of NAC is hereby amended by adding thereto the provisions set forth in sections 3 to 7 of this regulation.*

Sec. 3. NAC 662.010 Long-term capital notes or debentures: Approval before issuance. (NRS 658.105, 662.115) A bank may issue long-term capital notes or debentures only after having first received the written approval of the ~~[Administrator]~~ *Commissioner* of Financial Institutions. The ~~[Administrator]~~ *Commissioner* will approve or deny such an issuance after considering whether it constitutes a sound banking practice and would be in the best interests of the depositors, creditors, and stockholders of the bank and the public in its relations with the bank.

Sec. 4. NAC 662.020 Long-term capital notes or debentures: Application for approval. (NRS 658.105, 662.115)

1. A bank which desires to obtain approval for the issuance of long-term capital notes or debentures must submit an application to the ~~[Administrator]~~ *Commissioner* of Financial Institutions.

2. The application must include:

(a) A statement explaining the need for and the proposed use of the money which the bank intends to borrow; and

(b) Three copies of the proposed long-term capital note or debenture.

Sec. 5. NAC 662.030 Long-term capital notes or debentures: Consideration of application. (NRS 658.105, 662.115) The ~~[Administrator]~~ *Commissioner* of Financial Institutions will not consider a bank's application for or approve the issuance of its long-term capital notes or debentures unless:

1. The bylaws or articles of incorporation of the bank grant authority to its board of directors to issue the capital notes or debentures; or

2. The holders of two-thirds of the bank's capital stock have approved such an issuance at a stockholders' meeting. Before such a meeting, the bank shall mail or deliver to each stockholder a

notice containing a statement that the proposal will be submitted at the meeting and a copy of the proposed debenture or agreement.

Sec. 6. NAC 662.060 Long-term capital notes or debentures: Period of maturity. (NRS 658.105, 662.115) The ~~[Administrator]~~ *Commissioner* of Financial Institutions will prescribe periods of maturity not exceeding 25 years for any issue of such long-term capital notes or debentures, and the issuing bank shall establish a schedule of prepayments or an appropriate sinking fund for the amortization of the indebtedness.

Sec. 7. NAC 662.070 Long-term capital notes or debentures: Conversion to stock. (NRS 658.105, 662.115) No such long-term capital notes or debentures may be converted into capital stock, either common or preferred, of the issuing bank without prior consent of the ~~[Administrator]~~ *Commissioner* of Financial Institutions.

Sec. 8. *Chapter 676A of NAC is hereby amended by adding thereto the provisions set forth in section 9 of this regulation and removing sections 676A.140 and 676A.160 of NAC 676A, as provided in sections 10 and 11 of this regulation.*

Sec. 9. NAC 676A.130 Expiration; fees for renewal and reinstatement. (NRS 676A.730)

1. A registration as a provider expires on ~~[June 30]~~ *December 31* of each year.
2. A registered provider shall pay annually to the Division a fee of \$1,500 for the renewal of the registration of the provider.
3. If the Commissioner reinstates an expired registration, the registered provider shall pay a reinstatement fee of \$1,500 in addition to the renewal fee prescribed in subsection 2.

Sec. 10. ~~[NAC 676A.140 Extension and reinstatement after expiration. (NRS 676A.370, 676A.730, 676A.750)]~~

~~1.— A provider may continue to provide debt-management services after the expiration of the provider's registration issued pursuant to chapter 676A of NRS if:~~

~~(a) The provider ceases to be registered solely due to the expiration of the provider's registration;~~

~~(b) Not later than 10 days after the date the registration expires, the provider submits to the Commissioner a request for an extension; and~~

~~(c) Not later than 30 days after the provider requests the extension, the provider submits all fees, documents and information required by the Commissioner for reinstatement of the registration.~~

~~2.— The Commissioner will not reinstate a registration that has expired if a provider:~~

~~(a) Has failed to request an extension; or~~

~~(b) Requested an extension but failed to submit all fees, documents and information required by the Commissioner pursuant to paragraph (c) of subsection 1 and the Commissioner did not grant another extension.~~

~~3.— If the Commissioner does not reinstate a registration pursuant to subsection 2, the provider must apply for and be issued a new registration before the provider may provide debt-management services.~~

~~4.— It is the duty of the registered provider to renew in a timely manner a registration issued pursuant to this chapter and chapter 676A of NRS. A lack of notice from the Division to any person concerning the expiration of a registration or the need to renew a registration is not a justification or excuse for the failure of the person to renew a registration in a timely manner and does not constitute grounds for the waiver of any of the requirements of this chapter or chapter 676A of NRS.]~~

Sec. 11. ~~[NAC 676A.160 Disclosures by registered provider required. (NRS 676A.730) Before an individual assents to an agreement, the registered provider shall make the disclosures described in paragraph (a) of subsection 8 of NRS 676A.730.]~~

Sec. 12. *Chapter 677 of NAC is hereby amended by removing sections 677.074, 677.076 and 677.085 of NAC 677, as provided in sections 13 to 15 of this regulation.*

Sec. 13. ~~[NAC 677.074 “Commissioner” defined. (NRS 677.380) “Commissioner” has the meaning ascribed to it in NRS 677.065.]~~

Sec. 14. ~~[NAC 677.076 “Deposit” defined. (NRS 677.380) “Deposit” has the meaning ascribed to it in NRS 677.075.]~~

Sec. 15. ~~[NAC 677.085 “Licensee” defined. (NRS 677.380) “Licensee” has the meaning ascribed to it in NRS 677.110.]~~

Sec. 16. *Chapter 678 of NAC is hereby amended by adding thereto the provisions set forth in section 17, and sections 19 to 42 of this regulation and removing section 678.004 of NAC 678, as provided in section 18 of this regulation.*

Sec. 17. NAC 672.002 ~~[678.002]~~ **Definitions.** (NRS 672.250 ~~[678.250]~~) As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC ~~[678.004 and 678.006]~~ 672.004 and 672.006 have the meanings ascribed to them in those sections.

Sec.18. ~~[NAC 678.004 “Commissioner” defined. (NRS 678.250) “Commissioner” means the Commissioner of Financial Institutions.]~~

Sec.19. NAC 672.006 ~~[678.006]~~ **“Division” defined.** (NRS 672.250 ~~[678.250]~~) “Division” means the Division of Financial Institutions of the Department of Business and Industry.

Sec.20. NAC 672.008 ~~678.008~~ “Unimpaired capital and surplus” interpreted. ([NRS 672.250, 672.710](#) ~~678.250, 678.710~~) For the purposes of this chapter and ~~NRS 672.710~~ ~~678.710~~, the Division shall interpret the term “unimpaired capital and surplus” to mean shares plus post-closing, undivided earnings. The term does not include regular reserves or special reserves required by this chapter or ~~chapter 678~~ [chapter 672](#) of NRS.

Sec.21. NAC 672.010 ~~678.010~~ Formation. ([NRS 672.250, 672.270, 672.310](#) ~~678.250, 678.270, 678.310~~)

1. Any person desiring to form a credit union pursuant to ~~chapter 678~~ [chapter 672](#) of NRS must:

(a) Complete the Organization Certificate, Confidential Report of Officials, Agreement by Director and Committeemen to Serve, Report of Officials and Credit Union Investigation Report provided by the Commissioner.

(b) Submit the forms required by paragraph (a) to the Commissioner, together with an investigation fee of \$750 and a charter fee of \$300.

2. The Commissioner will investigate and determine whether the proposed Organization Certificate conforms to the requirements of ~~chapter 678~~ [chapter 672](#) of NRS concerning the general character and fitness of the subscribers thereto, and determine the economic feasibility of establishing the proposed credit union.

3. If the Commissioner is satisfied that the qualifications have been met, he or she will issue a charter to the proposed credit union.

Sec.22. NAC 672.020 ~~678.020~~ Surety bonds: Annual review; minimum coverage. ([NRS 672.250, 672.260](#) ~~678.250, 678.260~~)

1. The board of directors of each credit union shall annually review the surety bond coverage it has in force in order to determine its adequacy in relation to the credit union's exposure to potential cash losses.

2. A credit union's minimum potential cash losses must be determined by the following table:

<u>Assets</u>		<u>Minimum Coverage</u>
\$0	To	\$5,000..... \$1,000
5,001	To	10,000..... 2,000
10,001	To	20,000..... 4,000
20,001	To	30,000..... 6,000
30,001	To	40,000..... 8,000
40,001	To	50,000..... 10,000
50,001	To	75,000..... 15,000
75,001	To	100,000..... 20,000
100,001	To	150,000..... 30,000
150,001	To	200,000..... 40,000
200,001	To	300,000..... 50,000
300,001	To	400,000..... 60,000
400,001	To	500,000..... 70,000
500,001	To	750,000..... 85,000
750,001	To	1,000,000..... 100,000
1,000,001	To	50,000,000..... \$100,000 plus \$50,000 for each \$1,000,000 or fraction thereof of assets over \$1,000,000
\$50,000,001	To	\$150,000,000..... \$2,500,000 plus \$25,000 for each \$1,000,000 or fraction thereof of assets over \$50,000,000
Over \$150,000,000.....		\$5,000,000

3. Any credit union whose cash change funds exceed the amounts of minimum coverage required for a credit union of its size, as set forth in subsection 2, shall maintain surety bond coverage adequate to cover its actual potential cash loss.

Sec.23. NAC 672.030 ~~678.030~~ Fidelity bonds: General requirements. (NRS 672.250, 672.370, 672.420 ~~NRS 678.250, 678.370, 678.420~~)

1. All fidelity bonds must provide coverage for the faithful performance of any officer or employee while carrying out any of the duties of the treasurer as prescribed in ~~chapter 678~~ [chapter 672](#) of NRS, the bylaws, or rules and regulations.
2. No form of fidelity bond coverage may be used by a credit union except a form which is approved by the Commissioner.
3. For the purpose of this section, forms of fidelity bond coverage for credit unions that are provided by surety companies authorized to do business in this State are approved.
4. The Commissioner may require additional fidelity bond coverage for any credit union when, in his or her opinion, the bonds in force are insufficient to provide adequate coverage. The board of directors of the credit union shall obtain such additional coverage within 30 days after the date of written notice from the Commissioner.
5. All surety companies writing credit union fidelity bonds must hold a Certificate of Authority from the Secretary of the Treasury pursuant to 31 U.S.C. §§ 9304-9308 as an acceptable surety on federal bonds in this State.
6. The board of directors of each credit union shall provide proper protection to meet any circumstance described in subsection 1 of ~~NRS 678.370~~ [NRS 672.370](#) by obtaining adequate bond and insurance coverage.

Sec.24. NAC [672.035](#) ~~678.035~~ Disclosure of fees charged for services provided. (~~NRS 678.250, 678.480~~ [NRS 672.250, 672.480](#)) A credit union may charge for services it provides if it discloses such fees to the customer before imposing the fees on the customer.

Sec.25. NAC [672.050](#) ~~678.050~~ Reserve for liquidity; demand deposits. ([NRS 672.250, 672.680](#) ~~NRS 678.250, 678.680~~)

1. A credit union shall hold liquid assets in an amount equal to at least 5 percent of its members' accounts.
2. The Commissioner may issue an order requiring a credit union to cease and desist from offering demand deposit accounts if it fails to maintain the reserve for liquidity as required by subsection 1.
3. Every credit union which maintains a demand deposit program shall post a notice in the manner prescribed by subsection 1 of [NRS 205.134](#) concerning issuance of a check or draft without funds or with intent to defraud.

Sec.26. NAC ~~[678.060]~~ 672.060 Borrowings. (~~NRS 678.250~~) (NRS 672.250) No credit union, with the exception of a central credit union, may have at any one time outstanding borrowings which exceed 50 percent of its unimpaired capital and surplus.

Sec.27. NAC ~~[678.070]~~ NRS 672.070 Special reserves against losses. (~~NRS 678.250, 678.680~~ NRS 672.250, 672.680) If the Commissioner deems the reserves required by ~~NRS 678.670~~ **NRS 672.670** inadequate to cover a credit union's delinquent loans, the Commissioner will require, upon 5 days' written notice, that the credit union maintain a special reserve against losses equal to 10 percent of the loan balance on all accounts that are between 2 and 6 months delinquent, plus 25 percent of the loan balances on all accounts that are between 7 and 12 months delinquent, plus 80 percent of the loan balances on all accounts that are more than 12 months delinquent.

Sec.28. NAC ~~[678.100]~~ 672.100 Investments. (~~NRS 678.250, 678.760~~ NRS 672.250, 678.760) The stocks and bonds which the Commissioner approves as investments for credit unions pursuant to subsection 8 of ~~NRS 678.760~~ **NRS 672.760** are the stocks and bonds which are accorded one of the top two ratings by a statistical rating organization that is nationally

recognized by the Securities and Exchange Commission. Investment by a credit union in securities which are provisionally rated is prohibited.

Sec.29. NAC ~~[678.110]~~ 672.110 Financial reports. (~~[NRS 678.250, 678.780]~~ NRS 672.250, 672.780) Each credit union shall file with the Commissioner a financial report that is substantially similar to the report provided by the credit union to the National Credit Union Administration or the private insurer of the credit union, as applicable. Such a report must be submitted:

1. For the first 6 months of the calendar year which ends on June 30; and
2. For the entire calendar year.

Sec.30. NAC ~~[678.120]~~ 672.120 Accounting Manual for Federal Credit Unions. (~~[NRS 678.250]~~ NRS 672.250) The *Accounting Manual for Federal Credit Unions* must be used as the standard for accounting practices for state chartered credit unions.

Sec.31. NAC ~~[678.130]~~ 672.130 Examinations. (~~[NRS 678.250, 678.790]~~ NRS 672.250, 672.790) Any examination required by the provisions of ~~[chapter 678]~~ chapter 672 of NRS must be conducted in accordance with the procedures established by the Commissioner.

Sec.32. NAC ~~[678.140]~~ 672.140 Notification and revision of schedule of fees. (~~[NRS 678.250]~~ NRS 672.250)

1. Each credit union will be notified at least 30 days before the effective date of any schedule of fees fixed pursuant to this chapter.
2. Upon receipt of such notification, interested persons may submit written data, views and arguments for consideration by the Commissioner. The Commissioner may, after consideration, make such revisions in the proposed schedule or such change in the effective date as the

Commissioner deems necessary and proper, with the advice and consent of the Credit Union Advisory Council.

3. Each credit union will be notified not less than 15 days before the final effective date.

Sec.33. NAC ~~[678.150]~~ 672.150 Fee for supervision and examination: Collection; determination of amount; failure to pay; penalty; additional costs for extraordinary examination. (~~[NRS 678.250, 678.270]~~ NRS 672.250, 672.270)

1. On or before June 30 of each year, the Commissioner will collect a fee from each credit union for the supervision and examination of the credit union pursuant to ~~[chapter 678]~~ *chapter 678* of NRS.

2. The fee is based on the portion of the annual budget approved by the Legislature for expenses related to the operations of the Commissioner and the Division minus all other revenues collected by the Division, not including reserves. Each credit union shall pay a share of that amount as determined by the following schedule:

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
Less than \$5,000,000	\$5,000	N/A
\$5,000,000 or more, but less than \$10,000,000	5,000	\$.25 per thousand of assets exceeding \$5,000,000
\$10,000,000 or more, but less than \$50,000,000	6,250	\$.19 per thousand of assets exceeding \$10,000,000
\$50,000,000 or more, but less than \$100,000,000	13,850	\$.12 per thousand of assets exceeding \$50,000,000
\$100,000,000 or more, but less than \$500,000,000	19,850	\$.10 per thousand of assets exceeding \$100,000,000
\$500,000,000 or more, but less than \$1,000,000,000	59,850	\$.07 per thousand of assets exceeding \$500,000,000

<u>Total Assets</u>	<u>Base Fee</u>	<u>+ Fee Exceeding Base</u>
\$1,000,000,000 or more, but less than \$3,000,000,000	94,850	\$.05 per thousand of assets exceeding \$1,000,000,000
\$3,000,000,000 or more, but less than \$10,000,000,000	194,850	\$.03 per thousand of assets exceeding \$3,000,000,000
\$10,000,000,000 or more, but less than \$20,000,000,000	404,850	\$.02 per thousand of assets exceeding \$10,000,000,000
\$20,000,000,000 or more	604,850	\$.01 per thousand of assets exceeding \$20,000,000,000

Any adjustment to the fee must be made in a proportionate amount that is based on the relationship that the fee determined for each credit union bears to the total fee imposed on all credit unions licensed pursuant to ~~chapter 678~~ *chapter 672* of NRS. The fee is calculated as of June 1 of each year based upon the number of credit unions and the total assets of each credit union as of December 31 of the previous year.

3. If the fee is not paid on or before June 30, the Commissioner will assess a penalty of 10 percent of the amount of the fee and an additional 1 percent of the fee for each month or portion of a month that the fee is not paid. The Commissioner may waive the penalty for good cause.

4. The fee does not include the cost of any extraordinary examination, audit, investigation or hearing conducted by the Division. The cost of any such examination, audit, investigation or hearing is \$75 per hour.

Sec.34. NAC-~~678.155~~ *672.155* Assessment for costs related to audits and examinations. (~~NRS 678.250, 678.795~~ *NRS 672.250, 672.795*)

1. Except as otherwise provided in [NAC 658.030](#), each credit union shall pay to the Division an annual assessment of \$300 to cover the costs related to the employment of a certified public accountant and the performance of audits and examinations conducted by the Division.
2. The Division will bill each credit union for the assessment. The assessment must be paid within 30 days after the date the bill is received.
3. A charge of 10 percent of the assessment will be imposed on any credit union whose assessment is received by the Division after the date on which the assessment is due.

Sec.35. NAC ~~[678.160]~~ [672.160](#) Fee for license. (~~[NRS 678.250, 678.270]~~ [NRS 672.250, 672.270](#))

1. Not later than January 31 of each year, each credit union shall pay to the Division a license fee of \$300.
2. A credit union which has been chartered under the laws of another jurisdiction and converts to a credit union chartered under the laws of this State shall pay a percentage of the license fee based on the number of days remaining in the year, assuming a 360-day year, and the total assets of the credit union as of the end of the month before the conversion. The prorated fee is due within 30 days after the conversion.
3. A credit union which receives a new charter, other than by conversion, is not required to pay the license fee until January 31 following its receipt of the charter.

Sec.36. NAC ~~[678.165]~~ [672.165](#) Fees for foreign credit unions. (~~[NRS 678.250, 678.3435]~~ [NRS 672.250, 672.3435](#))

1. An application for an initial certificate of authority submitted by a foreign credit union pursuant to ~~[NRS 678.343]~~ [NRS 672.343](#) must be accompanied by a nonrefundable fee of \$750.
2. The annual fee for renewal for:

- (a) The initial office is \$750; and
- (b) Each branch office is \$150.

Sec.37. NAC ~~[678.170]~~ 672.170 Conversion from another state charter to Nevada charter. (~~[NRS 678.250, 678.810]~~ NRS 672.250, 672.810) A credit union chartered by another state may apply for provisional acceptance by the Commissioner by submitting all the items listed in subsection 1 of ~~[NAC 678.180]~~ NAC 672.180 and:

1. A copy of the last examination report of its present state supervisory authority; and
2. If it is uninsured, a copy of its application for insurance of its members' accounts.

Sec.38. NAC ~~[678.180]~~ 672.180 Conversion from federal to state charter. (~~[NRS 678.250, 678.810]~~ NRS 672.250, 672.810)

1. A federal credit union desiring to convert to a state-chartered credit union must provide the Commissioner with the following:

- (a) A confidential report of the credit union's officials, with their social security numbers;
- (b) The completed forms for filing articles of incorporation with the Secretary of State;
- (c) An agreement to serve, executed by the board of directors, and, if applicable, by the credit committee and supervisory committee;
- (d) A copy of the last three monthly financial and statistical reports;
- (e) A copy of the last two year-end financial and statistical reports furnished to the National Credit Union Administration;
- (f) A copy of the delinquent loan schedule as of the last month's end, accompanied by notations on the collectibility of each loan;
- (g) A copy of the last audit report of the credit union's supervisory committee;
- (h) A copy of the last examination report of the National Credit Union Administration; and

- (i) Any other information the Commissioner may consider necessary or desirable.
2. Within 30 days after receipt of the items listed in subsection 1, the Commissioner will inform the credit union, in writing, of his or her decision provisionally to accept or not to accept the credit union's conversion.
3. If the Commissioner has provisionally accepted the conversion of a credit union from a federal to a state charter, the Commissioner will issue a charter to the credit union upon a satisfactory demonstration by the credit union that it has completed all of the conversion requirements imposed upon it by the National Credit Union Administration.

Sec.39. NAC ~~[678.190]~~ **672.190** **Voluntary dissolution.** (~~[NRS 678.250, 678.820]~~ NRS 672.250, 672.820) The board of directors shall give the Commissioner 10 days' written notice of its intention to put the question of voluntary dissolution to the members of its credit union.

Sec.40. NAC ~~[678.200]~~ **672.200** **Regular reserves of central credit unions: "Risk assets" defined.** (~~[NRS 678.250, 678.875]~~ 672.250, 672.875) For the purpose of ~~[NRS 678.875]~~ NRS 672.875, "risk assets" has the meaning ascribed to it in ~~[NRS 678.690]~~ NRS 672.690.

Sec.41 NAC ~~[678.210]~~ **672.210** **Retention of records.** (~~[NRS 678.250, 678.260]~~ NRS 672.250, 672.260)

1. Except as otherwise provided in this section, a credit union may destroy a record 1 year after the date on which the record is created.
2. A credit union shall retain permanently the following records:
 - (a) The charter and bylaws of the credit union, and any amendments thereto;
 - (b) Proof of each license to operate as a financial institution granted to the credit union pursuant to federal law or the law of any state, including, without limitation, a certificate to act as an issuing agent for the sale of United States Savings Bonds; and

(c) Records of the operation of the credit union, including, without limitation:

(1) Minutes of all meetings of the members, board of directors, credit committee and audit committee;

(2) A copy of each financial report required pursuant to ~~NAC 678.110~~ NAC 672.110 or an equivalent form filed by the credit union;

(3) A copy of each comprehensive annual audit of the audit committee and each accompanying report and attachment;

(4) Records of account verification of the audit committee;

(5) Applications for membership and account agreements of members;

(6) A copy of each periodic statement of members and individual share and loan ledgers, including, without limitation, a complete record of all accounts of members; and

(7) A list of all records that are destroyed pursuant to subsection 1.

3. Applications for membership and account agreements of a person who is not a member of the credit union must be retained for a period of 7 years after the date on which the credit union determines the record is no longer useful.

4. A record that is otherwise required to be retained by state statute or federal law must be retained in accordance with that statute or law.

5. Records of a credit union may be retained in any format that can be readily reproduced, including, without limitation, original paper format, machine copy or electronic format, and must:

(a) Accurately reflect the information contained in the record;

(b) Be capable of reproduction for a person who is entitled to access that record; and

(c) Be capable of being transmitted, printed or otherwise disseminated.

Sec.42 NAC ~~[678.220]~~ 672.220 Failure to respond to complaint; confidentiality of complaint and certain related information. (~~[NRS 678.250]~~ NRS 672.250)

1. If a licensed credit union, or an authorized representative of that credit union, fails to respond to the Commissioner within 20 business days after receiving written notice that a complaint has been filed against the credit union, the credit union is deemed to have admitted to the allegations contained in the complaint.

2. Subject to the discretion of the Commissioner and except as otherwise provided by specific statute, a complaint filed with the Division, any documents filed with the complaint, and any report or information resulting from an investigation of a complaint are confidential.